

# agenda

Elected Members Briefing  
Session



To: His Worship the Mayor and Councillors

Please be advised that an Elected Members Briefing Session will be held at **6.30pm** on **Tuesday 3 November 2015** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

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

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

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

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

The EMBS:

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

**Procedures for EMBS**

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

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

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## 1 OPENING

## 2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

### 2.1 Recording of Proceedings

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

### 2.2 Public Question & Public Statement Time

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

### 2.3 No Adverse Reflection

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

## 3 ATTENDANCE

**Mayor:**

Mr T (Trevor) Vaughan

**Jarrah Ward:**Cr B (Brian) Oliver (Deputy Mayor)  
Cr J (Jennifer) Ammons Noble  
Cr V (Vince) Maxwell  
Cr V (Vicki) Potter**Banksia Ward:**Cr C (Claire) Anderson  
Cr K (Keith) Hayes  
Cr J (Julian) Jacobs  
Cr M (Mark) Windram**Chief Executive Officer:**

Mr A (Anthony) Vuleta

**Director Future Life & Built Life**

Ms R (Rochelle) Lavery

**Director Renew Life**

Mr W (Warren) Bow

**Director Community Life**

Ms T (Tina) Ackerman

**Director Business Life**

Mr N (Nathan) Cain

**Executive Manager Built Life:**

Mr R (Robert) Cruickshank

**Secretary:**

Mrs A (Alison) Podmore

**Public:**

### 3.1 Apologies

### 3.2 Approved Leave of Absence

## 4 DECLARATIONS OF INTEREST

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

### Declaration of Financial Interests

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

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

### Declaration of Proximity Interest

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

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

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

### **Declaration of Interest affecting impartiality**

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

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

## **5 PUBLIC QUESTION TIME**

### **5.1 Responses to Questions Raised and Taken on Notice at the Briefing Session held on 6 October 2015**

#### Chris Locantro

Q. What is the definition of account expenses? (9,215,000)

R. The chart of accounts for each business unit is broken down into the same groupings. The expenses groupings include Employment Expenses, Office, Professional Services, Asset Operations, Programs, Interest Expense and Accounting Expenses. Accounting Expenses include Depreciation and On-Costs.

#### Sam Zammit

Q. What about telephone lines, do they get services?

R. The Town has done initial investigations and is not aware of any laneways which have communication cables owned by major utility companies such as Telstra, NBN and Optus.

**5.2 Public Questions / Responses, Raised at the Briefing Session on 3 November 2015**

**6 PUBLIC STATEMENT TIME**

**7 CONFIRMATION OF MINUTES**

**RECOMMENDATION**

That the minutes of the Elected Members Briefing Session meeting held on Tuesday 6 October 2015, be confirmed.

**8 PRESENTATIONS**

**8.1 Petitions**

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

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

6:35pm Item 11.1 – Sara Gregory will be in attendance to answer any questions regarding this application.

6:40pm Item 11.2 – Andrew Dienhoff will be in attendance to discuss this application.

6:45pm Item 11.3 – Ben Laycock will be in attendance to discuss this application.

**9 METHOD OF DEALING WITH AGENDA BUSINESS**



## 10 CHIEF EXECUTIVE OFFICER REPORTS

### 10.1 Annual General Meeting of Electors 2015

<b>File Reference:</b>	COR/10/0003~02
<b>Appendices:</b>	No

<b>Date:</b>	29 October 2015
<b>Reporting Officer:</b>	R. Fishwick
<b>Responsible Officer:</b>	A. Vuleta
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – That Council, subject to it accepting the Annual Report 2014-2015 at its Ordinary Meeting to be held on 8 December 2015, determines that the meeting date for the 2015 Annual General Meeting of Electors be held on 15 December 2015.**

- The Administration has prepared the Annual Report but is awaiting the final Auditors Report for incorporation into the document.
- The Council needs to consider and accept the Annual Report at its meeting to be held on 8 December 2015.
- After accepting the Annual Report the Council needs to determine the meeting date for the Annual General Meeting of Electors.
- Due to the tight timeframe prior to the Christmas recess it is recommended that the Council determines the date for the Annual General Meeting of Electors as being 15 December 2015 subject to the acceptance of the Annual Report at the 8 December 2015 Ordinary Meeting.

#### TABLED ITEMS:

Nil

#### BACKGROUND:

The *Local Government Act 1995* requires every local government to prepare an annual report and to hold an Annual General Meeting of Electors. The Annual Report reflects the Town's achievements during the 2014-15 Financial Year and is the focus of many highlights.

Section 5.27 of the *Local Government Act 1995* requires that the Annual General Meeting (AGM) of Electors be held on a day selected by the local government, but not more than 56 days after the annual report is accepted. It is anticipated that Council will accept the annual report at its Ordinary Meeting to be held on 8 December 2015.

#### DETAILS:

The receipt of the Town's Annual Report by Council and the holding of an AGM of Electors are both statutory requirements of the *Local Government Act 1995*.

It is a statutory requirement that Council accepts an annual report and for the report to be presented to the AGM of Electors.

If the Council does not accept the 2014-15 Annual Report it will result in non-compliance with the requirements of the *Local Government Act 1995*.

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

In order for the Council to hold the AGM of Electors prior to the Christmas recess of the Council and comply with the statutory requirement to provide 14 days local public notice of the AGM, it will be necessary for the Council to set the date for the AGM of Electors as the 15 December 2015 subject to acceptance of the Annual Report by the Council on the 8 December 2015.

### **Legal Compliance:**

Section 5.53 of the *Local Government Act 1995* states the following in relation to the contents of the annual report:

#### **5.53. Annual reports**

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain —*
  - (a) *a report from the mayor or president; and*
  - (b) *a report from the CEO; and*
  - ~~[(c), (d) deleted]~~
  - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
  - (f) *the financial report for the financial year; and*
  - (g) *such information as may be prescribed in relation to the payments made to employees; and*
  - (h) *the auditor's report for the financial year; and*
  - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
  - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
    - (i) *the number of complaints recorded in the register of complaints; and*
    - (ii) *how the recorded complaints were dealt with; and*
    - (iii) *any other details that the regulations may require;*
  - (i) *such other information as may be prescribed.*

Section 5.54 of the *Local Government Act 1995* states the following in relation to the acceptance of the Annual Report:

**5.54. Acceptance of annual reports**

(1) *Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.*

*\* Absolute majority required.*

(2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

Section 5.55 of the *Local Government Act 1995* states the following in regard to the notice regarding the availability of the Annual Report:

**5.55. Notice of annual reports**

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

Regulation 15 of the *Local Government (Administration) Regulations 1996* details the matters for discussion at the AGM of Electors. They are the contents of the annual report for the previous financial year and then any other general business. The agenda format for the AGM of Electors be:

- Attendances and Apologies;
- Contents of the 2014-15 Annual Report; and
- General Business.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

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

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The Annual Report has been prepared in accordance with all required legislative matters having been considered, however the Auditors Report is not yet finalised for incorporation into the final document. It is envisaged that the Auditors will finalise their report by mid November 2015 with the final version of the Annual Report being presented to Council at its meeting to be held on 8 December 2015.

As 14 days local public notice is required to be given for the AGM of Electors after the Council has accepted the Annual Report, the date proposed for conducting the AGM of Electors will provide sufficient time for the final bound copy of the Annual Report to be produced as well as enabling the meeting to occur prior to the Christmas recess of the Council.

**CONCLUSION:**

In order to comply with its statutory obligations it is recommended that the Council sets the date for the AGM of Electors to be on Tuesday 15 December 2015 subject to it accepting the Annual Report 2014-2015 at its Ordinary Meeting to be held on 8 December 2015. This will then enable the statutory notice (advertising) of the AGM of Electors to occur 14 days prior to the meeting

**RECOMMENDATION/S:**

**That the Council subject to it accepting the Annual Report 2014-2015 at its Ordinary Meeting to be held on 8 December 2015 confirms the details for the 2015 Annual General Meeting of Electors as being held on Tuesday 15 December 2015 at 6:00pm, in the Council Chambers (99 Shepperton Road, Victoria Park WA 6100) for the purpose of consideration of the Annual Report 2014-2015 and then any other general business.**

## 11 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

### 11.1 789 (Lot 103) Albany Highway, East Victoria Park – Change of Use to Unlisted Use (Car Wash)

<b>File Reference:</b>	PR3310
<b>Appendices:</b>	No
<b>Landowner:</b>	Oahu Management Pty Ltd
<b>Applicant:</b>	Oahu Management Pty Ltd
<b>Application Date:</b>	23 July 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.290.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	District Centre
<b>TPS Precinct:</b>	Precinct P11 'Albany Highway'
<b>Use Class:</b>	'Unlisted Use' (Car Wash)
<b>Use Permissibility:</b>	Discretionary

<b>Date:</b>	22 October 2015
<b>Reporting Officer:</b>	H. Stenning
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval - Absolute Majority, Refusal – Simple Majority

#### Executive Summary:

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

- Application seeks approval for the change of use of six (6) existing car parking bays within the undercroft car park of the Park Centre Shopping Centre to an Unlisted Use 'Car Wash';
- A 'Car Wash' is not included as a Use Class in the Zoning Table and as such is an 'Unlisted Use';
- The 'Car Wash' is proposed to service patrons of the Park Centre, to provide a hand car wash service whereby customers leave their car to be cleaned whilst shopping at the Centre;
- The application was subject to consultation with surrounding property owners and occupiers for 21 days in accordance with Council's Policy GEN3 – Community Consultation. Four (4) submissions were received; and
- Council's Urban Planning Business Unit considers the proposal to utilise six (6) car bays within the existing undercroft parking area as a hand 'Car Wash' to be consistent with the intent of the Albany Highway Precinct, and is recommended for approval, subject to conditions.

#### TABLED ITEMS:

- Development application form received 23 June 2015;
- Plans received 23 June 2015;
- Transport statement received 10 August 2015;

- Amended car parking plan received 21 August 2015;
- Email correspondence from the applicant received 22 October 2015 and 23 October 2015;
- Consultation with owners and occupiers of surrounding properties dated 14 September 2015; and
- Four (4) submissions received during the Community Consultation period.

**DETAILS:**

Council has received an application for a Change of Use at the subject site, located within the Park Centre Shopping Centre.

The application seeks planning approval to convert six (6) existing car bays in the undercroft car park of the Park Centre to a hand 'Car Wash'. The applicant proposes a 'valet' style service whereby Park Centre customers drop their vehicle off, with staff members hand washing cars whilst the customer shops at the Centre. Further details regarding the proposed operation of the business are given in 'Applicants Comments' below.

Applicant Comments

The applicant has submitted a supporting statement dated 23 June 2015, and email correspondence dated 23 October 2015 including the following information:

*This area currently forms part of our under cover car park, however, we would like to convert 6 bays to a use of a car wash. One of these bays is allocated to their storage. Included in the number of bays will be a couple of 'holding bays' where the cars will remain once they're clean, until they are picked up by their owner, with the other bays used for the cleaning/vacuuming area.*

*The car wash will operate 7 days a week between the hours of 8:00am – 9:00pm Monday – Friday, 8:00am – 5:00pm Saturday, and 11:00am – 5:00pm Sunday. We would like to provide a service to our customers whereby they can leave their car for a clean while they shop in the Centre. The operator is expecting to have 1-2 staff members.*

Further to the above, the applicant was requested to provide a Transport Statement prepared by a qualified Traffic Management Consultant to consider the potential traffic implications of the proposed development. This has been summarised as follows:

**PROPOSED DEVELOPMENT:**

- *The proposed change of use relates to the use of 6 parking spaces as a manual car wash area, servicing customers of the shopping centre while they shop. It is important to note that only 5 of the 6 parking spaces are currently available, with a metal cage being used for storage on one of the spaces;*
- *The proposed car wash will take over the use of the storage cage, and will utilise 2 parking spaces as a work area (for washing and vacuuming), leaving 3 spaces for 'holding bays' where cars will be parked before and after they are cleaned; and*
- *The proposed car wash area is not located on the main car park circulation aisle, but instead located on a 1-way aisle in the corner of the undercroft.*

**PARKING IMPACT:**

- *The proposed car wash area will accommodate up to four (4) cars during peak time, with one (1) car in the work area and three (3) within the 'holding bays';*
- *The area currently provides five (5) useable parking spaces. Since the car wash customers will all be shopping centre customers, the proposed car wash will result in a minor reduction of the overall parking capacity by one (1) space. This will be negligible and completely imperceptible; and*
- *It is assumed that the proposed use will generate the demand for 1 staff parking space, resulting in an overall loss of 2 bays for the Centre. This equates to 0.2% of the overall parking capacity, which will be negligible and completely imperceptible.*

**TRAFFIC IMPACT**

- *Since all car wash customers will be shopping centre customer choosing to have their car washed while they shop, the proposed change of use will not have any impact on the traffic generation of the overall shopping centre; and*
- *The location of the proposed car wash, in the undercroft and away from the main circulation aisle, also ensures that it will have no impact on traffic circulation or pedestrian flow within the 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 36 (as amended by Schedule 2, Clause 67 of the Local Planning Scheme Regulation 2015) and Clause 37 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P11 'Albany Highway Precinct'.

Compliance with Development Requirements

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

The following is a summary of compliance with the key development requirements.

Car Parking

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

Council records indicate an existing 119 bay on-site parking shortfall for the Park Centre, whereby 1093 car bays are required, with 978 bays said to have been provided. However, following a re-count of the onsite parking bays, it has been found that only 938 bays are provided on-site, including motor vehicle, disability and motorcycle bays, parents with prams bays, taxi bays and loading bays, and further increasing the parking shortfall from 119 bays to 155 bays. For the purpose of this application and any future applications for the site, parking calculations should be determined on the basis that 938 bays are provided.

The application indicates that six (6) bays will be utilised for the proposed car wash, comprising the following:

Work area (washing and vacuuming)	two (2) bays
Holding area	three (3) bays
Storage space	one (1) bay

All six (6) car bays proposed for use as the car wash are approved for parking purposes, however, a storage cage has previously been constructed on one (1) bay, which will be utilised as part of this application. Further, it was noted that one (1) bay would be required for staff parking purposes, and as such, a total of seven (7) bays would be utilised for the proposed use.

Whilst the car wash proposes to utilise seven (7) bays in total, the applicant has indicated that the proposed use will provide a service to the customers of the Park Centre, whereby vehicles can be left to be cleaned while the owner shops in the Centre. The proposed location of the car wash beneath the Park Centre suggests that the centre customers would be the main clientele utilising the car wash, and as such, customers of the Park Centre would park their vehicles at the car wash to be cleaned whilst shopping, as opposed to utilising a standard car bay. As such, it is considered that the use is ancillary to that of the existing shopping centre and car park.

The five (5) bays that are proposed to be used for vehicle cleaning and holding purposes will accommodate parked vehicles, and are still considered to contribute to the overall number of car bays provided on-site. As such, they will not be included in the parking shortfall calculation.

Taking into account the holding and cleaning bays, it is considered that the overall on-site parking shortfall would only be increased by two (2) bays in total – one (1) bay for the storage cage, and one (1) bay for staff parking purposes. As outlined in the Transport Statement provided with the application, this equates to 0.2% of the overall Park Centre parking capacity, which will be negligible and completely imperceptible.

Due to the low-impact nature of the proposed use, being a manual car wash to service customers of the Park Centre and ancillary to the existing parking use, the two (2) bay parking shortfall increase is considered to be acceptable in this instance. It is not anticipated that the car wash will increase the parking demand at the Centre as the clientele of the car wash will be shopping centre patrons who would otherwise park in the Centre's car park.

### **Submissions:**

#### Community Consultation:

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



The letter to residents highlighted the following issues:

- The fact that an “Unlisted Use” was being proposed; and
- Car Parking – The proposed use results in the reduction of 2 car parking bay on the existing site.

The consultation period concluded on 6 October 2015. Four (4) submissions were received and are summarised below.

<b>CONSULTATION SUBMISSIONS</b>			
<b>Submission No.</b>	<b>Submitter</b>	<b>Comments Received</b>	<b>Officer’s Comment</b>
1	Carlisle resident	Objection to the development. The resident believes that the proposed development would ruin the landscape and reduce parking.	<p>Noted.</p> <p>The submitter appears to be unaware that the car wash will be operating within the Park Centre undercroft parking area, and will be operated manually.</p> <p>The proposed car wash will not be visible from outside of the Park Centre, and will have no impact on the surrounding landscape.</p> <p>As detailed above, the development will result in an overall reduction of 2 bays only, equating to 0.2% of the overall parking capacity, which will be completely imperceptible by the general public.</p>
2	Owner/Occupier of 20 Westminster Street, East Victoria Park	Feels that there are enough car washes within the area. Would support the addition of a 2 <sup>nd</sup> storey addition of shops, or developments building on the café, restaurant and retail culture, or a boutique cinema. The submitter questioned if the Town is getting rid of the car yards to replace them with car washes.	<p>The number of car washes within the area is not a relevant planning consideration.</p> <p>Other comments noted.</p>

3	Owner of 65 Balmoral Street, East Victoria Park	<p>Objection to the development.</p> <p>The submitter comments that the car park is busy and often congested, with the location of the proposed car wash being in a busy area with intersections, shops, crosswalks and parking in close proximity.</p> <p>Fears that the change will add to safety and congestion concerns.</p>	<p>Noted.</p> <p>As detailed in the Traffic Impact Statement prepared by a Traffic Engineering and Transport Planning Consultant, the proposed car wash is located away from the main circulation aisle, which will ensure that the use has no impact on traffic circulation, congestion or pedestrian flow within the undercroft, particularly given its low scale.</p>
4	Owner of 59 Swansea Street, East Victoria Park	<p>The submitter comments that community consultation was not encouraged with regards to the proposal, due to the location of the advertising signage. The submitter believes that the placement and font size of the signs has engineered an outcome not reflecting community expectations.</p> <p>The submitter proposed that signs should be re-erected and the community consultation period recommenced.</p>	<p>The community consultation process that was undertaken was compliant with the requirements of Council Policy GEN3 - Community Consultation.</p> <p>All further comments will be disregarded.</p>

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**Use as a Car Wash

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

Precinct Plan P11 'Albany Highway Precinct' encourages shopping areas to be maintained as district centres which offer a range of retail, as well as community attractions including leisure and recreation uses, public/civic uses, community and social services. Larger scale, open-air and other commercial uses are considered inappropriate to the retail-based nodes, and are encouraged to relocate in the commercial sectors of the precinct.

It is considered that the proposed car wash use will have no impact on the streetscape or the area surrounding the Park Centre. Its location within the existing undercroft car park will ensure that the building maintains its status quo, with the addition of the car wash being ancillary to the main use. As no additional heavy-duty infrastructure is required for the operation of the car wash due to the manual nature of the use, the car wash will not have an adverse impact on the amenity of the area. The proposed 'Car Wash' is consistent with the Statement of Intent of the Precinct Plan P11 'Albany Highway' and is considered acceptable in this instance having regard to Clause 37 of the Scheme.

Transport and Parking Implications

The application was advertised on the basis of seven (7) bays being utilised for the proposed use, with the overall parking shortfall for the Park Centre increasing by two (2) bays as previously discussed.

The applicant has submitted a Transport Statement with the application, which demonstrates that the location of the proposed car wash, on a one-way aisle in the corner of the undercroft parking area and located away from the main circulation aisle, will ensure that the proposed use will have no impact on pedestrian flow or traffic circulation within the car park.

The Transport Statement details that since all car wash customers will be shopping centre customers choosing to have their cars washed while they shop, the introduction of a car wash will have a negligible and imperceptible impact on the overall parking demand of the site, and will have no impact on the overall traffic generation or internal traffic circulation. Council Officers accept this position.

Alterations to Existing Building

The proposed car wash will operate within the existing Park Centre undercroft car park adjacent to Basinghall Street. As the car wash will be manually operated, that is, employed staff will wash cars by hand, no infrastructure is required to be installed for the use, and alterations to the building are not proposed. As such, the proposed car wash will have no visual impact on the surrounding streetscape

Water Run-off

The applicant has advised that the operator of the proposed car wash will use a steam method of cleaning, and as such, any water run-off produced from the car wash will be minimal. An oil separator will be provided within the wash bay and connected to the sewer system to accommodate for any water run-off which may occur as a result of the operation.

**CONCLUSION:**

Having regard to the Statement of Intent contained within Precinct Plan P11 for the Albany Highway Precinct, and the low-impact nature of the proposed use, the application is considered to be appropriate and consistent with the District Centre Zone within which it is located.

The proposal will provide customers of the Park Centre with a service which will have little to no bearing on the amenity of the surrounding vicinity. On this basis, the application is recommended for Approval by Absolute Majority, subject to conditions.

**RECOMMENDATION/S:**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1, the application submitted by Oahu Management Pty Ltd (DA5.2015.290.1) on behalf of Oahu Management Pty Ltd for Change of Use to Unlisted Use (Car Wash) at 789 (Lot 103) Albany Highway, East Victoria Park, as indicated on the plans and written information dated received 23 June 2015 be Approved by an Absolute Majority subject to the following conditions:
  - 1.1 Operation of the Unlisted Use (Car Wash) to be in accordance with the details provided in the application dated received 23 June 2015, and email correspondence dated received 22 October 2015 and 23 October 2015. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.
  - 1.2 This approval is valid for a period of twenty four months only. If development is not commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

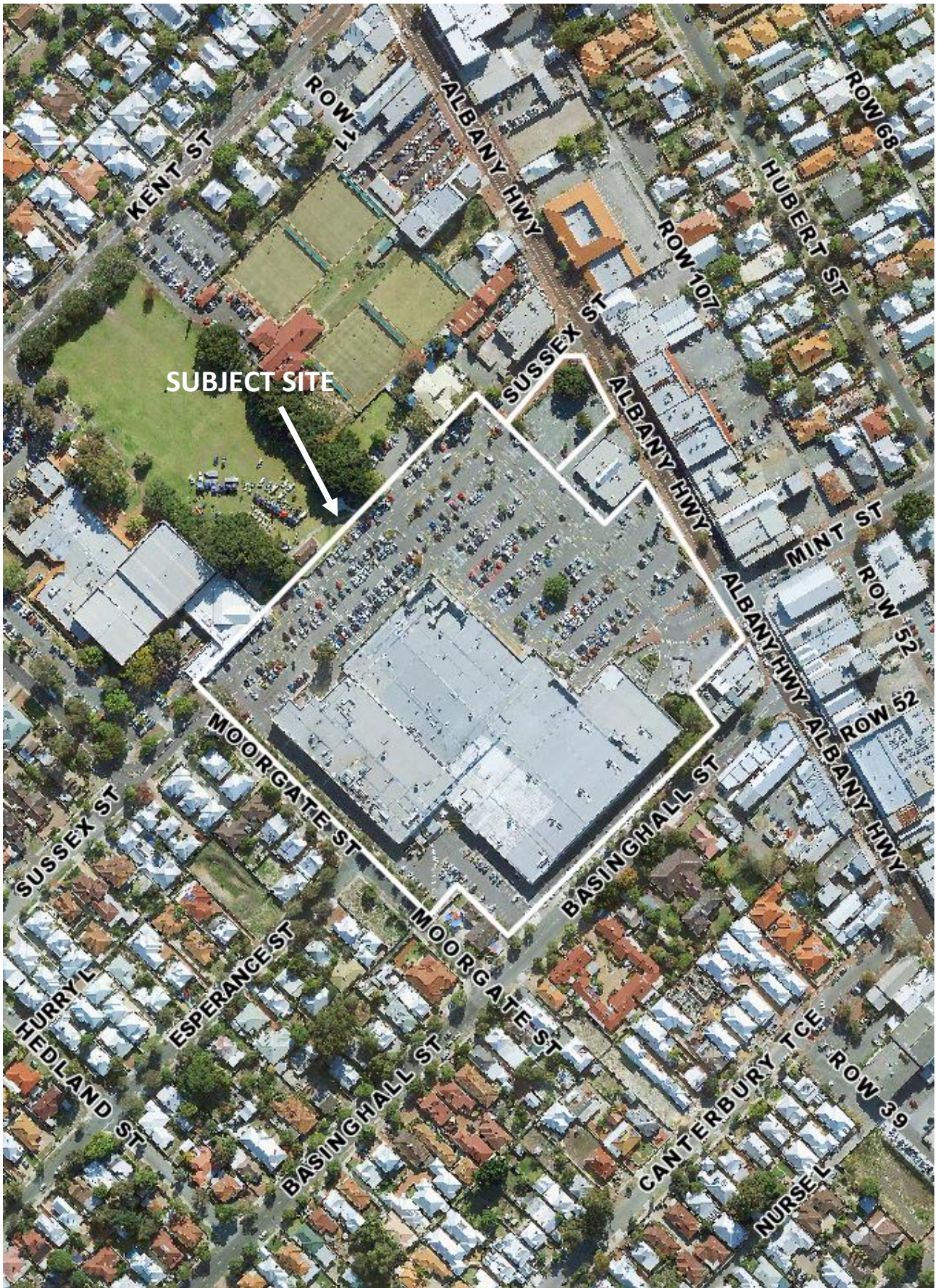
Advice to Applicant

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

- 1.4 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law. Please also note that should any signage not comply with the Signs Local Law further Planning Approval will need to be obtained prior to a sign licence application being submitted to the Council.**
- 1.5 The proposed development is satisfactory to the Environmental Health Services subject to compliance with the following legislation (as amended):**
- **Health Act 1911;**
  - **Sewerage (Lighting, Ventilation & Construction) Regulations 1971;**
  - **Town of Victoria Park Health Local Law 2003;**
  - **Metropolitan Water Supply, Sewerage and Drainage Board By-laws 1981;**
  - **Health Act (Carbon Monoxide) Regulations;**
  - **Health (Air Handling and Water Systems) Regulations 1994;**
  - **Environmental Protection (Noise) Regulations 1997;**
  - **Treatment of Sewage & Disposal of Effluent & Liquid Waste Regulations; and**
  - **Perth Metropolitan Region Sewerage Policy 1982.**
- 1.6 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.**
- 1.7 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.**

**(Absolute Majority Required)**

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



## 11.2 No. 19 (Lot 499) Balmoral Street, East Victoria Park – Proposed Carport Addition to Existing Dwelling

<b>File Reference:</b>	PR4892
<b>Appendices:</b>	No
<b>Landowner:</b>	Mr A Dienhoff & Ms S Lacey
<b>Applicant:</b>	Mr A Dienhoff & Ms S Lacey
<b>Application Date:</b>	22 July 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.353.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R30
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	Single House
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	22 October 2015
<b>Reporting Officer:</b>	T. Barry
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

#### Recommendation – Approval subject to conditions.

- Application received for proposed carport addition to existing dwelling with associated retaining walls and fill;
- Proposed carport does not comply with the Town's Local Planning Policy – Streetscape in relation to carport width in a Weatherboard Precinct;
- Proposed fill in the front setback does not comply with the Residential Design Codes in relation to height;
- Community consultation was undertaken in relation to the fill in the front setback area from 6 August 2015 to 20 August 2015. No objections were received;
- The applicants have indicated that they do not wish to amend the plans to comply with the carport width requirements of the Local Planning Policy – Streetscape; and
- Application is recommended for approval subject to conditions including a reduction in the carport width to 5.0 metres as per the requirements of the Streetscape Policy.

### TABLED ITEMS:

- Planning application form dated received 22 July 2015;
- Plans and elevations dated received 22 July 2015;
- Consultation letters to adjoining owners and occupiers dated 6 August 2015;
- Submission received during comment period;
- Applicant's letter of justification from Andrew McDonald Architect dated received 19 October 2015;
- Letters of support from neighbours dated received 22 October 2015; and
- Site photographs.

**BACKGROUND:**

The site at 19 Balmoral Street is occupied by an existing 'Original Dwelling' and is located in the Weatherboard Precinct and the Residential Character Study Area. Carports proposed in the Town are controlled by Clause 2 of the Local Planning Policy – Streetscape, which replaces the deemed-to-comply provisions of Clause 5.2.1 of the Residential Design Codes.

**DETAILS:**

An application has been received for a carport and associated retaining walls and fill at 19 Balmoral Street. The property is currently occupied by an 'Original Dwelling' and is within the Weatherboard Precinct and the Town's Residential Character Study Area.

The proposed development incorporates a double carport over an existing brick paved area and retaining to the front of the existing dwelling. The proposed double carport is 5.5 metres in width and 5.5 metres in depth, with a maximum wall height of 2.9 metres. The submitted drawings indicate that the posts and fascia of the carport are to be setback 0.45 metres and 0.2 metres respectively from the side lot boundary. The proposed retaining and associated fill is to a maximum height of 0.6 metres above the existing natural ground level.

The application has a number of non-compliances; however, the width of the carport being 5.5 metres in lieu of a maximum of 5.0 metres is the only element of the proposal which Council Officers do not support.

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

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

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

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Residential Design Codes (R Codes);
- Local Planning Policy – Streetscape (LPPS); and
- Local Planning Policy – Boundary Walls.

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Primary Street Setback	LPPS Clause 2	Minimum: 1.5 metres	1.5 metres	Non-compliant (refer to Comments section).
		Average: 6.0 metres	4.87 metres	



Boundary Walls	LPP-BW	Maximum 19.9m long; Maximum height 2.9 metres; Average height 3.0 metres.	5.5 metres long; 2.9 metres high	Complies
Open Space	R-Codes Clause 5.1.4	45% (194.4m <sup>2</sup> )	49% (211.2m <sup>2</sup> )	Complies
Access and Parking	R-Codes Clause 5.3.3	1 car parking bay	2 car parking bays	Complies
Site Works & Retaining Walls	R-Codes Clause 5.3.7 & Clause 5.3.8	Max 0.5 metre fill/excavation within 3.0 metres of street alignment	0.6 metre maximum fill/retaining within 3.0 metres of street alignment	Non-compliant (refer Comments section below)
Width of Carport	LPPS - Clause 11	5.0 metre maximum width	5.5 metre width	Non-compliant (refer to Comments section).

**Submissions:**Community Consultation:

In accordance with the Council's GEN3 'Community Consultation' Policy and the Residential Design Codes, the proposal was the subject of consultation for a 14 day period, with letters being sent to the owners and occupiers of surrounding affected properties. The consultation was in relation to the non-compliant fill within the front setback only. The consultation period commenced on 6 August 2015 and concluded on 20 August 2015. One (1) submission was received during the consultation period, which is summarised below:

<b>CONSULTATION SUBMISSION</b>	
<i>Submission from owner/occupants of No. 17 Balmoral Street, East Victoria Park</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>Happy with the proposal and have no objections.</li> </ul>	<ul style="list-style-type: none"> <li>Noted</li> </ul>
<ul style="list-style-type: none"> <li>Believe they have taken very careful consideration of the streetscape to produce a high quality design.</li> </ul>	<ul style="list-style-type: none"> <li>Noted</li> </ul>

Whilst not the subject of community consultation undertaken by Council, the applicant has submitted seven (7) letters of support for the carport from neighbours of surrounding properties.

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The proposed carport does not comply with a number of aspects of the Town's Local Planning Policy – Streetscape and the Residential Design Codes. Council Officers have considered the merits of the variations sought and are prepared to support variations other than the proposed carport width.

Primary Street Setback

The Town's Local Planning Policy – Streetscape Clause 2 sets out the deemed-to-comply provisions for carports fronting a primary or secondary street within the Town, being:

*'A2 (a) an average setback of at least 6.0 metres (inclusive of the carport and other buildings) being achieved from a primary street;'*

The proposed carport has an average front setback of 4.87 metres.

The Town has the ability to consider variations to the average front setback having regard to the existing street setback pattern and siting of other carports in the street. In this instance, whilst there is not an established pattern of carports in the relevant section of Balmoral Street, it is considered reasonable for the property owner to be permitted to have a carport notwithstanding the non-compliant average setback. Given that the street is generally an open streetscape character with no parking structures or buildings located in front of the dwellings, it is of greater importance that the maximum 5.0 metre carport width as set out in the Policy is adhered to, ensuring that the streetscape impact can be reduced as much as possible.

Given the above, Council Officers are prepared to support a variation to the average primary street setback subject to the carport being no wider than 5.0 metres as permitted in the Streetscape Policy. A reduction in the carport width to 5.0 metres would increase the average front setback to 5.06 metres.

Site Works & Retaining

The Residential Design Codes allow for a maximum of 0.5 metres of fill to be contained within 3.0 metres of the street alignment. In this case, a maximum of 0.6 metres fill is proposed within 3.0 metres of the street alignment. A retaining wall and associated fill is proposed to run along the front property boundary where it abuts the footpath.

The proposed fill was subject to community consultation with a letter being sent to the surrounding affected owners and occupiers. The consultation was undertaken for a period of 14 days, with one submission being received which did not object to the proposed fill.

Given the minimal nature of the fill and retaining (being 100mm above what is permitted without approval), and the sloping nature of the site, it is considered acceptable.

### Carport Width

For development in the Residential Character Study Area (but not in the Weatherboard Precinct), the following provisions apply to the width of a carport:

*A2 (d) Where the width of the carport exceeds 35% of a site frontage, the carport is not to project more than 1.0 metre forward of the façade of the dwelling.*

In the case of the subject lot with a width of 12.07 metres, a carport of 4.22 metres maximum width would be permitted.

In recognition of the desire to provide double carports to existing dwellings, the Town developed alternative provisions for Weatherboard Precincts (outlined below) that provide for increased width carports. The alternative provisions were adopted by Council at the Ordinary Council Meeting on 10 June 2008 in response to a petition lodged by residents in the Weatherboard Precinct. The provisions, which are now in place, were carefully considered to ensure that carports were restricted to the minimum width necessary to ensure that two vehicles could be accommodated whilst maximising the amount of the dwelling frontage visible from the street. The 5.0 metre width requirement for lots greater than 12.0 metres but less than 14.5 metres was based on the premise that 12.0 metres lots may have a maximum 10 metre wide dwelling (with a 1.0 metre setback either side), therefore meaning that 50% of the dwelling would be unobscured by carport. Whilst it is recognised that this is not necessarily the case for all dwellings, it was the basis for allowing double carports on lots of only 12.0 metres frontage.

The deemed-to-comply provisions for carports located in the Weatherboard Precinct are contained within Clause 2 of the Local Planning Policy – Streetscape, as state as follows:

*'A3 (c) Carport structures may be located within the street setback area of primary and secondary streets where the following minimum requirements are met:*

*ii. The external width of the carport structure (measured to the outside faces of the columns) does not exceed:*

- *3.0 metres for lots with a frontage of 12.0 metres or less; or*
- *5.0 metres for lots with a frontage greater than 12.0 metres but not more than 14.5 metres; or and*
- *35% of the lot frontage or 6.0 metres whichever is the less, for lots with a frontage greater than 14.5 metres.*

The subject lot has a frontage of 12.07 metres in which case the applicable maximum carport width is 5.0 metres. The proposed carport is designed to be 5.5 metres in width. If the subject lot was to be 70 centimetres less in width a maximum 3.0 metre wide carport would be permitted on the lot.

The 5.0 metre maximum width allowance is based upon two (2) 2.4 metre wide car bays (the minimum required width under the Australian Standards and R-Codes) plus 100mm wide posts to both sides of the carport (i.e. 2 bays at 2.4 metres wide each, plus 100mm wide columns equals 5.0 metre width).

As the application is non-compliant with the permitted carport width under the Acceptable Development standard, Council is required to consider the variation having regard to the relevant Performance Criteria under the Policy, namely:

*'P1 The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.'*

The subject site is surrounded by a number of other 'Original Dwellings' with similar street setback patterns to the dwelling. A review of the street has identified that there is not an established streetscape of carports forward of dwellings, with most parking being provided to the side of dwellings or as open parking bays in the front setback area. Noting this open streetscape character, a compliant 5.0 metre wide carport would have an impact on the surrounding streetscape. An increase to a non-compliant width of 5.5 metres would exacerbate the impact on the streetscape.

The Town has consistently applied the width standards for carports within the Weatherboard Precinct to ensure that carports do not have any greater impact on the streetscape or appearance of the original dwellings than necessary. It is the Town's preference that the 'Original Dwelling' remains as unobscured as possible and as such the width of the carport relative to the dwelling façade is reduced as much as possible.

The applicants have provided justification that the increased width of the carport is required to allow for manoeuvring into and out of the carport from the street. Council's Street Life Business Unit have reviewed the application and have confirmed that the proposed carport can be entered and exited in a straight line onto the road, with a 4.8 metre distance between posts being sufficient.

The applicants have also provided justification that the width of 5.5 metres is required to provide the best possible aesthetic outcome for the existing 'Original Dwelling'. Council Officers have reviewed the application in this regard and are not of the same opinion. It appears that the existing carport does not sit directly in front of a particular feature that requires the proposed width, nor does the proposed height match that of the other gable on the dwelling. In reducing the width of the carport, the roof would still need to have a pitch to match the existing dwelling and as such the overall height would likely slightly reduce. The carport design will still be fundamentally the same, with the changes still allowing for a carport that complements the existing dwelling. The applicants have not submitted plans showing the carport with a 5.0 metre width to demonstrate the design issues they have noted.

Council Officers are of the opinion that there is no justification to warrant a variation to the width of the carport on this site particularly given that there is not an established streetscape of carports in this area. This therefore creates the circumstance where the proposed carport will become the reference for other carports on the street in the future. Should Council determine to allow the carport at the proposed 5.5 metre width, this will undermine the basis of the Local Planning Policy – Streetscape, and ultimately result in a precedence being set. If Council is to support an increased carport width in this instance where the carport is not consistent with the streetscape character, then Council will have difficulty in refusing similar application in all other instances. The cumulative impact of approving over-width carports is streetscapes dominated by carports rather than the 'Original Dwellings' as is the intent of the policy.

Further to the above, the application is non-compliant with the Building Code of Australia (BCA) requirements in relation to the side setback of the carport from the side lot boundary. The BCA requires a minimum 500mm setback to the fascia of the carport due to the exposed rafters. Currently the proposed carport has a fascia setback of 200mm from the boundary. This will result in the carport having to be moved over on the lot by 300mm, which would result in more of the dwelling being obscured from view from the street. Alternatively a reduction in the width of the carport to 5.0 metres can accommodate the required additional fascia setback without the carport needing to be moved more centrally.

The proposed carport at a width of 5.5 metres does not satisfy the Performance Criteria of the Local Planning Policy – Streetscape. A carport, with a 5.5 metre width, will result in an obstruction of views both from and of the dwelling and will have a negative impact on the streetscape and represent a precedent for other similar developments.

### **CONCLUSION:**

The proposed application for a carport and associated fill and retaining at 19 Balmoral Street, East Victoria Park is recommended for approval, subject to a condition to reduce the carport width to a maximum of 5.0 metres (measured to the outside faces of the columns). The proposed carport and fill do not comply with a number of requirements contained within the Town's Local Planning Policy – Streetscape and the Residential Design Codes, however following an assessment of the proposal the Town is willing to grant approval to the carport at a reduced width of 5.0 metres.

It is considered that there is not sufficient justification to allow for an increase in the width of the carport from the allowable 5.0 metres having regard to the streetscape character and the basis for the requirement. Council Officers have consistently applied the Weatherboard Precinct carport width requirements which already allow for an increased width to what would otherwise be permitted for development elsewhere in the Town.

A width of 5.0 metres still allows for two car parking bays to be provided with space on either side of the carport being available for the opening of doors and access to the vehicles as approved for a number of other carports in the Weatherboard Precinct. For the reasons above it is recommended that the carport be approved subject to a condition that the width be reduced to 5.0 metres.

### **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 Andrew Dienhoff and Su-Lyn Lacey (DA Ref: 5.2015.353.1) for Carport Addition to Existing Dwelling at No. 19 (Lot 499) Balmoral Street, East Victoria Park as indicated on the plans received 22 July 2015 be Approved subject to the following conditions:**

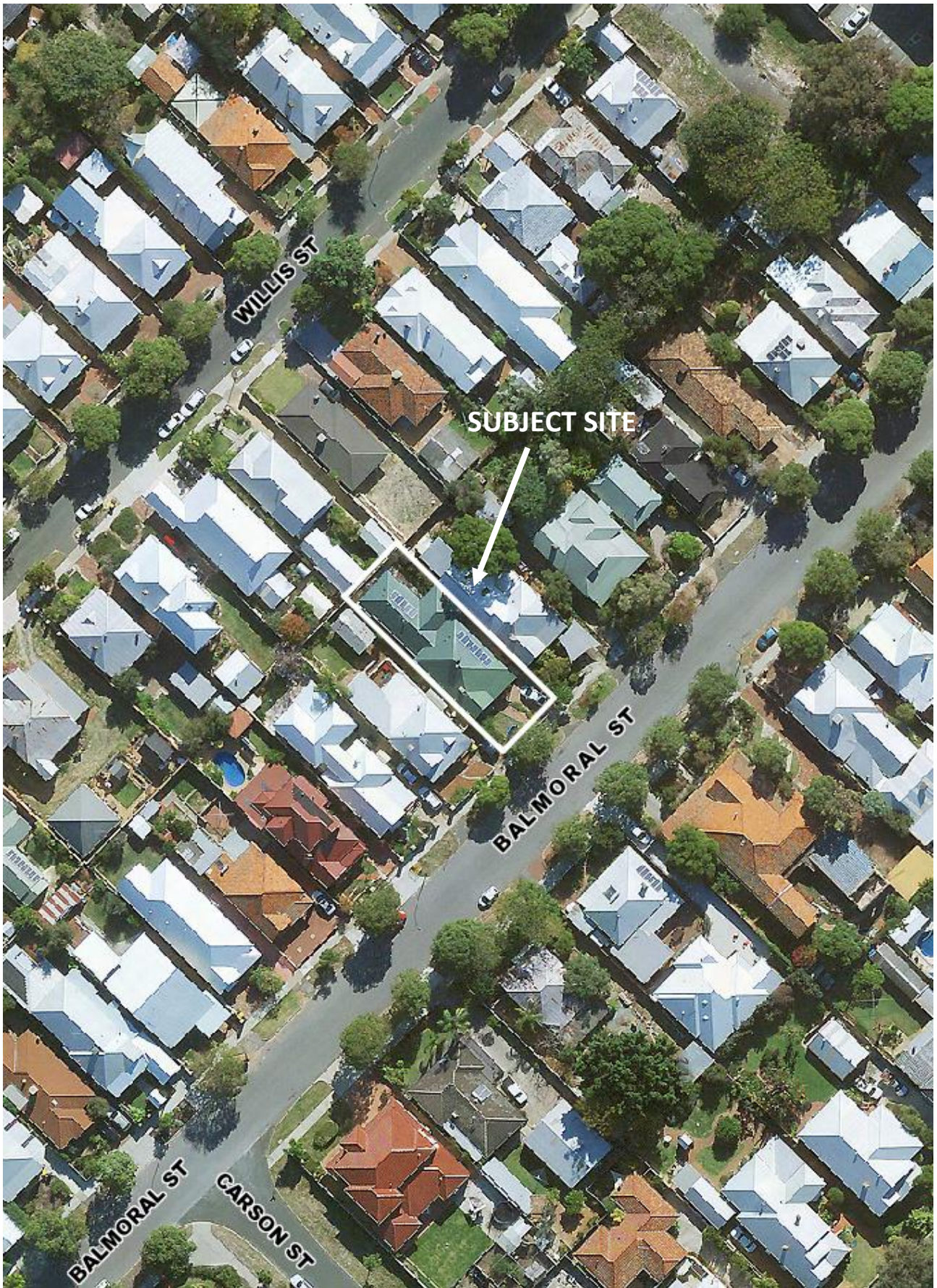
**1.1 The carport being reduced to a maximum width of 5.0 metres (measured to the outside faces of the columns) as indicated on red on the approved plans.**

- 1.2 The roof of the carport, including the whole of the fascia and gutter, being setback a minimum of 500mm from the boundary, in order to comply with the Building Code of Australia provisions.
- 1.3 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.
- 1.4 The existing vehicle crossover is to be upgraded to the Town's specifications. Any redundant portions of the existing vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Manager Urban Planning.
- 1.5 This approval does not include a roller door or similar carport door or enclosure on the carport structure.
- 1.6 External colours, finishes and materials to be used in the construction of the building are to be matching the existing dwelling and in accordance with the colour schedule date stamped approved 10 November 2015, attached with the approved plans, unless otherwise approved in writing by the Manager Urban Planning.
- 1.7 The roof pitch of the carport to match the existing dwelling.
- 1.8 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

#### **Advice to Applicant**

- 1.9 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.10 A separate planning application is required for any fence forward of the building line. Any fencing forward of the building line is to comply as follows:
  - i. where the overall fence height is greater than 1.2 metres, the fencing is to be open style above a height of 600mm above natural ground level; or
  - ii. not exceed an overall fence height of 1.2 metres above natural ground level.

- 1.11 Crossover location and construction shall comply with the Town's Specifications for Crossover Construction. A separate application must be made to the Town's Street Life Sub Program (tel 9311 8115) for approval prior to construction of a new crossover. Residential Vehicle crossovers shall be constructed from the following approved materials: Brick / Block Pavers, In-Situ concrete, In-Situ Lime-Crete, In-Situ Exposed aggregate or any other material approved by the Town's Manager Street Life Sub Program.**
  - 1.12 All stormwater runoff to be retained on site. Stormwater drainage to comply with the Town's "Stormwater drainage requirements for residential and commercial developments guidelines", which are available from the Town or the Town's website.**
  - 1.13 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.**
  - 1.14 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.**





### 11.3 No. 1019 (Lot 5) Albany Highway, St James – Retrospective Approval for Change of Use from Unlisted Use (Community Use) to Unlisted Use (Community Use) & Place of Worship

<b>File Reference:</b>	PR6424
<b>Appendices:</b>	No
<b>Landowner:</b>	Wildnight Pty Ltd
<b>Applicant:</b>	Altus Planning and Appeals
<b>Application Date:</b>	28 August 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.441.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	District Centre
<b>TPS Precinct:</b>	Precinct Plan P11 'Albany Highway'
<b>Use Class:</b>	Unlisted Use (Community Use) & Place of Worship
<b>Use Permissibility:</b>	'AA' (Discretionary) & 'P' (Permitted) use

<b>Date:</b>	22 October 2015
<b>Reporting Officer:</b>	C. McClure
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval – Absolute Majority; Refusal – Simple Majority

#### **Executive Summary:**

#### **Recommendation – Approval by Absolute Majority**

- An application to modify a condition of planning approval to increase the number of patrons within the subject tenancy every Friday between 1.00pm and 2.00pm for religious services was refused at the Ordinary Council Meeting on 9 June 2015;
- The applicant lodged an application for review with the State Administrative Tribunal, which was of the opinion that the refused application should have been considered as a Change of Use from Community Use to Community Use & Place of Worship rather than a modification to the existing approval for the use of the premises as Community Use. Accordingly, a new application has been submitted now including the additional use of Place of Worship for the 1 hour period on Fridays;
- Community consultation carried out for 14 days, consisting of letters to surrounding owners and occupiers. Nineteen submissions were received during the consultation period; and
- The development will not result in an adverse impact on the amenity of the surrounding properties given that the Place of Worship operates for a one hour limited time period only and that parking management measures have been implemented by the applicant to limit any impacts of traffic and parking generation during the stated period. It is therefore recommended that the application be Approved subject to conditions.

#### **TABLED ITEMS:**

- Application form dated received 28 August 2015;
- Development plans dated received 28 August 2015;
- Applicants development application submission dated 28 August 2015;
- Community consultation letter dated 9 September 2015; and
- Public submissions received.

**BACKGROUND:**

- 17 March 2009 At the Ordinary Council Meeting, Council resolved to grant planning approval (DA Ref: 08/0700) for a Change of Use from 'Shop and Mall' to 'Unlisted Use' (Community Use) on the subject tenancy subject to conditions. In particular, Conditions 1 and 8 of this Approval state as follows:
- "1. There being a maximum of 30 people in attendance within the tenancy at any one time."*
- "8. Operation of the 'Community Use' is to be in accordance with details provided in correspondence from the President of the Furqan Islamic Association dated 16 January 2009. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council."*
- 27 May 2014 Council received a formal complaint from a member of the public relating to the use of the subject premises and issues of car parking.
- 22 August 2014 The applicant was requested by the Council to either cease the use of the subject tenancy for religious services or submit a formal application for Modification to Planning Approval for Council's consideration.
- 2 October 2014 Council received an application for Modification to Planning Approval to modify the Planning Approval (DA: 08/0700), to permit more than 30 persons to attend the site for a religious service every Friday between 1.00pm and 2.00pm.
- 9 December 2014 Application considered by Council. The Officer's recommendation for approval was moved and supported 4 votes to 3 votes, however as this did not constitute an Absolute Majority the motion was lost. There was no motion moved to refuse the application, so therefore in effect there was no decision made by Council.
- April 2015 Application for review submitted to the State Administrative Tribunal, on the basis that Council did not make a decision the application.
- June 2015 The State Administrative Tribunal issued a Section 31 Order requiring Council to reconsider the application at the June Ordinary Council Meeting. Council resolved to refuse the application for the following reasons: 1. inadequate parking; 2. adversely impact upon the amenity of the area; 3. it doesn't enhance the intent of the precinct; 4. Council don't have the capacity to enforce the hours of operation.

August 2015 A further Directions Hearing was attended at the State Administrative Tribunal. At this Hearing, a SAT member advised that their opinion was that the refused application should have been considered as a Change of Use from Community Use to Community Use & Place of Worship rather than a modification to the existing approval for the use of the premises as Community Use.

**DETAILS:**

Approval is sought to change the use for the abovementioned property from Community Use to Community Use and Place of Worship to accommodate a religious service that occurs every Friday between 1.00pm and 2.00pm.

The site comprises a lot of 2051m<sup>2</sup> and has frontage to both Albany Highway and a rear right-of-way. The site currently contains a single storey commercial building with 34 on-site car parking bays at the rear of the building with vehicular access provided via the right-of-way. The tenancy in question, which has a floor area of approximately 217m<sup>2</sup>, is one of four tenancies within the building.

The subject tenancy is currently approved for the purpose of 'Community Use' which is classified as an 'Unlisted Use' as it does not fall within the interpretation of any use classes contained in the Town of Victoria Park Town Planning Scheme No. 1. In relation to the nature of activity conducted within the premises, the previous correspondence from the President of the Furqan Islamic Association dated 16 January 2009 (as part of its supporting justification for the previous approval (DA 08/0700) stated, in part, as follows:

*"We will be addressing the cultural and spiritual needs of our members, organise social gatherings, sports activities, sewing classes for women and families counselling services. The Somali community is a Muslim community, and when the prayer time comes they pray wherever they are and the centre will be used to facilitate.*

*The centre will hold approximately between 20 and 30 people, who will be mostly in (attendance on) the weekends and the carpark is available."*

However, following a formal complaint and subsequent investigation, it was determined that the subject premises was being used for religious services every Friday between 1.00pm and 2.00pm and that it is attended by more than 30 persons which contravenes the relevant conditions of the current Approval (08/0700) for a Community Use.

Whilst the Town accepts that praying will occur at various times by no more than 30 persons already there for other activities during the hours that the subject centre is open as indicated in the letter dated 16 January 2009, there is no provision under the current planning approval that allows for persons to attend the centre for specific religious services such as prayers that occur every Friday. In addition, under the current approval for a Community Use, the maximum number of people permitted to attend the subject centre must be no more than 30 at any one time.

As part of the current application, the applicant has submitted written justification for the use of the premises for religious services which is summarised as follows (also refer Tabled Items):

- The proposed activity is consistent with the general objectives with Section 6 of Town Planning Scheme No.1 and is in keeping with the culturally diverse nature of the area;
- Commitment to alleviate any impacts of parking and traffic generation on the surrounding properties through on-going traffic management measures including traffic controllers scheduled to volunteer every Friday to direct drivers to appropriate parking zones, the promotion of nearby public transport (both bus and train) as well as carpooling, walking and cycling as alternative transport options; and
- The provision of an 'Observational Analysis of Parking Availability during Friday Prayer Period' to ascertain whether existing parking facilities were adequate to cope with this increase in demand and the degree to which nearby parking facilities were affected.

### **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:

- Statement of Intent contained in Precinct Plan P11 'Albany Highway';
- Clause 16 of the Scheme Text – 'Unlisted Uses';
- Clause 36 of the Scheme Text – 'Determination of Application – General Provisions' as amended by Schedule 2, Clause 67 of the Local Planning Scheme Regulations 2015; and
- Clause 37 of the Scheme Text – 'Determination of Application for an Unlisted Use'.

#### Compliance with Development Requirements

The proposal has been assessed for compliance with the following statutory documents and policies:

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

In relation to car parking, it is acknowledged that the existing car parking shortfall for all tenancies on the entire site is 13 bays (47 bays minimum required whilst 34 bays have been provided). As per the approval granted in 2009, the subject tenancy requires a total of eight (8) on-site car bays based on the maximum number of 30 patrons attending at any one time and a car parking rate for an 'Educational Establishment' of 1 bay per 4 people. However, the operation of the premises for religious services for a one hour period every Friday requires a total of 48 car bays based on a floor area of 217m<sup>2</sup> and a car parking rate for a 'Public Assembly' of 1 bay per every 4.5m<sup>2</sup> of floor area. As a result, the proposed use would increase the demand for on-site car parking for the subject tenancy by 40 car bays during the stated period.

It should be noted that under Environmental Health requirements, the premises is permitted to be used as a Public Building by up to 186 people.

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

In accordance with Council Policy GEN3 'Community Consultation', the application has been advertised for a period of 14 days, including letters to surrounding owners and occupiers. The consultation period commenced on 10 September 2015 and closed on 24 September 2015. A total of nineteen (19) submissions were received with one (1) of these received after the closing of the comment period. It is noted that one (1) land owner lodged two (2) separate submissions and that a business owner adjacent lodged two (2) separate submissions which were one from the property manager and the other from the business operator.

The matters raised in the submissions are summarised in the table below. It is noted that some of the submissions received include matters of religion and/or race which are not relevant planning considerations and as such have not been included. All of the submissions are included in full as a tabled item.

<b>Traffic &amp; Parking</b>		
<b>Property</b>	<b>Comments Received</b>	<b>Officer's Comments</b>
3/2 Alday Street, St James	<ul style="list-style-type: none"> <li>• Increase in traffic congestion and vehicles blocking access to driveway and property.</li> <li>• Request the Shire put a "no standing" zone on the residential roadside of Alday Street.</li> </ul>	<ul style="list-style-type: none"> <li>• Notwithstanding that the use would increase the existing car parking shortfall on the site by 40 bays, the increased shortfall is only confined to once a week, for an hour and will be managed.</li> </ul>
26/20 Alday Street, St James	<ul style="list-style-type: none"> <li>• The area is congested before, during and after the 1 hour that is proposed. Area is already quite congested with traffic flow on from Albany Highway</li> </ul>	<p>Council Officers have observed and evaluated the parking management measures in place as well as the impact of the proposal on the parking facilities in the locality and are satisfied that the proposal is being appropriately managed and is not placing unreasonable pressure on parking or the surrounding area during the stated period.</p>
Colliers International on behalf of 1009 & 1013-1015 Albany Highway, East Victoria Park	<ul style="list-style-type: none"> <li>• Introduction of this use will have substantial traffic ramification to our current sitting tenant namely Repco &amp; Bunnings. Each of these tenants were required to have substantial onsite parking themselves.</li> <li>• In the past the car park for both 1015 and 1009 Albany Highway have been utilised by worshippers.</li> <li>• Tenancies rely on the sole use of their car parks and pay for the use and maintenance which is detrimental to their sales and business viability.</li> </ul>	<p>Council Officers have observed and evaluated the parking management measures in place as well as the impact of the proposal on the parking facilities in the locality and are satisfied that the proposal is being appropriately managed and is not placing unreasonable pressure on parking or the surrounding area during the stated period.</p>

1013 Albany Highway, East Victoria Park	<ul style="list-style-type: none"> <li>Concerned by the increase in traffic and associated parking any change has. The shortfall will place further strain on already congested area. Any further erosion of accessibility and added congestion will not only impact our trade but also a wider network of local business.</li> </ul>	
145 Sussex Street, East Victoria Park	<ul style="list-style-type: none"> <li>Encounter difficulties accessing businesses on Albany Highway and the congestion it creates.</li> </ul>	
1017 Albany Highway, St James	<ul style="list-style-type: none"> <li>The increase in traffic before and after the said times makes coming and going impossible.</li> </ul>	
8/2 Alday Street, St James	<ul style="list-style-type: none"> <li>We are concerned regarding the information contained in the application submission and our observation is that the car park is too small to accommodate the volume of traffic utilising it.</li> </ul>	
30 Mackie Street, Victoria Park	<ul style="list-style-type: none"> <li>The area is not conducive to increased traffic and congestion is already an issue during the proposed times. There is no way any business can manage the number of attendees to the facility.</li> </ul>	

1021-1025 Albany Highway, St James	<ul style="list-style-type: none"> <li>• Concern in relation to unauthorised parking by visitors of the subject land in the Supercheap Auto car park which is immediately adjacent which is considerably worse on prayer meeting days. A significant portion of visitors park for hours before and after meeting.</li> <li>• Have to request visitors to relocate to their vehicles from the Supercheap Auto car park which is considerable and unnecessary drain on staff.</li> <li>• The application relies on nearby public car park to overcome the parking shortage however visitors will park in the most convenient nearby location. We do not believe that operators have put in place appropriate systems or are capable of policing the car parking situation.</li> </ul>	
1/20 Egham Road, Burswood	<ul style="list-style-type: none"> <li>• Worshippers will and do park in areas more adjacent to the proposed place of worship. Parking in the area adjacent on Fridays is extremely difficult.</li> <li>• Traffic controllers are used behind the centre of worshippers and can't control cars parking in other areas. Use of public transport and carpooling cannot be monitored.</li> </ul>	
69 Cornwall Street, Lathain	<ul style="list-style-type: none"> <li>• On Fridays the parking situation is intolerable due to the immense number of cars which restricts access to local shops. The parking situation does not occur during other days of the week.</li> </ul>	

119E Beatty Avenue, East Victoria Park	<ul style="list-style-type: none"> <li>• Parking should be preserved to be available for staff and patrons of the present retail businesses and for future viable businesses in the area.</li> <li>• The area is located in a prime position for future business development with much needed parking associated with it.</li> </ul>	
28 Clinton Avenue, St James	<ul style="list-style-type: none"> <li>• The area is often overcrowded in terms of availability of vehicle spaces and cannot accommodate a further influx of worshippers particularly on Fridays.</li> </ul>	
<b>Noise</b>		
<b>Property</b>	<b>Comments Received</b>	<b>Officer's Comments</b>
3/2 Alday Street, St James	<ul style="list-style-type: none"> <li>• The noise from this activity in the morning wakes me and is a disruption regardless of the time of day with talking and yelling. I object to the numerous cars and people in the car park disturbing the peace at unreasonable early hours of the morning and times throughout the entire day.</li> <li>• Noise is a non-issue if activities are fixed between 1pm and 2pm on Fridays. It is a significant problem at 5am when they worship and in the evening. I request the Shire place conditions on the proposal to prevent these activities from occurring early in the morning or evening.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. It is reasonable to expect that there will be some level of noise generated from existing business activity located in the District Centre zone. The proposal is only to operate as a Place of Worship with increased patronage numbers for a one hour period between 1:00pm and 2:00pm on Fridays only which will be included as a condition should the application be approved.</li> </ul>
26/20 Alday Street, St James	<ul style="list-style-type: none"> <li>• Concerned about noise before during and after the 1 hour. There has been no mention of the noise that this will create and a strategy for this.</li> </ul>	



<b>Safety</b>		
<b>Property</b>	<b>Comments Received</b>	<b>Officer's Comments</b>
3/2 Alday Street, St James	<ul style="list-style-type: none"> <li>Children running in and out of cars in the car park playing hide and seek unsupervised. Concerned about the safety and welfare of these children.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Supervision of children is not a relevant planning consideration. The proposal will be required to comply with the relevant Building and Environmental Health Legislation and requirements.</li> </ul>
1/20 Egham Road, Burswood	<ul style="list-style-type: none"> <li>In the event of an emergency the limited building conditions for up to 186 people raise safety concerns.</li> </ul>	
<b>Land &amp; Building Use</b>		
<b>Property</b>	<b>Comments Received</b>	<b>Officer's Comments</b>
8/2 Alday Street, St James	<ul style="list-style-type: none"> <li>The proposal may lead to increase patronage at the facility which seems inadequate in terms of modern health and building standards.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal will be required to comply with the relevant Building and Environmental Health Legislation and requirements.</li> <li>A Place of Worship is a permitted use of the land under the Scheme.</li> </ul>
1/20 Egham Road, Burswood	<ul style="list-style-type: none"> <li>It is impractical of Council to monitor usage and observe whether the Place of Worship is being used during other times or days.</li> <li>The use of the area as a Place of Worship is different from the specific provisions of the East Victoria Park Gateway shopping area.</li> <li>People in wheel chairs or with other disabilities continue to find access challenging.</li> </ul>	
<b>Submissions of Support</b>		
20/20 Alday Street, St James	<ul style="list-style-type: none"> <li>Don't see any problems if Council approves their request. It looks like more people will be around which is good for business.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

The proposal will enable members of the Muslim community to meet for a religious service for a 1 hour period every Friday.

Environmental Issues:

Nil

**COMMENT:**Precinct P11 'Albany Highway Precinct' - Statement of Intent

In determining this application, Council must be satisfied that the proposal meets the requirements listed under Clause 36(5) of the Scheme (as varied by Schedule 2, Clause 67 of the Local Planning Scheme Regulations) if approval were to be granted.

The stated objective for the 'District Centre' zone in Precinct Plan P11 'Albany Highway Precinct' is to ensure that any development or activity within the East Victoria Park Gateway Shopping Area shall be '*consolidated as a node of retail and commercial uses and will serve as a gateway to the Albany Highway retail/commercial strip to the town.*' In this instance, the use of the premises for prayers for a limited time period is not considered to compromise the intent of the Precinct noting that such a use is permitted under the Scheme. In fact, the proposed use is likely to promote street activation within this portion of Albany Highway which is not as active or vibrant in comparison to other commercial areas along Albany Highway. From this perspective the use would have a positive effect on the livelihood and business in the surrounding area.

Car Parking

In relation to car parking, notwithstanding that the use would increase the existing car parking shortfall on the site by 40 bays, the increased shortfall is only confined to a one hour period once a week. In addition, the applicant has implemented parking management measures to alleviate any impacts of traffic and parking on the site and surrounding properties during the prayer session.

The applicant undertook a standalone 'Observational Analysis of Parking Availability during Friday Prayer Period' to ascertain whether the existing parking facilities were able to cope with the increase in demand and if and how nearby parking facilities were impacted (this is included as a tabled item). This analysis was evaluated by the Town's own observation and review of the same parking facilities prior to, during and after the one hour period as follows.

**Subject Lands Car Park & Northern Side of Alday Street**

Time	Rear parking in subject Lot	Rear Parking in adjoining lot	Street Bays
12.30pm	24 cars	18 cars	3 cars
1.15pm	33 cars	20 cars	9 cars
2.00pm	13 cars	18 cars	3 cars

**McDonalds Parking & Southern Side of Alday Street**

<b>Time</b>	<b>McDonalds</b>	<b>Street Bays</b>
12.39pm	33 cars	0 cars
1.21pm	38 cars	5 cars
2.02pm	32 cars	4 cars

**Shepperton Road Car Park**

<b>Time</b>	<b>Public Parking Lot</b>
12.42pm	52 cars
1.25pm	53 cars
2.08pm	42 cars

There was an increase in patronage of all car parks during the one hour service period and the following observations and inferences are made from the parking evaluation:

- The subject sites car park experienced an increase in car parking during the one hour service period with a reduction in cars parked at the conclusion of the one hour service period;
- The adjoining car parking for 1021-1025 Albany Highway experienced a minimal increase in parking during the one hour service period indicating that patrons of the Place of Worship are unlikely to be utilising this car park;
- The McDonalds car park was busy and experienced significant turnover with a number of cars entering and exiting the site principally due to this being over the lunch time period. It is noted that the difference in parking numbers was minimal during and after the one hour period which is indicative that the cars parking in this location were patrons of McDonalds not patrons of the Place of Worship;
- There was an increase in on street parking along Alday Street during the one hour service period;
- The Shepperton Road car park (containing 80 car bays) decreased in use following the one hour service period indicating a level of patronage associated with the Place of Worship; and
- The traffic controller in high-visibility vest had distinguished with witches hats between the boundary of the subject car park and adjoining car park for 1021-1025 Albany Highway and was directing patrons to park on the subject sites car park and not the adjoining car park.

With regards to parking, it is considered and has been observed that the use creates minimal interference or conflict with the surrounding properties by way of traffic and parking generation during the short period of time proposed. It is recommended that Elected Members take the opportunity themselves to observe the parking impact on a Friday prior to 10 November 2015 Ordinary Council Meeting.

As the proposed use does not comply with the requirements of the Town Planning Scheme No. 1, Council must give consideration to Clause 38 of the Scheme in determining the application. Given the parking shortfall is only during the one hour service period once a week and that there is minimal impact on the adjoining parking facilities, Council Officers are satisfied that proposal will not adversely impact on the amenity of users of the development or adjacent land owners and occupiers and accords with orderly

and proper planning of the Precinct.

#### Environmental Health & Building Requirements

A condition of planning approval is recommended to permit a maximum of 186 people within the tenancy at any one time only on every Friday between 1.00pm and 2.00pm in order to comply with the relevant Council's Environmental Health regulations. At all other times, the subject tenancy is limited to a maximum of 30 people at any one time, consistent with the current Approval (DA: 08/0700) for Community Use.

It should also be noted that under the Building Code of Australia, when a building changes its classification the proposal has to comply with the disabled access requirements. As the classification is not proposed to change with the introduction of the Place of Worship use, the applicant is not required to upgrade the building to provide for disabled access requirements, nor are additional amenities required to be provided.

#### Determination of Previous Application

With regards to the previous application and reasons for refusal the following comments are made:

*1. Inadequate parking*

The parking shortfall is confined to once a week, for a one hour period and is being appropriately managed with limited impact on adjoining parking facilities as described above.

*2. Adverse impacts upon the amenity of the area*

The parking shortfall will not have a significant impact on the amenity of the area given that there is minimal interference or conflict with the surrounding properties by way of traffic and parking generation during the short period of time proposed.

*3. It doesn't enhance the intent of the precinct.*

A Place of Worship is a permitted use under the Scheme.

*4. Council don't have the capacity to enforce the hours of operation.*

Council does have the capacity to enforce the hours of operation in the event they are not being adhered to.

#### **CONCLUSION:**

Based on the site context, the use of the subject premises for a religious service for a limited time period is considered to be reasonable and consistent with the proper and orderly planning of the locality noting that the use is permitted under the Scheme. The increased shortfall of on-site car parking is only confined to a short period of time. Both the applicants parking analysis and that undertaken by Council Officer has concluded that that parking shortfall is not having a significant impact on the amenity of the surrounding properties. In addition, the parking management measures that have been implemented by the applicant adequately limit any impacts of traffic and parking generation during the stated period. It is therefore recommended that the application be Approved by Absolute Majority subject to conditions.

**RECOMMENDATION/S:**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Altus Planning and Appeals on behalf of Wildnight Pty Ltd (DA Ref 5.2015.441.1) for Retrospective Change of Use to Unlisted Use (Community Use) & Place of Worship at 1019 (Lot 5) Albany Highway, St James be Approved by Absolute Majority subject to the following conditions:
  - 1.1 This approval permits the use of the subject tenancy as a Place of Worship, only between 1.00pm and 2.00pm every Friday, by up to 186 persons at any one time. The subject tenancy is to operate as a Community Use at all other times in accordance with planning approval 08/0700 dated 7 April 2009.
  - 1.2 Parking management measures to be implemented in accordance with details provided in the application submission dated 28 August 2015.

**Advice to Applicant**

- 1.3 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.4 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law.
- 1.5 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.
- 1.6 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

**(Absolute Majority Required)**

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



## 11.4 Amendment 70 to Town Planning Scheme No. 1 to Designate Burswood Station East as a Development Area under Schedule 7

<b>File Reference:</b>	PLA/6/0008
<b>Appendices:</b>	No

<b>Date:</b>	26 October 2015
<b>Reporting Officer:</b>	R. Cruickshank
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

#### Recommendation – Council resolve to not support the Amendment.

- Amendment 70 proposes to list Burswood Station East as a Development Area in Schedule 7 of the Scheme, as an area requiring the preparation of a Local Structure Plan. Listing Burswood Station East in Schedule 7 of the Scheme is necessary to identify the need for a Local Structure Plan to be prepared and in order for the Scheme provisions relating to Local Structure Plans to have effect;
- Amendment 70 was advertised for public comments with two (2) submissions being received. One (1) of the submissions comments on the effect of the Local Planning Scheme Regulations 2015 on the proposed Amendment.
- The Local Planning Scheme Regulations 2015 took effect on 19 October 2015. The Local Planning Scheme Regulations include Deemed Provisions which prevail over existing Scheme provisions to the extent of any inconsistency;
- As a consequence of the Regulations, it is no longer necessary for Burswood Station East to be listed as a Development Area in Schedule 7 of the Scheme so that the Structure Plan provisions of the Scheme apply. Furthermore, as a result of the Regulations, Structure Plans will no longer be statutory documents and instead would become planning instruments to which due regard is to be had; and
- Accordingly it is recommended that Council resolve to not support Amendment 70.

### TABLED ITEMS:

- Town Planning Scheme No. 1 Scheme Text;
- Minutes of the Council's Ordinary Meeting held on 9 June 2015;
- Amendment 70 documents to Town Planning Scheme No. 1; and
- Submission received.

### BACKGROUND:

Nil

### DETAILS:

The Burswood Peninsula District Structure Plan was approved by the Western Australian Planning Commission (WAPC) on 24 February 2015. The District Structure Plan provides high level strategic direction for the future development of land in the Precinct and informs the Masterplan and Local Structure Plan that is to now be prepared by Council for the Burswood Station East area, which will address such matters as land use, density and building heights.

As a Local Structure Plan is required to be prepared for Burswood Station East, the purpose of Amendment 70 was to list Burswood Station East in Schedule 7 of the Scheme as a Development Area requiring the preparation of a Local Structure Plan, so that the Scheme provisions relating to the preparation and adoption of a Local Structure Plan would apply.

The Local Planning Scheme Regulations 2015 took effect on 19 October 2015. The Regulations include Deemed Provisions that prevail over existing provisions of the Scheme to the extent of any inconsistency.

The Regulations include Deemed Provisions relating to Local Structure Plans which prevail over the Structure Plan provisions in Clause 29AB of the Town's Scheme.

Notably, Clause 15 of the Deemed Provisions outlines the circumstances where a Structure Plan may be prepared, with one such circumstance being where the WAPC considers that a Structure Plan is required for the purposes of orderly and proper planning. In this regard the District Structure Plan approved by the WAPC states the need for a Structure Plan to be prepared.

In the absence of the Regulations, the adoption of the Local Structure Plan in accordance with Clause 29AB of the Scheme would have resulted in the Local Structure Plan having the force and effect of the Scheme. However this is altered by Clause 27 of the Deemed Provisions which results in Structure Plans only being guiding documents which are not required to be complied with, but instead due regard is to be had.

#### **Legal Compliance:**

##### Local Planning Scheme Regulations 2015

Under the Regulations it is considered that Amendment 70 would be regarded as a standard amendment. Under regulation 50(2) and 50(3) of the Regulations, 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 support the Amendment.

Under Regulation 53 of the Regulations, the Council must forward the Amendment to the Western Australian Planning Commission for a decision within 21 days of passing a resolution under regulation 50(3).

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 outcomes of the Amendment, which may include finalisation of the Amendment, modifications to the Amendment that may or may not require readvertising, or refusal to finalise the Amendment.



**Community Consultation:**

Amendment 70 was the subject of community consultation from 14 July 2015 to 25 August 2015. Two (2) submissions were received. The first submission was Main Roads WA which advised it has no objection to the proposal. The second submission is from a legal firm acting for the owner of land within Burswood Station East. This submission comments on the implications of the Local Planning Scheme Regulations upon Amendment 70. A copy of both submissions is included in the Tabled Items.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

As a result of the Deemed Provisions in the Regulations taking effect over the existing provisions contained in the Town's Scheme, it is no longer necessary for Burswood Station East to be listed in Schedule 7 of the Scheme. In accordance with Clause 15 of the Deemed Provisions, a Structure Plan can be prepared for the purposes of orderly and proper planning without Burswood Station East needing to be listed in Schedule 7 of the Scheme.

It is therefore considered that there is no purpose in proceeding with Amendment 70. It is recommended that Council resolve to not support the Amendment.

**RECOMMENDATION/S:**

- 1. Council resolve pursuant to Section 75 of the *Planning and Development Act 2005* and Regulation 50(3) of the *Local Planning Scheme Regulations 2015* to not support Amendment 70 to the Town of Victoria Park Town Planning Scheme No. 1.**
- 2. Amendment No. 70 be forwarded to the Western Australian Planning Commission for determination.**

## 11.5 Nomination of Elected Member for Development Assessment Panel

<b>File Reference:</b>	PLA/4/0001-02
<b>Appendices:</b>	No

<b>Date:</b>	25 October 2015
<b>Reporting Officer:</b>	R. Cruickshank
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

#### **Recommendation – That Council nominates an Elected Member to fill a vacant position on the Metropolitan Central Joint Development Assessment Panel.**

- At the Ordinary Council Meeting in February 2015, Council resolved to nominate Councillors Bissett and Potter to be the Town's two members on the Metropolitan Central Joint Development Assessment Panel (DAP), with Councillors Oliver and Windram as the two alternate members. These nominations were approved by the Minister for Planning; and
- As a result of the Council Elections on 17 October 2015 a vacancy has arisen for a member of the DAP.

### TABLED ITEMS:

- Minutes of Ordinary Council Meeting dated 13 October 2009, 12 February 2013 and February 2015;
- Planning Bulletin 106 'New legislative provisions for development assessment panels'; and
- *Planning and Development (Development Assessment Panels) Regulations 2011.*

### BACKGROUND:

As part of the State Government's reforms to the planning system in Western Australia, the Government has established Development Assessment Panels (DAPs) to determine all applications for planning approval of a prescribed class and value. Notwithstanding that applications are still lodged with Council, processed by Council staff and including the preparation of reports, the power to determine applications over the prescribed value has been removed from local authorities and instead the DAP is the decision-maker on such applications.

Council resolved at the Ordinary Council Meeting in February 2015 to nominate Councillors Bissett and Potter as members of the Development Assessment Panel with Councillors Oliver and Windram being nominated as alternate members.

**DETAILS:**

Development Assessment Panels are panels comprising a mix of technical experts and local government representatives with the power to determine applications for planning approval of a prescribed class and value in place of the relevant decision-making authority (typically local governments). The Western Australian Planning Commission suggest that DAPs will improve the planning system by providing more transparency, consistency and reliability in decision-making on complex applications.

Fifteen Development Assessment Panels have been created which cover the entire State. A Local Development Assessment Panel has been created for developments within the City of Perth only, with all other Panels being Joint Development Assessment Panels which serve two or more local government areas. The Town is part of the Metropolitan Central Joint Development Assessment Panel covering the following local government areas:

- Bassendean;
- Bayswater;
- Belmont;
- Canning;
- Melville;
- South Perth; and
- Victoria Park.

The Regulations provide that any development application that is not an excluded development (excluded development is typically a single house; less than 10 units; development by a local government; and minor structures) and over a prescribed value is to be determined by a Development Assessment Panel. There are three types of DAP applications:

1. Mandatory

These are applications which must be determined by a DAP and cannot be determined by a local government or the WAPC. The value threshold is \$10 million or more, other than in the case of the City of Perth where the threshold is \$15 million or more.

2. Opt-in

These are applications where the applicant may choose to have the application determined by a DAP, or by the local government or WAPC under the normal process. In order to be considered an “opt-in” application, the application must fit within a value threshold of between \$2 million and \$10 million, or between \$10 million and \$15 million in the City of Perth.

3. Delegated

These are applications where the local government or WAPC choose to delegate to a DAP for determination.

Each DAP comprises three specialist members and two local government members. The specialist members hold relevant qualifications and experience, including the presiding member who has planning qualifications and experience. The specialist members are appointed by the Minister for Planning. The two local government members are nominated by the local government authority and then appointed by the Minister. Two alternate local government members are also appointed to cover in the case of illness or absence. The specialist members sit on the DAP and determine all applications on the agenda within all relevant local government areas, whereas the local government members only sit on the panel for those applications located within their local government area.

Responsibilities of DAP members include:

- Review all documentation relating to relevant applications within the Town of Victoria Park, prior to the meeting;
- Determine DAP applications for development located within the Town of Victoria Park;
- Comply with the DAP Standing Orders; and
- Comply with the DAP Code of Conduct.

All DAP members, including the local government members are paid fees, including a sitting fee of \$400 per meeting, reimbursement of travel costs, and a \$400 training fee.

DAPs meet on an as-needed basis depending upon the number of applications received.

Further information on the meeting procedures, processes and code of conduct are contained within the Regulations and the WAPC's Planning Bulletin.

The implementation of the DAPs does not negate the need for the Design Review Committee to be involved in design development and continue to provide advice and recommendations to Council on relevant applications. This is particularly important given that Council will have no decision making powers for such applications.

In terms of the processing of a DAP application by Council, Council has previously determined that the process will be:

- Normal assessment and community consultation process by staff;
- Design Review Committee review and recommendation; and
- Officers prepare a report and recommendation directly to the DAP, with the application not being considered at a Council Meeting.

#### **Legal Compliance:**

The Planning and Development (Development Assessment Panels) Regulations 2011 deal with the functioning, processing and administration of DAPs.

#### **Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Nil – sitting fees, travel costs and training fees for DAP members will be covered by the DAP application fee from applicants when they lodge their application.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

As a result of the Council Elections held on 17 October 2015, a vacancy has arisen for an Elected Member to be appointed as a member of the DAP.

Representation on the Panel will require the nominated member to be involved in the decision-making process for the more major applications for planning approval within the Town, represent the interests of both Council and the community, and professional development through decision-making and deliberations with the specialist members on the Panel.

In the event that either of the two alternate members (Councillors Oliver and Windram) are nominated by Council as the member to fill the vacancy, the Council will then need to decide upon a new alternate member.

**RECOMMENDATION/S:**

**In accordance with regulation 24(1) of the Planning and Development (Development Assessment Panels) Regulations 2011, the Minister for Planning be advised that the Town of Victoria Park nominates Councillor \_\_\_\_\_ as a member of the Metropolitan Central Joint Development Assessment Panel to fill the vacancy that arose on 17 October 2015.**

## 12 RENEW LIFE PROGRAM REPORTS

### 12.1 McCallum Lane Lighting Project - Reallocation of Surplus Funds

<b>File Reference:</b>	ROA/10/0001~03
<b>Appendices:</b>	No

<b>Date:</b>	23 October 2015
<b>Reporting Officer:</b>	F. Squadrito
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Absolute Majority

#### Executive Summary:

**Recommendation – That Council by Absolute Majority approves the budget amendments and reallocates \$180,000 from existing Capital Works budget accounts of completed projects to fund the proposed street lighting project for McCallum Lane, Taylor Street and Garland Street.**

- A Notice of Motion was passed at the August 2015 Ordinary Council Meeting seeking the Administration commence design and cost estimates for the installation of street lighting on McCallum Lane.
- A presentation to the Elected Members Workshop in September 2015 was made, where the unbudgeted project was broken into three Stages, including an assessment of the street lighting in the wider Taylor Street and Garland Street areas.
- Renew Life staff recommend that the project be undertaken as one work package which will provide lighting upgrades to Taylor Street and Garland Street and McCallum Lane at a cost of approximately \$180,000, and have identified funds in the existing 2015/2016 capital works budget.
- Recommended to finalise design and undertake a public engagement process, and commence the project pending a positive outcome.

#### TABLED ITEMS:

Street Lighting design drawings.

#### BACKGROUND:

On-going concerns have been expressed by residents on McCallum Lane in relation to night time break-ins and antisocial issues. It was contended that the provision of street lighting on McCallum Lane would deter some of these behaviours and reduce such incidences. In addition, concerns regarding the lack of lighting on Taylor Street and Garland Street have been raised by members of the public through the recent public engagement process involving the (then) proposed basketball court floodlighting project on McCallum Park. The provision of new street lighting on the sections of Taylor Street and Garland Street will alleviate some of these concerns.

At the Ordinary Council Meeting on the 11 August 2015 a Notice of Motion was considered by Council, with the following resolution passed –

*That Council supports the Notice of Motion submitted by Cr Potter to progress the design and cost estimates of street lighting on McCallum Lane, prepare a report on traffic management issues on McCallum Lane and refer the matter to an Elected Members Workshop in September 2015.*

A presentation was made to the Elected Members at the September 2015 Elected Members Workshop which identified preliminary cost estimates to install lighting on McCallum Lane and acknowledged concerns regarding the standard of street lighting along Taylor Street and Garland Street. Given there is no current funding available in the 2015/2016 budget, the proposed street lighting project for the area was broken down into three stages with a view to progressively undertaking the works, being –

- Stage I – Street lighting installation on McCallum Lane from Ellam St Carpark No. 2 to Taylor Street;
- Stage II - Street lighting installation on McCallum Lane from Taylor Street to the cul-de-sac; and
- Stage III – Street lighting audit of Taylor Street and Garland Street.

A further report to Council on the above stages was to follow, seeking the reallocation of funds.

#### **DETAILS:**

McCallum Lane functions as a local road and provides sole access to a number of abutting unit developments and other dwellings. The Town has investigated the site and has recently engaged an external electrical consultant to prepare detailed lighting design drawings. The total cost for the provision of lighting in McCallum Lane is estimated to be \$118,000. This will cover the entire length of McCallum Lane including both sections on either side of Taylor Street; the above mentioned Stages I and II.

As reported to Council in October 2015, during the public consultation process associated with the (then) proposed McCallum Park Floodlighting project, concerns were expressed regarding, amongst other things, the quality and effectiveness of street lighting in the area. In response to this, the Administration decided to further investigate lighting compliance in these areas and integrating lighting upgrade design into the project.

A lighting audit undertaken in the area suggests that existing lighting levels do not meet the prescribed Australian Standard AS1158 and therefore upgrades to existing luminaires and fixtures are also needed to meet the current technical compliance parameters. The costs associated with the extra works on Taylor Street and Garland Street is \$82,000. Some cost savings could potentially be achieved if the entire project is bundled into one as existing lights on Taylor Street could be re-used on McCallum Lane. If the Town was to consider the works package in its entirety, the estimated total cost of the project could potentially be reduced down to \$180,000 which provides a cost saving of 9% when considering the separate projects being implemented separately at a total cost of \$200,000. Additional savings could be made by engaging one contractor to undertake the required works for all the projects at the same time which will ultimately reduce overhead/mobilisation costs.

Subject to Council's endorsement of this report, the Town will undertake a community engagement process in accordance with Policy GEN6 – Public Participation. This will involve forwarding the proposed lighting design to the affected lot owners and residents to seek feedback prior to proceeding with the ordering of required fixtures and subsequent installation of the proposed street lights. This will be done separately for each of the projects. The engagement will therefore involve four separate groups of lot owners and residents of properties located on or near the affected laneways namely McCallum Lane from Ellam St Carpark No. 2 to Taylor Street, McCallum Lane from Taylor Street to the cul-de-sac, Taylor Street and Garland Street. The reason for doing this is to allow the implementation of these projects within the identified laneway and road sections to progress in line with the level of support received from stakeholders within each section. Should there be major objection received from residents of a particular section, lighting works will not be implemented for that section.

The entire scope of works can generally be broken into two main categories –

- Category 1 – McCallum Lane Only (both sections) – new lights, currently none exist onsite. The proposal to re-use poles and fixtures from Taylor Street will save approximately \$20,000 in fixture costs if the two stages were co-ordinated as one project; and
- Category 2 – Taylor Street & Garland Street – upgrades, this includes additional new poles and luminaires.

Given the potential savings with re-using existing material already onsite and contractor mobilisation, the Administration recommend that it would be highly advantageous to undertake both categories of works as one works package.

#### **Legal Compliance:**

Section 2.7 of the *Local Government Act 1995* (Role of Council) requires the Council to be responsible for the performance of the local government's functions, to oversee the allocation of the local government's finances and resources and determine the local government's policies.

Section 6.8 of the *Local Government Act 1995* (Expenditure from municipal fund not included in annual budget) states –

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
  - (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
  - (b) *is authorised in advance by resolution\*;* or
  - (c) *is authorised in advance by the Mayor or president in an emergency.*

\* Absolute majority required.

(1a) *In subsection (1) —*

*Additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.*



- (2) *Where expenditure has been incurred by a local government —*
- (a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
  - (b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

**Policy Implications:**

Policy Gen 6 Community Engagement Policy; and  
Policy FIN 4 Purchase of Goods and Services.

**Strategic Plan Implications:**

The Town's Strategic Community Plan 2013 – 2028 includes the following objectives that have relevance to this proposal –

- Connect people to services, resources and facilities that enhance their physical and social wellbeing.
- Ensure residents have safe, clean and attractive streetscapes

**Financial Implications:**Internal Budget:

There is currently no budget allocated for the McCallum Street Lighting project.

A number of completed 2015/2016 capital works projects have been identified as having surplus funds. Pending direction from Council and endorsement of this report, a new work order number will be created for the implementation of this project and funds are proposed to be re-allocated to the new initiative by reducing the budget of completed projects, namely –

- Work Order 1332 (Upgrade Cycle Path - McCallum Park Foreshore) - \$51,000. Original budget of \$340,000. Savings made as a result of less stringent conditions of approval imposed by the Swan River Trust and lower than expected costs for energising the new lights;
- Work Order 1293 (Gallipoli Street – Traffic Calming) - \$46,000. Original budget of \$47,000. Project not progressed to original scope in response to residents' concerns regarding loss of on-street parking after consultation;
- Work Order 1348 (Renew Drainage- Howick Street) - \$72,000. Original budget of \$115,000. Savings made as a result of installing the new pipes under the road as opposed to the conventional practice of installation within the verge; thus avoiding major utility service infrastructure. Also, the thrust boring technique used by contractors is now more competitive in pricing.
- Work Order 1576 (Upgrade – Lighting – Community Safety Initiatives) - \$11,000. Original non-project-specific budget allocation of \$40,000.

**Total Asset Management:**

Currently the majority of street lights in the upgrade works zone are owned and maintained by the Town. These lights will form part of Town's asset maintenance program. In the long term it's likely that these assets could be handed over to Wester Power to be maintained.

**Sustainability Assessment:****External Economic Implications:**

Existing materials onsite will be re-used to reduce costs.

**Social Issues:**

Improve safety for the community and all road users.

**Cultural Issues:**

Nil

**Environmental Issues:**

Directional drilling through trenchless technology will potentially reduce damage to tree roots and ensure minimal ground disturbance.

**COMMENT:**

Council's endorsement will allow for the supply and installation of the proposed new lights on McCallum Lane and other neighbouring roads such as Taylor Street and Garland Street to be completed this financial year and will have the desired outcome to improve safety and amenity to residents and visitors to the foreshore area.

**CONCLUSION:**

As McCallum lane is used as a public road, lighting should be considered as a high priority, furthermore the concerns and reports of antisocial behaviour from members of the community/residents require Council to take action to mitigate any future risks. Therefore, Renew Life Staff strongly recommend that the required funding is reallocated from the identified engineering capital works projects which have been completed and the scope be extended to include the entire length of McCallum Lane (both sections sections), Taylor Street and Garland Street.

**RECOMMENDATION/S:**

That Council,

1. Endorses the street lighting projects proposed for McCallum Lane from Ellam Street Car Park 2 to Taylor Street, McCallum Lane from Taylor Street to the Cul-De-Sac, Taylor Street and Garland Street and associated public consultation process.
2. By Absolute Majority, pursuant to Section 6.8 of the *Local Government Act 1995*, authorises the reallocation of funds from the 2015/2016 Capital Works budget to the McCallum Lane, Taylor Street and Garland Street street lighting project as detailed below –

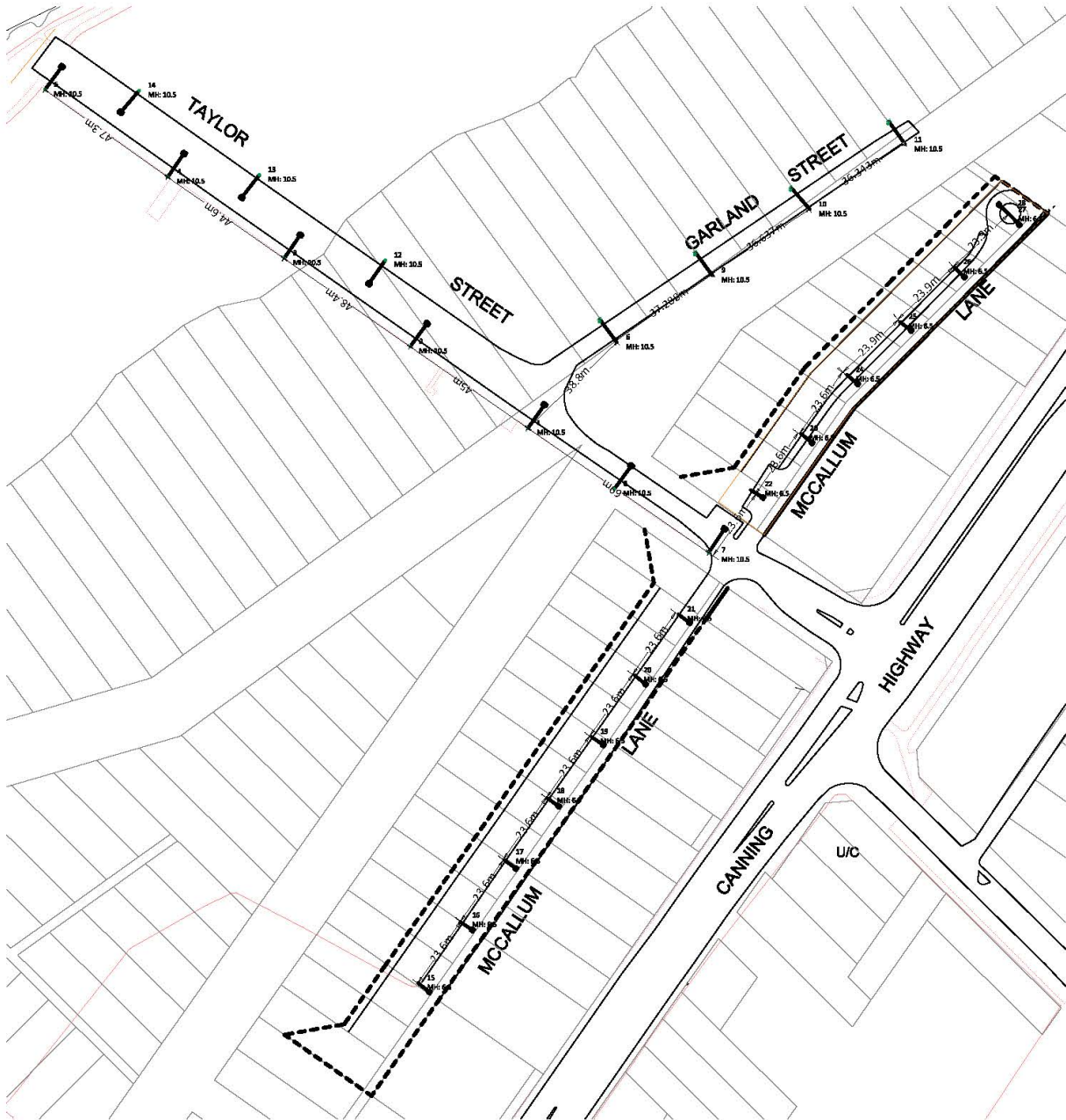
**Increase Expenses**

Lighting upgrade for McCallum Ln, Garland Street and Taylor St	<b>\$180,000</b>
--	------------------

**Decrease Expenses**

WO1332 Upgrade Cycle Path- McCallum Park Foreshore	<b>\$51,000</b>
WO1293 Gallipoli Street – Traffic Calming	<b>\$46,000</b>
WO 1348 Renew Drainage - Howick Street	<b>\$72,000</b>
WO 1576 Upgrade – Lighting – Community Safety Initiatives	<b>\$11,000</b>

3. Requests that the Chief Executive Officer commence construction of those projects having a majority support from the respondents as soon as possible, subject to no major objections being received during the public consultation processes.



Luminaire Schedule

Symbol	Qty	Label	Arrangement	Total Lamp Lumens	LLF
	14	Suburban Eco CFL42 - 206230 -	SINGLE TILT 5	3200	0.700
	14	Roadster MH150D - 201016 - PR	SINGLE	11500	0.700

## 12.2 Proposed Closure of Right of Way Bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road (ROW128)

<b>File Reference:</b>	ROA/28/0125
<b>Appendices:</b>	No

<b>Date:</b>	21 October 2015
<b>Reporting Officer:</b>	T. McCarthy
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – That Council requests the Minister for Lands to close the Right of Way bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road (ROW128).**

- A proposal has been put forward that the subject Right of Way be closed and disposed of to the owner of the adjoining properties.
- Easement arrangements need to be implemented in order to ensure that all future vehicle access to any of the lots within the area bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road is from Teddington Road and Twickenham Road.

### TABLED ITEMS:

- Request dated 18 August 2015 from Peter Webb & Associates (on behalf of the John Hughes group of companies) for the Right of Way (Lot 66) bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road to be closed and disposed of to the Hughes group of companies.
- Extract (Item 2.1) from minutes of the Ordinary Meeting of Council held 9 June 2009.

### BACKGROUND:

Peter Webb & Associates, on behalf of the John Hughes group of companies, has written to the Town and requested that the Right of Way bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road, Victoria Park, be closed and disposed of to Mr Hughes' group of companies.

Closure of the Right of Way had previously been requested and considered by Council at its Ordinary Meeting held 9 June 2009. At that meeting Council resolved to request the Minister for Lands to close the Right of Way and dispose of the closed land to the adjoining lots, subject to various conditions relating to a public access easement over the closed land, an easement in relation to infrastructure services, and public risk insurance. The process was discontinued by the proponent and application for closure has now been re-submitted for consideration. The form of the re-submission varies from that submitted in 2009 in that it is not proposed to amalgamate the closed Right of Way with any adjoining lot(s).

**DETAILS:**

The subject Right of Way is Lot 66 on Diagram 2439. It is 5.03 metres wide and 100.58 metres long. It runs parallel to Shepperton Road between Teddington Road and Twickenham Road. The Right of Way is owned by Charles Sommers, of Perth, on Certificate of Title Volume 438 Folio 70, dated 22 February 1909.

The Right of Way is classified as “Paved and Currently in Use. To Remain Open” under the Right of Way Strategy Plan endorsed by Council at its meeting held 2 September 2003. It is zoned “Commercial” under the Town of Victoria Park Planning Scheme No. 1. All adjoining lots are also zoned “Commercial.”

**Legal Compliance:**

Council is requested to consider closure of the subject Right of Way under Section 52 of the *Land Administration Act 1997*.

**Policy Implications:**

The Right of Way is classified as “Paved and Currently in Use. To Remain Open” under the Right of Way Strategy Plan endorsed by Council at its meeting held 2 September 2003. Whilst it is designated as to remain open, Council is not bound by the strategy plan and can agree to request the Minister for Lands to close the Right of Way.

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

If the Right of Way is disposed of then the Town would not be potentially liable in the future to maintain the Right of Way therefore there would be a future financial benefit to the Town.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The subject Right of Way was created on Diagram 2439 in January 1906. Lots 1-10 abutting the Right of Way were created on that Diagram, and all of those Lots have right of carriageway over the Right of Way, under Section 167A of the *Transfer of Land Act 1893*. Some of the adjoining Lots have been amalgamated or subdivided over the years, however all of the current adjoining Lots still have right of carriageway over the Right of Way, under Section 167A of the *Transfer of Land Act 1893*.

All of the adjoining Lots are currently owned by John Hughes companies:

Lot No.	Street Address	Owner
1	182 Albany Highway	Sovereign Insurance Pty Ltd
11	184 Albany Highway	Sovereign Insurance Pty Ltd
4	188 Albany Highway	Gilpin Park Pty Ltd
5	190 Albany Highway	Gilpin Park Pty Ltd
6	192 Albany Highway	Gilpin Park Pty Ltd
7	196 Albany Highway	Paramo Pty Ltd
8	196 Albany Highway	Paramo Pty Ltd
9	49-51 Shepperton Road	Paramo Pty Ltd
10	49-51 Shepperton Road	Paramo Pty Ltd
29	49-51 Shepperton Road	Paramo Pty Ltd
51	49-51 Shepperton Road	Paramo Pty Ltd

When a Right of Way is proposed to be closed and the land disposed of to owners of adjoining properties, the usual division of the subject land is on an equitable basis, whilst making provision for deviations around obstructions such as sewer manholes. In this case, however, Mr Hughes controls all the companies with ownership of the adjoining properties. There is therefore no necessity to consult with other owners of adjoining properties.

It is usual practice to consult with all adjoining property owners and public utility authorities after Council has initially considered the proposal, and then re-present the matter for Council consideration after submissions have been received in relation to the proposal. In this case, because of the unique circumstances, if Council were to agree to closure of the Right of Way, it is recommended that the request for closure is sent direct to the Minister, subject to the agreement of the public utility authorities. Each authority has been written to for comment on the proposal, but at the time of compilation of this report, no responses have been received.

The Executive Manager Built Life has reviewed the proposed closure of the Right of Way and has advised that planning approval was granted on 29 May 2007, with subsequent amendments in July 2007 and June 2008, for the development of a new Motor Vehicle Sales Showroom and open air car sales display area on Lots 1, 11, 4, 5 and 6. The proposed development relies upon vehicular access from the right-of-way, and therefore in the event that the right-way is to be closed, a reciprocal right-of-carriageway easement will be required over Lots 9 and 10 to ensure that vehicular access over these lots to the proposed development is legally available. In addition it appears that Lots 7 and 8 currently have vehicular access from the right-of-way, and therefore the right-of-carriageway easement needs to benefit these lots also.

The Director Future Life and Built Life Programs has also expressed concern that closure of the Right of Way could prejudice the future development of land within the street block if appropriate safeguards are not put in place. While the Right of Way remains open, any development of land within the relevant street block will be able, and in fact be required, to take advantage of the Right of Way for vehicular access and will minimise any vehicular access points onto Shepperton Road, Albany Highway, Teddington Road and Twickenham Road. However, if the Right of Way were to be closed, Council would not be able to require developments to take vehicular access from the Right of Way, and instead this could result in developments proposing to take vehicular access from the adjoining streets, which is not desirable. In the case of those lots adjacent to Albany Highway and with no boundary adjoining either Teddington Road or Twickenham Road, the provision of vehicular access onto this street rather than from the Right of Way, would be inconsistent with the intent for development adjacent to the Albany Highway frontage, to have continuous building facades from boundary to boundary. Closure of the Right of Way may therefore result in the ultimate development of the street block being fragmented and detrimentally affected.

The current proposal recommends that the Minister for Lands be requested to close the Right of Way and dispose of the closed land to Mr Hughes, to be held in fee simple as a standalone parcel of land. There would be no requirement for the land (Right of Way) proposed to be closed to be amalgamated with any of the adjoining parcels of land.

Prior to Council advising the Department of Lands of its support for the closure, it is proposed that a Deed of Agreement be drawn up, with the Town included as a party, acknowledging that any of the lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Street, will not be permitted vehicle access from Albany Highway or Shepperton Road now or upon redevelopment of any of the aforementioned lots. The intention of this Deed is to ensure that vehicle access to any of the lots within the area bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road. The Deed of Agreement will contain a provision that should any of the lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Street require vehicle access to it as a standalone lot, then Mr Hughes or any subsequent owner of Lot 66 will register a right of carriageway easement over Lot 66 in favour of the lot requiring vehicle access. Prior to the Town sending a request to the Minister for Lands to close Lot 66 as a Right of Way and to sell Lot 66 to Mr Hughes, caveats over all of the lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Street and Lot 66 are to be drawn up, executed and registered on the Certificate/s of Title for all lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road.

**CONCLUSION:**

It is recommended that the Minister for Lands be requested to close the subject Right of Way (Lot 66) and dispose of the closed land to the owner of the adjoining properties.

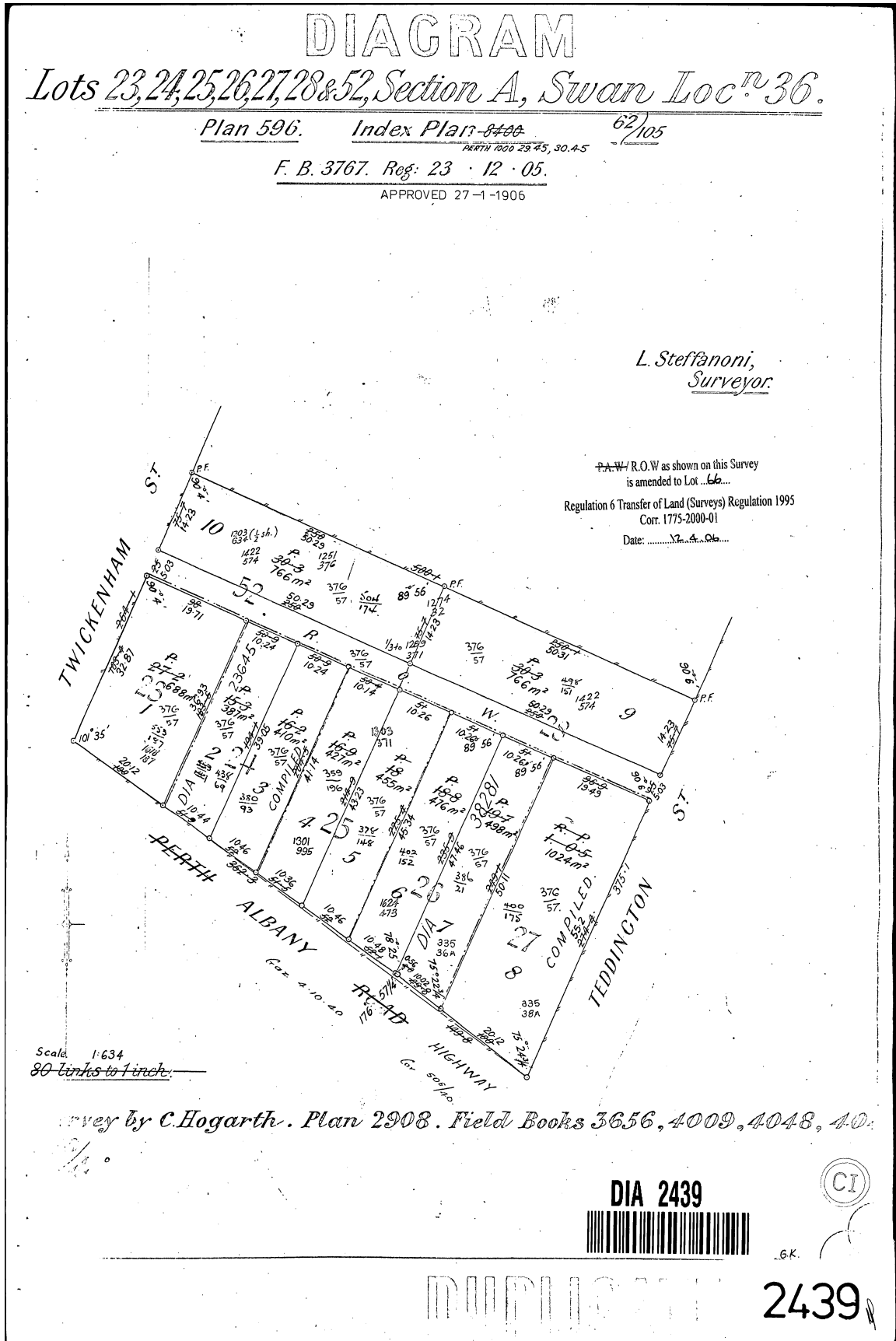


**RECOMMENDATION/S:****That Council:**

- 1. Supports the request to close the Right of Way bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road, Victoria Park, (Lot 66) and dispose of the land to Mr John Hughes or one of Mr John Hughes' associated companies registered as owner of one of the adjoining lots, being either Sovereign Insurance Pty Ltd, Gilpin Park Pty Ltd or Paramo Pty Ltd, and subject to clauses (2) and (3) below, endorse the referral of the request to the Minister for Lands;**
- 2. Seeks comments and conditions of closure of the subject Right of Way from the relevant public utility authorities;**
- 3. Advises the prospective purchaser of the requirement to enter into a legal agreement with the Town, prepared by the Town's solicitors at the cost of the owners of Lots 1 and 4-11, PRIOR to sale of the subject Right of Way, addressing the following matters:**
  - 3.1 In relation to any future development of any of the lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road, that vehicular access will not be proposed directly onto either Shepperton Road or Albany Highway.**
  - 3.2 In relation to any future development of any of the lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road, that vehicular access will be taken from either Teddington Road or Twickenham Road via Lot 66 and that an absolute right of carriageway easement granting right of carriageway to the land the subject of development be registered on the Certificate of Title for Lot 66 and on the Certificate/s of Title for the lots the subject of development.**
  - 3.3 The proposed purchaser of Lot 66 agreeing to indemnify the Town in respect of any and all costs associated with the closure and sale of Lot 66, and any and all costs associated with the drawing up and execution of any Deed of Agreement necessary to ensure that future vehicle access to all lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road is taken from either Teddington Road or Twickenham Road via Lot 66.**
  - 3.4 The proposed purchaser of Lot 66 agreeing to indemnify the Town in respect of any and all costs associated with the drawing up and registration of Caveats on Certificate/s of Title for all lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road required to ensure that any vehicle access to those lots is taken from either Teddington Road or Twickenham Road via Lot 66.**

- 3.5 The proposed purchaser be advised that the Town will not make a request to the Minister for Lands to close and dispose of the subject Right of Way (Lot 66) until the Deed of Agreement and Caveats referred to above have been drawn up, executed and registered on the Certificate/s of Title for all lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road.**
- 3.6 The proposed purchaser of Lot 66 agreeing to indemnify the Town in respect of any claims against the Town which may be brought against the Town by reasons of the proposed closure by any person claiming an interest in the right-of-way.**
- 3.7 The Mayor and the Chief Executive Officer of the Town be authorised to execute any documentation necessary to facilitate the closure and sale of the subject Right of Way (Lot 66) and the execution and registration of a Deed of Agreement and Caveats on the Certificate/s of Title for all lots bounded by Albany Highway, Teddington Road, Shepperton Road and Twickenham Road.**





## 12.3 Tender TVP/15/07 Monthly Servicing of Heating Ventilation Air Conditioning (HVAC) Plant and Equipment

<b>File Reference:</b>	TVP/15/07
<b>Appendices:</b>	No

<b>Date:</b>	November 2015
<b>Reporting Officer:</b>	G Wilson
<b>Responsible Officer:</b>	W Bow
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – That Council awards tender TVP/15/07 for Monthly Servicing of HVAC Plant & Equipment to KD Aire Mechanical Services and endorses the Chief Executive Officer entering into a contract as per the advertised tender documentation.**

- A tender was called for monthly servicing of HVAC plant and equipment within the Town.
- The Tender will cover the servicing of the HVAC infrastructure at Town buildings.
- An evaluation of the tender submissions against the prescribed criteria has been completed and it is recommended that Council accepts the tender submission from KD Aire Mechanical Services.

### TABLED ITEMS:

- Tender assessment documents.

### BACKGROUND:

The Town of Victoria Park has many HVAC (Heating, Ventilation and Air Conditioning) systems at multiple locations. Regular servicing of these units is required.

Due to the on-going costs involved, the Town is required to tender the maintenance for this work given the aggregated contract sum for this work will exceed \$100,000.

BCA Consultants, as an expert in the field, were engaged to inspect all the sites, list all the associated HVAC Plant and Infrastructure, and assist in developing a tender specification for the servicing of these units.

The Town's facilities at which the monthly HVAC plant and equipment servicing contract will be operated are –

- Leisurelife Centre;
- Aqualife Centre;
- Main Administration Building;
- Victoria Park Library;
- Works Depot;
- Digital Hub; and
- Parking Management Team office.

**DETAILS:**

TVP/15/07 was advertised in The West Australian on Saturday 22 August 2015. As part of the tender process, a compulsory briefing session was held on Thursday 27 August 2015, for any interested parties.

The tender closed at 2pm 15 September 2015 with eight submissions being received from:

- Fredon Air Pty Ltd;
- AMEK Engineering;
- Associated Air-conditioning;
- KD Aire Mechanical Services;
- AMS Service and Maintenance;
- RCR Hayden;
- Hirotec Maintenance; and
- Burke Air.

**Description of compliance criteria**

Compliance criteria for TVP/15/07 included tenderers being able to answer the questions, which are listed below.

- Tenderer has attended Site Briefing;
- Tenderer has a permanently staffed Service Department;
- Tenderer has a current minimum of \$500,000 per annum in mechanical maintenance contracts;
- Tenderer has provided all information as requested in this Tender document, enabling Town of Victoria Park to evaluate tender submission including selection criteria; and
- Tenderer has completed and provided Part 4 - 'Form of Tender', including signed 'No Deviation Form' (Schedule 1 of Part 4 – Form of Tender).

**Description of qualitative selection criteria**

Selection criteria for TVP/15/07 included each submission being assessed against four criteria, which are listed below.

Selection Criteria	Weighting
<p><b>Experience of Tenderer in supplying and completing <u>recent</u> similar maintenance contracts:</b></p> <ul style="list-style-type: none"> <li>• Demonstrated relevant experience in the maintenance of commercial mechanical services systems and the provision of a 24-hour 7-day emergency breakdown services. State number of permanent employees in Service Department</li> </ul>	20%
<ul style="list-style-type: none"> <li>• List current Mechanical Services Maintenance contracts. A current minimum per annum of \$500,000.</li> </ul> <p><b>(Experience of Tenderer)</b></p>	10%

<b>Selection Criteria</b>	<b>Weighting</b>
<b>Demonstrate Understanding of Requirements of RFT :</b> <ul style="list-style-type: none"> <li>• level of understanding of Contract documents;</li> <li>• level of understanding of work required;</li> <li>• ability to meet delivery dates in regard to overall work commitments;</li> <li>• added value items offered – internet portal access; and</li> <li>• special conditions included in Contract</li> </ul> <b>(Understanding of Tenderer)</b>	<b>20%</b>
<b>Technical Skills of the Proposed Project Team:</b> <ul style="list-style-type: none"> <li>• Names;</li> <li>• Function;</li> <li>• Technical Expertise (CV's to be provided)</li> </ul> Tenderers must address the enquired information in an attachment and label it: <b>(Technical Skills)</b>	<b>20%</b>
<b>Tendered Price/s</b> <ul style="list-style-type: none"> <li>• The price to supply the goods or services in accordance with the RFT</li> <li>• Rates or prices for variations</li> </ul> <b>(Price)</b>	<b>20%</b>  <b>10%</b>
<b>TOTAL</b>	<b>100%</b>

The price criteria was assessed and based on the annual lump sum for maintenance and servicing costs, plus a schedule of rates for rectification and renewal/replacement works. An estimated quantity of one item was used to quantify the schedule of rates.

Due to the technical knowledge required, and the complexity of the tender specification and requirements, BCA Consultants were also engaged to undertake a technical assessment of all the submissions. The assessment report from BCA Consultants was then forwarded to the Town. A further review of the highest ranking tender submissions was then undertaken by an Assessment Panel of three, the A/Executive Manager Park Life, Building Assets Officer and Land and Properties Project Officer.

The tender submissions were then ranked as below.

Company	Ranking
Fredon	4
AMEK	6
Associated	7
<b>KD Aire</b>	<b>1</b>
AMS	2
RCR	5
Burke Air	3

**Legal Compliance:**

*Local Government Act 1995 Section 3.57.*

*Local Government (Functions and General) Regulations 1996 Division 2 Part 4.*

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

**Policy Implications:**

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

**Strategic Plan Implications:**

Nil

**Financial Implications:**

Internal Budget:

The cost for HVAC maintenance is spread over individual work orders for each of the facilities.

In 2014/2015 the Town expended a total of \$92,666 on HVAC maintenance across its various facilities.

The 2015/2016 budget has an allocation of \$1,475,135 combined over these facilities for all maintenance, including HVAC.



The Town has spent \$18,800 on HVAC maintenance so far this financial year. It is anticipated that total spending for the 2015/2016 financial year on HVAC maintenance would be approximately \$75,000 or 5.1% of the total maintenance budget.

Total Asset Management:

The Town's Strategic Community Plan 2013-2028 includes the following objectives that relate to management of Assets -

- Effectively manage, maintain and renew the Town's assets.

Regularly servicing all the Town's HVAC infrastructure addresses statutory health requirements, helps prevent breakdowns and extends the life of the assets.

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Regular servicing and maintenance of the Town's HVAC systems helps prevent health issues, reduces stress, and provides comfortable environments for staff and visitors to the Town's facilities.

Cultural Issues:

Nil

Environmental Issues:

Regular maintenance of air-conditioning systems will result in improved levels of staff and visitor comfort, reduced energy costs and a smaller carbon footprint for the buildings.

**COMMENT:**

The assessment of this tender covered not only the cost of normal maintenance requirements, it also allowed pricing of various individual replacement parts, hourly rates for additional emergency repairs as well as system testing. KD Aire Mechanical Services have been ranked as highest in the assessment process.

The appointment of a single contractor for HVAC servicing and maintenance will deliver efficiencies and improve in the Town's building asset management practices.

**CONCLUSION:**

It is concluded that the Monthly Servicing of HVAC Plant and Equipment tender submitted by KD Aire Mechanical Services be accepted as the most advantageous to the Town.

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

1. **Awards tender TVP/15/07 for Monthly Servicing of HVAC Plant and Equipment to KD Aire Mechanical Services;**
2. **Endorses the Chief Executive Officer entering into a contract with KD Aire Mechanical Services under the following contractual arrangement:**

**Price Break down:**

- **Contract Lump-sum price: \$36,080 (ex-GST) per year; and**
- **Contract Schedule of Rates: \$71,660 (ex GST).**

**Contract Term:**

- **Initial Term: One (1) years; and**
- **Term Extensions: Two (2) possible one (1) year extensions each post expiry of initial term.**

## 12.4 Tender TVP/15/08 – Turf Mowing and Maintenance

<b>File Reference:</b>	TVP/15/08
<b>Appendices:</b>	No

<b>Date:</b>	November 2015
<b>Reporting Officer:</b>	G. Wilson
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – That Council awards tender TVP/15/08 for Turf Mowing and Maintenance to Lochness Landscape Services and endorses the Chief Executive Officer entering into a contract as per the advertised tender documentation.**

- A tender was called for Turf Mowing and Maintenance.
- This tender encompasses mowing of selected Active and Passive grounds as well as turf renovation works.
- An evaluation of the tender submissions against the prescribed criteria has been completed and it is recommended that Council accepts the tender submission from Lochness Landscape Services.

### TABLED ITEMS:

- Tender assessment documents.

### BACKGROUND:

The Town of Victoria Park has over 115 hectares of Public Open Space (POS) to maintain. The Town operates its own mowing crew and plant that maintain selected reserves, but do not have the capacity to undertake all the mowing and other maintenance requirements within our POS. The Town operates a contract for turf mowing and maintenance services, which includes services within our POS and road reserves which are the subject of this tender.

In addition, the Town's two (2) industrial areas, as well as selected arterial roads are currently mown under contract at least twice a year under Policy PKS3, these areas are shown in the Table below.

STREET	SECTION
Orrong Road / Great Eastern Highway Corner	
Technology Park Kent Street Verge	Jarra Road to Hayman Road
Victoria Heights	Including Entrance
Albany Highway	Leichardt Street to Boundary Road
Archer Street	
Asquith Street	

Bank Street	Including railway edge to PTA fence line and cul-de-sac to Welshpool Road
Baron Hay Court	Both sides
Berwick Street	Canning Highway to Boundary Road
Boundary Road	Taree Street to Hillview Terrace both sides
Boundary Road	Albany Highway to Taree St – Town side only
Briggs Street	Rutland Avenue to Planet Street – Town side only
Burswood Road	Including Burswood Road POS
Craig Street	
Duncan Street	
Etwell Street	
George Street	Baron Hay court to Berwick Street
Hayman Road	
Hill View Terrace	
Jarrah Road	Kent Street to Hill View Terrace
Kent Street	Hayman Road to Berwick Street South Side Only
Kent Street	Hayman Road to Berwick Street South Side; Adjacent to Harold Rossiter Reserve and Kent Street High School
Kitchener Street	
McMillan Street	
Manning Road	Kent Street to Townsing Drive, south side only
Miller Street	Mint Street
Oats Street	
Orrong Road	Including all POS Town side only
Planet Street	Oats Street to Briggs Street
Roberts Road	
Rutland Avenue	Including Railway Verge to PTA Fence line
Shepperton Road	Including POS near Welshpool Road
Star Street	
Teddington Road	
Victoria Park Drive	Non Irrigated sections including POS
Welshpool Road	Bank Street to Shepperton Road Town side only

Burswood Industrial Area	Including Goodwood Parade, Riverside Drive (Goodwood to Graham Farmer), Vivian Street, Claude Street, Griffiths Street, Stiles Street, Dual Use Footpath from Great Eastern Highway to Riversdale Road next to freeway
Carlisle/Welshpool Industrial Area	Including Sandra Place, Harris Street (Cohn to Kew), President Street (Planet to Orrong), Mars Street (President to Kew), Star Street (Cohn to Kew), Planet Street (Briggs to Kew Street town side only), Briggs Street (Planet to Orrong), Cohn Street (Planet to Orrong)

TVP/15/08 replaces Tender TVP/14/06 (expired 1 October 2015). Currently the Town's previously tendered contractor has agreed to continue with the scheduled work at the original tender rate until the new contract is instigated.

The schedule of rates in this tender includes –

- Guaranteed works – minimum number of cuts, and dates maintenance to occur;
- Industrial areas– minimum number of cuts, and dates maintenance to occur;
- Verge mowing– minimum number of cuts, and dates maintenance to occur; and
- Non-Guaranteed – including sump mowing, reserves currently done in house, unit rates for additional works and turf renovations.

The scope of work is also detailed within the tender and is based on the current levels of service. In the case of Active Reserves (sports ovals), mowing of the playing surface is carried out more frequently than the surrounds, so these services have been listed separately in the tender.

The overall pricing of this tender is aggregated, based on the total costs for guaranteed work, and the unit cost of one (1) service for non-guaranteed works. .

The contract to be awarded for this tender is for a period of three (3) years from the start date, with two possible extensions of one (1) year each, subject to satisfactory performance of the Contractor.

The Contractors performance will be monitored by Town staff and include –

- Complaints/feedback from residents and staff;
- Progress of works against programmed maintenance;
- Adherence to timeframes;
- Record of any formal “non-conformance” or “breaches” of the contract;
- Regular spot checks; and
- Minuted formal meetings with the contractor.

**DETAILS:**

Tender TVP/15/08 was advertised in The West Australian on Saturday 19 September 2015. The tender closed at 2pm 12 October 2015 with six (6) submissions being received from –

- Sanpoint Pty Ltd;
- Lochness Landscape Services;
- Adelby Pty Ltd;
- Turfmaster Pty Ltd;
- Parker Family Trust T/A Lawn Doctor; and
- Environmental Industries.

One other tender was submitted after closing, is therefore non-compliant, and was not assessed.

**Description of compliance criteria**

Compliance criteria for TVP/15/08 included submissions being able to answer the questions, which are listed below.

- Should have proven three years' experience in delivering turf mowing and maintenance services;
- Should have a contract of minimum \$100,000 value to deliver turf mowing and maintenance services;
- Tenderer has provided all information, as requested in this Tender document, enabling Town of Victoria Park to evaluate tender submission, including selection criteria; and
- Tenderer has completed and provided Part 4 - 'Form of Tender', including signed 'No Deviation Form' (Schedule 1 of Part 4 – Form of Tender).

In addition to the above, the Tenderer has provided response to all following questions:

- Are you presently able to pay all your debts in full, as and when they fall due?
- Are you engaged in any litigation or any legal proceedings, as a result of which you may be liable for \$50,000 or more?
- Will you be able to fulfill the requirements from your own resources or from resources readily available to you to pay all your debts in full as and when fall due?
- Have you provided proof for your financial ability to undertake this contract, including a profit and loss statement and latest financial tax return for you and each of the other proposed contracting entities?

**Description of qualitative selection criteria**

Selection criteria for TVP/15/08 included each submission being assessed against five criteria, which are listed below.

<b>SELECTION CRITERIA</b>	<b>WEIGHTING (%)</b>
Experience of Tenderer in supplying and completing recent similar projects	25
Tender Organisation's capability in completing recent similar projects	20
Occupation, health and safety capability	10
Financial viability	20
Tendered Price/s	25

<b>SELECTION CRITERIA</b>	<b>WEIGHTING (%)</b>	<b>SCORE (/100)</b>	<b>WEIGHTED SCORE</b>
Experience of Tenderer in supplying and completing recent similar projects	25		
Tender Organisation's capability in completing recent similar projects	20		
Occupation, health and safety capability	10		
Financial viability	20		
Tendered Price/s	25		
<b>TOTAL</b>			0.00

The six (6) submissions were deemed compliant.

The overall pricing of this tender is aggregated, based on the total costs for guaranteed work, and the unit cost of one (1) service for non-guaranteed works. .

The assessment of the compliant submissions was formally undertaken by an Assessment Panel of three, the A/Executive Manager Park Life, A/Business Unit Manager – Parks and Reserves Supervisor.

The Occupational Health and Safety capability was assessed by the Town's Safety Co-ordinator.

Financial viability was assessed by the Town's Manager Financial Services.  
(Assessment still to be finalised prior to OCM).

Their individual scores were averaged and the weightings applied, as per the table below:

		SANPOINT PTY LTD		LOCHNESS		ADELBY PTY LTD	
SELECTION CRITERIA	WEIGHTING (%)	SCORE (/100)	WEIGHTED SCORE	SCORE (/100)	WEIGHTED SCORE	SCORE (/100)	WEIGHTED SCORE
Experience of Tenderer in supplying and completing recent similar projects	25	85.00	21.25	90.00	<b>22.50</b>	65.00	16.25
Tender Organisation's capability in completing recent similar projects	20	86.67	17.33	86.67	<b>17.33</b>	56.67	11.33
Occupation, health and safety capability	10	80.00	8.00	85.00	<b>8.50</b>	80.00	8.00
Financial viability	20	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00
Tendered Price/s	25	35.12	8.78	100.00	<b>25.00</b>	31.32	7.83
	TOTAL		55.36		<b>73.33</b>		43.41
		TURFMASTER		PARKER FAMILY TRUST LAWN DOCTOR		ENVIRONMENTAL INDUSTRIES	
SELECTION CRITERIA	WEIGHTING (%)	SCORE (/100)	WEIGHTED SCORE	SCORE (/100)	WEIGHTED SCORE	SCORE (/100)	WEIGHTED SCORE
Experience of Tenderer in supplying and completing recent similar projects	25	85.00	21.25	88.33	22.08	88.33	22.08
Tender Organisation's capability in completing recent similar projects	20	81.67	16.33	88.33	17.67	86.67	17.33
Occupation, health and safety capability	10	80.00	8.00	70.00	7.00	85.00	8.50
Financial viability	20	0.00	0.00	0.00	0.00	0.00	0.00
Tendered Price/s	25	84.57	21.14	67.10	16.77	24.09	6.02
	TOTAL		66.73		63.52		53.94



**Legal Compliance:**

*Local Government Act 1995 Section 3.57.*

*Local Government (Functions and General) Regulations 1996 Division 2 Part 4.*

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

**Policy Implications:**

Council Policy FIN4 Purchase of Goods and Services has been complied with.

Council Policy PKS3 Mowing of Street Verges has been complied with.

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Maintenance of \$1,557,004 is included in the 2015/2016 Parks budget under various separate work orders specific to the individual park classifications.

Current financial year expenditure for the mowing task, including commitments, is **\$189,950.**

In 2014/2015 the actual expenditure assigned to the mowing task was –

○	Active	\$102,983.58
○	Bushland	\$ 1,004.68
○	Facility	\$ 34,286.54
○	Passive	\$313,777.37
○	Verge	\$ 65,677.76
	<b>Total</b>	<b>\$517,729.93</b>

Total Asset Management:

The Town's Strategic Community Plan 2013-2028 includes the following objectives that relate to management of Assets -

- Effectively manage, maintain and renew the Town's assets.

Providing and maintaining high quality Active Reserves promotes sport, fitness and health within the Town, and helps reduce and prevent injuries. Passive reserve areas are an essential part of the Town, providing recreation spaces for residents with decreasing yard areas. Keeping them frequently maintained, removes rubbish and debris. It also reduces the need for chemical weed control. Part of the requirements for this contract include reporting on issues on the reserve as they are maintained, providing a regular inspection regime.

**Sustainability Assessment:**External Economic Implications:

Nil

**Social Issues:**

Providing good quality reserves and greenspace, encourages participation in outdoor passive recreation, and promotes a healthier lifestyle, which have a positive effect on residents as well as assisting the Town to be an aesthetically pleasing and liveable environment.

**Cultural Issues:**

Nil

**Environmental Issues:**

Maintaining healthy green scapes, and providing open grassed areas helps filter pollution and reduce heat.

**COMMENT:**

The tender evaluation process identifies Lochness Landscape Services has achieved the highest score on the evaluation of all the tenders. Their submission also contained the lowest tendered price. Lochness Landscape Services has been one of the Town's mowing contractors for the last five years and provided reasonable service.

Currently, the majority of Town reserves are maintained on a fortnightly basis, with Active reserve playing areas mown weekly during the summer period. This level of service and frequency of mowing is generally dictated by budget constraint, however does deliver grass quality, helps reduce weed seeding and is generally aesthetically pleasing.

The price differences in the tender submissions are quite substantial. If the Town were to select one of the more expensive contractors, the level of service and frequency would have to reduce to accommodate the current budget. This would result in a poorer standard of turf and likely dissatisfaction with the quality of playing surfaces.

**CONCLUSION:**

It is concluded that the tender submitted by Lochness Landscaping Services be accepted as the most advantageous for Turf Mowing and Maintenance Works within the Town.

**RECOMMENDATION/S:  
That Council**

1. Awards tender TVP/15/08 for Turf Mowing and Maintenance Works be awarded to Lochness Landscaping Services;
2. Endorses the Chief Executive Officer entering into a contract with Lochness Landscaping Services under the following contractual arrangement –

**Price Break down:**

- **Contract Schedule of Rates: At tendered rates**  
*[Cumulative Schedule of Rates is \$1,169.740 (ex-GST) based on estimated/unit quantity for five (5) year period].*

**Contract Term:**

- **Initial Term: Three (3) years; and**
- **Term Extensions: Two (2) possible one (1) year extensions each post expiry of initial term.**

## 13 COMMUNITY LIFE PROGRAM REPORTS

### 13.1 Request for Additional Financial Contributions and to Renew Sponsorship Agreement - Southern Districts Band Incorporated (SDBI)

<b>File Reference:</b>	CRM/25/0002
<b>Appendices:</b>	Nil

<b>Date:</b>	23 October 2015
<b>Reporting Officer:</b>	M. Fletcher
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – Renew the Town’s Sponsorship Agreement with the Southern Districts Band Inc. for a further three years, with conditions; decline the request for additional financial contributions.**

- In recognition of the valuable contribution that the Southern Districts Band Inc. (SDBI) provides the community it is recommended that the Town continue to sponsor the Band for a further three years (2015/16, 2016/17 and 2017/18) with a cash contribution of \$13,000 (excluding GST) per annum, subject to conditions.
- The SDBI’s requests for the Town to provide an annual cash contribution of \$5,000 to engage a Musical Director for a proposed ‘New Orleans Second Line Brass Band’, as well as a further annual contribution of \$1,200 for advertising, is not supported.

#### TABLED ITEMS:

- OCM – 19 October 2010 – Chief Executive Officer 10101901 Documents Sealed: Town of Victoria Park and Southern Districts Band Inc. Sponsorship Agreement 2 August 2010;
- OCM - 22 February 2000 – Corporate and Customer Services: Item 3.5 Southern Districts Brass Band - Sponsorship Request; and
- 22 May 2015 – Letter from SDBI: Requests for Additional Financial Contributions and to Renew Sponsorship Agreement.

#### BACKGROUND:

The five-year *Town of Victoria Park and Southern Districts Band Inc. (SDBI) 2010 Sponsorship Agreement (tabled)* expired on 20 April 2015. The Sponsorship Agreement applies to two bands – the Town of Victoria Park Brass Band and the Town of Victoria Park Swing Shift Band.

A letter was received from the SDBI in May 2015 seeking to renew the Sponsorship Agreement, as well as requesting additional financial contributions for advertising and to engage a Musical Director for an additional band they are proposing to establish. Upon receipt of the letter the Administration commenced work with the SDBI to seek to understand their needs and plans for the future, with a view to presenting options to an Ordinary Council Meeting for consideration.

At the 21 July 2015 Elected Members Workshop the Manager Neighbourhood Enrichment presented an overview of the Band's requests for discussion and feedback. At the Workshop there was indicative support for some of the SDBI's requests, which have since been discussed with the SDBI, culminating in this report for the consideration by the Council.

**DETAILS:**

The Southern Districts Band Incorporated (SDBI) was established in 1967, having formerly been known as the Victoria Park Citizens Band, which had been established in 1930. The SDBI currently have 38 financial members, plus six 'life' members.

The SDBI compete in State Championships annually and plan to participate in the National Championships in 2016. Over the term of the recently expired Sponsorship Agreement they report to have delivered over 120 events at locations ranging from Geraldton to Manjimup, including a live performance at Telethon in 2014, as well as marching every year in the ANZAC Day Parade through the streets of the Perth Central Business District.

The SDBI has written to the Administration seeking to renew its Sponsorship Agreement with the Town, as well as requesting additional financial contributions. In brief, the SDBI have requested:

1. To renew their Sponsorship Agreement with the Town, being a cash contribution, as well as an operating subsidy (value of rates at property 88/11 Briggs Street, Welshpool) for a five year period, ending 2019/20;
2. An annual cash contribution of \$5,000 to engage a Musical Director for an additional band, a New Orleans Style Second Line Band, it is proposing to establish; and
3. An annual cash contribution of \$1,200 for advertising.

In summary, the SDBI's current annual revenue is derived from:

- Sponsorship by the Town (1/3);
- Member subscriptions (1/3); and
- Performance fees, ticket sales, fundraising and corporate donations (1/3).

The SDBI's premises in Welshpool are owned by them, which saves the equivalent of \$25,000 in rent annually. Funding for instruments and equipment has come from Lotterywest Grants and from the Band's savings. An in-kind donation of catering comes from Croissant Express to the value of \$8,000 annually.

Funds raised support the SDBI to employ one of Perth's premier jazz educators and composers, Martin Pervan, as Musical Director for their two current bands; as well as maintaining their premises in Welshpool.

The Town of Victoria Park and Southern Districts Band Inc. Sponsorship Agreement (2010) included:

- an annual cash contribution of \$10,150 from the Town to SDBI, adjusted annually in line with CPI; and
- waiving of the annual rates, as assessed by the Town, on SDBI's property at Lot 12 (88) Briggs Street in Welshpool.

Over the term of the recently expired five year Sponsorship Agreement, the combined total value of the Town's sponsorship of the SDBI was \$58,778.63 (sum inclusive of cash contribution of \$52,986.28 and rate fee waiver \$5,792.35).

In addition, during the term of the 2010 Sponsorship Agreement, the Town provided a one-off financial contribution of \$10,000 in responses to the SDBI's request for funding to purchase new uniform jackets for the Town of Victoria Park Brass Band.

In return, the SDBI's obligations under the past Sponsorship Agreement were to provide up to eight free performances per annum at events organised by the Town. On average, performances by one of the SDBI's two bands are valued at approximately \$2,000. Throughout the term of the Agreement the Town engaged the SDBI to perform at events an average of three times per year rather than the possible eight performances as the SDBI's acts did not necessarily align to the outcomes intended for the diverse range of events provided by the Town.

In response to the SDBI's request to renew its Sponsorship Agreement it is proposed that the Town provide an annual cash contribution of \$13,000 (excluding GST; not CPI adjusted) over a three year period, with the SDBI obligation being to provide a minimum of eight 'engagements' within the Town examples including, but not limited to, performances at events organised by the Town, visits to local schools by band members to discuss/show the instruments, performances by a few members (e.g. trio) at local organisations/groups (e.g. Harold Hawthorne Centre). The increased cash contribution proposed would provide the SDBI the necessary funds to pay the rates on its property in Welshpool, a fee that has been waived in the past; as well as account for CPI, which it is recommended not be added to future contributions.

The Town intends to develop a framework that guides how to address requests for donations and financial assistance by community organisations into the future. At present, existing arrangements are mainly ad-hoc or historical in nature. A strategic approach to maximise alignment with the Town's vision, community aspiration and local need is preferred and should be drafted by June 2016.

**Legal Compliance:**

Nil

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Community Life Program Outcome Statement: A vibrant Town is created where social interaction, creativity, vitality, cultural diversity and healthy lifestyles intersect and are celebrated.

Community Life Program Objective (One): Connect people to services, resources and facilities that enhance their physical and social wellbeing.

Community Life Program Key Project or Service (Four): Foster the engagement, inclusion and enrichment of people, place and participation through community and cultural initiatives.

**Financial Implications:**Internal Budget:

The total cash contribution of sponsoring the SDBI for a further three year term is \$39,000 (excluding GST) per annum. There are sufficient funds listed in the Town's 2015/16 Budget that, when preparing the Budget, were intended to be used to sponsor the SDBI, pending a Council resolution to renew their Sponsorship Agreement.

Consistent with the Sponsorship Agreement future financial commitments of \$13,000 (excluding GST) per year would be listed for consideration in the 2016/17 and 2017/18 annual budgets.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

The SDBI's participation in the annual Anzac Day Parade throughout the streets of the Perth Central Business District raises the profile of the SDBI and the Town. While it is not possible to measure the external economic benefit anecdotal evidence indicates that being seen at this large scale of event promotes the Town and the band to an audience that may not have previously been aware of the band and as a result may choose to visit to the Town to patronise other local businesses and community groups.

Social Issues:

The Town's support of the SDBI provides local residents the opportunity to enjoy musical performances that may not otherwise be available to them; increases awareness of the SDBI, which gives the organisation the opportunity to increase their membership bases; and opens up other opportunities such as volunteering; all of which are important to fostering a thriving community.

Cultural Issues:

The Town's support of the SDBI adds to the diverse range of cultural and creative opportunities available to the community.

Environmental Issues:

Nil

**COMMENT:**

The Town and SDBI have had a long term relationship that has been fostered over many years. Performances by the SDBI's bands have been very well received by the community at a variety of events, such as Twilight Concerts, Christmas Street Mall and civic ceremonies.

It is considered that the SDBI warrants the Town's continued support, although in the current financial climate it is essential that the SDBI actively identify and seek alternative sources of revenue to ensure their long term sustainability.

For accountability and transparency, it is recommended that there be conditions in the new Sponsorship Agreement that have not previously been included. These conditions being that the SDBI:

- develop a Strategic Plan (minimum three year plan commencing 2016/15), with Key Performance Indicators (KPIs) that include a measure/s of community benefit (as agreed by the Director Community Life), by February 2016;
- report performance towards achieving the objectives and KPIs in the Strategic Plan for consideration by the Director Community Life before signing-off on the 2016/17 and 2017/18 financial contributions;
- provide the Administration with an annual financial statement for each of the three years of the Agreement before sign-off on the financial contributions will be considered; and
- commit to organise and undertake a minimum of eight free 'engagements' within the Town of Victoria Park per annum including, but not limited to, performances at events organised by the Town, visits to local schools and community groups/centres, 'small' (e.g. a quartet) performances at local community events, volunteering within the local community.

It is acknowledged that the SDBI has requested to renew their Sponsorship Agreement with the Town for a period of five years. In light of projects (detailed below) that are currently being progressed by the Administration that may impact decisions regarding whether or not the Town continue to sponsor the SDBI, it is recommended that the proposed Agreement be for a period of three years.

Projects that will/may impact consideration of future financial contributions by the Town to the local community:

- a review of funding/sponsorship provided to the community (individuals, groups and organisations) that it is anticipated will result in a comprehensive and consistent approach to assessment that is applied to all funding requests received by the Administration; and
- the Evolve 2017 project, being a major review of the Town's Strategic Community Plan and related integrated planning and reporting framework documents, that will include a community engagement process that will determine the future direction of the Town

The SDBI's proposal to establish a 'New Orleans Style Second Line Band' is an exciting concept; however it is recommended that their request for an annual contribution of \$5,000 to engage a Musical Director not be supported given that the organisation does not have a Strategic Plan, nor has it prepared a Business Case identifying the objectives, costs benefits and risks of its proposal.

In addressing the SDBI's request for an annual cash \$1,200 for advertising it is recommended that rather than providing a cash contribution the Town provide an 'in-kind' contribution through its existing communication and marketing channels such as 'Life in the Park', social media and the Town's website.



**CONCLUSION:**

In recognition of the valuable contribution that the Southern Districts Band Incorporated (SDBI) provides the community it is recommended that the Town continue to sponsor the Band for a further three years (2015/16, 2016/17 and 2017/18) with a cash contribution of \$13,000 (excluding GST) per annum, subject to conditions.

A condition will be included that requires the SDBI to commit to organise and undertake a minimum of eight free 'engagements' within the Town of Victoria Park per annum including, but not limited to, performances at events organised by the Town, visits to local schools and community groups/centres, 'small' (e.g. a quartet) performances at local community events, volunteering within the local community.

**RECOMMENDATION/S:**

**The Southern Districts Band Incorporated (SDBI) be advised that the Town:**

- 1. Supports entering a Sponsorship Agreement with the SDBI for a further three year period commencing 2015/16, with a cash contribution of \$13,000 (excluding GST) per annum, subject to the following conditions:**
  - 1.1 The arrangement is formalised through a written Sponsorship Agreement developed to the approval of the Director Community Life and signed by both parties;**
  - 1.2 The SDBI develops and submits a three-year (minimum) Strategic Plan to the Administration prior the release of the 2015/16 financial contribution;**
  - 1.3 The SDBI's Strategic Plan to contain Key Performance Indicators (KPI), that include a measure/s of community benefit, that are approved by the Director Community Life prior to finalising the Plan;**
  - 1.4 The SDBI provide the Administration with an annual financial statement for each of the three years of the Agreement prior to release of the annual financial contribution from the Town;**
  - 1.5 The SDBI supplies a written statement to the Town in the second (2016/17) and third (2017/18) year of the Sponsorship Agreement reporting its progress against commitments in its Strategic Plan, including Key Performance Indicators) prior to release of the annual financial contribution from the Town; and**
  - 1.6 The SDBI commit to organise and undertake a minimum of eight free 'engagements' within the Town of Victoria Park per annum including, but not limited to, performances at events organised by the Town, visits to local schools and community groups/centres, 'small' (e.g. a quartet) performances at local community events, volunteering within the local community.**

2. Declines the SDBI's request for an annual contribution of \$5,000 to engage a Musical Director to support their proposed 'New Orleans Second Line Brass Band'.
3. Declines the SDBI's request to provide a financial contribution of \$1,200 per annum to be used for advertising, offering instead to provide in-kind support for advertising.
4. Encourages the SDBI to explore options to ensure its sustainability beyond the term of the Sponsorship Agreement, in light of changing and competing community priorities that it is anticipated will be identified as the Town progresses the development of a new Strategic Community Plan (due 1 July 2017), as well as a review of funding/sponsorship provided to the community that is currently underway.

## 14 BUSINESS LIFE PROGRAM REPORTS

### 14.1 Schedule of Accounts for 30 September 2015

<b>File Reference:</b>	FIN/11/0001~09
<b>Appendices:</b>	Yes
<b>Date:</b>	24 October 2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority
<b>Executive Summary:</b>	
<b>Recommendation - That Council confirms the schedule of Accounts paid for the month ended 30 September 2015.</b>	
<ul style="list-style-type: none"> <li>• The Accounts Paid for 30 September 2015 are contained within the Appendices;</li> <li>• Direct lodgement of payroll payments to the personal bank accounts of employees are also included.</li> </ul>	

#### TABLED ITEMS:

Nil

#### BACKGROUND:

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

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

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

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

#### DETAILS:

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

<b>Fund</b>	<b>Reference</b>	<b>Amounts</b>
<b>Municipal Account</b>		
Recoup Advance Account		
Automatic Cheques Drawn	607135-607222	219,743
Creditors – EFT Payments		4,475,440
Payroll		922,480
Bank Fees		21,221
Corporate MasterCard		1,116
		<b>5,640,000</b>
<b>Trust Account</b>		
Automatic Cheques Drawn	3119-3136	168,839
		<b>168,839</b>

**Legal Compliance:**

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

6.10. Financial management regulations

Regulations may provide for —

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

(i) the municipal fund; and

(ii) the trust fund,

of a local government.

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

13. Lists of Accounts

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

(a) the payee's name;

(b) the amount of the payment;

(c) the date of the payment; and

(d) sufficient information to identify the transaction.

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

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

(b) recorded in the minutes of that meeting.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

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

**RECOMMENDATION/S:**

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

1. The Accounts Paid for 30 September 2015 as contained within the Appendices; and
2. Direct lodgement of payroll payments to the personal bank accounts of employees.

## 14.2 Financial Statements for the Month ending 30 September 2015

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

<b>Date:</b>	24 October 2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation - The Council, accepts the Financial Activity Statement Report – 30 September 2015, as contained within the Appendices.**

- The Financial Activity Statement Report is presented for the Month ending 30 September 2015. The report complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.

### TABLED ITEMS:

Nil

### BACKGROUND:

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

### DETAILS:

Presented is the Financial Activity Statement Report – 30 September 2015.

*The financial information as shown in this report (30 September 2015) does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the period ended 30 September 2015.*

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

#### Revenue

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

## Expense

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

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

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

### **Legal Compliance:**

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

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

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

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

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

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

**COMMENT:**

It is recommended that the Financial Activity Statement Report – 30 September 2015 be accepted.



**RECOMMENDATION/S:**

**That Council, pursuant to Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Financial Activity Statement Report – 30 September 2015 as contained within the Appendices.**

### 14.3 Sale of land for recovery of rates and charges – Assessment #7377

<b>File Reference:</b>	RT7377
<b>Appendices:</b>	No

<b>Date:</b>	27 October 2015
<b>Reporting Officer:</b>	E Monteath
<b>Responsible Officer:</b>	N Cain
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – That Council proceed to sell the property associated with assessment #7377, with rates and charges in arrears totalling approximately \$27,700.**

- Council can take possession of land and sell land where rates and charges have been unpaid for at least 3 years.
- The total rates and charges in arrears on assessment #7377 total approximately \$27,700.
- Numerous instances over the last 5 years to recover the outstanding rates and charges have failed.
- It is recommended that Council proceed to take possession of the land and sell the land to recover the unpaid rates and charges.

#### TABLED ITEMS:

Nil

#### BACKGROUND:

Council is empowered, under the provisions of the *Local Government Act 1995*, to impose rates and charges of rateable land within the district. Owners of the rateable land within the district are required, by legislation, to pay those rates and charges, as determined each year.

From time-to-time owners of the rateable land (ratepayers) do make the necessary payment to cover the raised rates and charges. Where this occurs, the Town attempts to work with the ratepayers to assist them in making payment and clearing the debt. Where the debt remains unpaid for a lengthy period of time it is necessary to escalate the recovery effort.

Various means to recover the outstanding rates debt are tried, with the final option being to take possession of the land and then to sell the land to recover outstanding rates and charges.

The sale of property to recover outstanding rates and charges is not a course of action normally pursued or required because, in most instances, legal proceedings are successful in recovering the outstanding monies.

**DETAILS:**

In 2006, owners of assessment #7337 short-paid a rates notice, which led to the levying of interest and, subsequently, the imposing of legal fees to recover the outstanding rates and charges.

The owners sought a Means Enquiry Order in order to make repayment contributions without further compounding interest penalties applying. The order from that enquiry determined the appropriate amount to pay and the schedule for the timely payment of the agreed outstanding amounts.

The owners made the first payment of the agreement and, subsequently, defaulted on all other payments.

From 2007 there has been no contact or payment from the owner.

During this time the Town has:

- Issued rates notices each financial year;
- Telephoned the owner and left messages;
- Attended the property to try to speak with the owner;
- Sent letters to the owner;
- Commenced legal action via a *General Procedure Claim*;
- Issued a *Property Seizure and Sale Order* (which failed due to the appointed bailiff being unable to identify any suitable goods to seize);
- Identified that the owner of the property has also defaulted on their obligation to meet water rates and consumption payments and that the Water Corporation has lodged a memorial on the land title;
- Issued a second *Property Seizure and Sale Order* (which also failed due to the same previous reason);
- Enquired about lodging a caveat on the property and noted that caveats already exist from other parties;
- Sent *Intention to Summons* notices; and
- Continued to apply interest and associated fees to the assessment.

During the last 5 years, the Town has increased efforts to recover the outstanding rates and charges due to the increasing magnitude of the growing debt.

**Legal Compliance:**

The *Local Government Act 1995* Section 6.56 (rates or service charges recoverable in court) states –

- 1) *If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.*
- 2) *Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.*

Section 6.64 of the *Local Government Act 1995* (actions to be taken) states –

- 1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*
  - a. *from time to time lease the land; or*
  - b. *sell the land; or*
  - c. *cause the land to be transferred to the Crown; or*
  - d. *cause the land to be transferred to itself.*
- 2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*
- 3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

The City of Gosnells sought a legal opinion on the apparent conflict between sections 6.56 (sale of land – court of competent jurisdiction) and 6.64 (sale of land – Act) of the *Local Government Act 1995*.

Following is an extract of that legal opinion found in *The Complete Guide to the Local Government Act 1995 (2000)*.

*“Your concern is that the City cannot sell the land of defaulting ratepayers unless the rates remain unpaid for three years. However, if enforcement proceeds in the Local Court, the sale of land is a means of enforcing judgment without the necessity of a three year default.*

*Section 6.56(1) provides – “if a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a Court of competent jurisdiction.” This section falls within the provisions of subdivision 5 of part 6 of the Act entitled “Recovery of Unpaid Rates and Service Charges”. Read on its own the recovery of unpaid rates as well as the cost of proceedings would then be effected by the various means of enforcement contained in the Local Court Act 1904 section 122 “A bailiff may, under a warrant of execution by which he is directed to levy a sum of money, seize and take, and cause to be sold, any land which the person named in the warrant is or may be possessed of or entitled to, or which he has the power to transfer or dispose of for his own benefit.”*

*Section 6.64 provides – it entitles a local government to take possession of land in respect of which there are rates or service charges which have remained unpaid for at least three years and to exercise a number of powers in relation to that land including sale or transfer to the local government.*

*Section 6.68(1) prohibits the exercise of the power of sale conferred by section 6.64(1)(b) unless there has been an attempt under section 6.56 to recover the money.*

*There is no ostensible reason, as a consequence, why a local government may not proceed under section 6.56 without the necessity of relying on the powers found in section 6.64 and 6.68. Theoretically at least, it would be possible for a local government to exercise the rights contained in section 6.56 and, ultimately have the bailiff effect a sale of land without the necessity of allowing default for three years, as contemplated by section 6.64.*

*The conceptual difference between the two proceedings is that is the Court and its officers which give effect to the sale under section 6.56 whereas it is the local government which is given the power to do so under the later provisions of the Act, without the necessity of instituting proceedings and, effectively, having to prove its case before a Court.*

*Therefore, Council may rely on section 6.56 of the Act (and indeed in some circumstances is obliged to do so) with the later provisions at section 6.64 and following applying where the relevant conditions have been satisfied and there has been no prior successful exercise by Council of its rights under section 6.56.”*

**Policy Implications:**

Council Policy FIN3 (Debt collection) has been followed during this process.

**Strategic Plan Implications:**

Nil

**Financial Implications:**

Possession and sale of the property will equate to a decrease in the level of outstanding rates and charges by approximately \$27,700.

Total Asset Management:

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

It is certainly not the preferred option of the Town to seize property for sale in order to recover unpaid rates and charges. In this instance, however, it is unlikely that amounts owing to the Town will be met through any other means. It is also noted that the Water Corporation, which share similar legislative powers to local governments for possession and sale of land, are also owed monies for unpaid water rates and consumption charges.

Ultimately, as part of a future land sale (generated by the Town or other party), the Town will receive payment towards outstanding rates and charges. The risk of allowing the outstanding amount to grow to any sizeable nature is that the Town may be required to share any proceeds rather than have full entitlement to all funds (that is, not all amounts owing may necessarily be forthcoming). It is also unequitable to other ratepayers in the district that do make payment and, therefore, contribute to the wellbeing of the community through the services provided by the Town.

**CONCLUSION:**

The Town has tried, without success, to recover rates and charges on assessment #7337 since 2007. The owner of the property has failed in their obligation to make payment and to acknowledge the various recovery actions that have been attempted. It is therefore recommended that Council proceed to take possession of the land and sell the land to recover the unpaid rates and charges (approximately \$27,700).

**RECOMMENDATION/S:**

**That Council, pursuant to section 6.56 (rates or service charges recoverable in court) and section 6.64 (actions to be taken) of the *Local Government Act 1995*, proceeds to take possession of, and sell, the property associated with assessment #7337 that has rates in arrears exceeding 3 years, and recover from the proceeds of sale the outstanding balance of approximately \$27,700.**

## 14.4 Tender TVP/15/05 – Supply of Consultancy Services of Business Systems Analyst

<b>File Reference:</b>	TVP/15/05
<b>Appendices:</b>	No

<b>Date:</b>	27 October 2015
<b>Reporting Officer:</b>	M. Dunne
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – That Council award tender TVP/15/05 (Supply of Consultancy Services of Business Systems Analyst) to Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember in accordance with their submitted tenders, Council’s contract documentation and budget allocations.**

- Tenders were called for the provision of business systems analyst consultancy services.
- Evaluation of tender submissions against prescribed criteria has been completed.
- It recommended to accept the tender from Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember.

### TABLED ITEMS:

- Tender Submissions

### BACKGROUND:

The Town operates a number of corporate business systems and major project implementations including, but not limited to;

- Customer Relationship Manager (CRM)
- Mobile Workforce for:
  - Parks
  - Parking
  - Rangers
  - Environmental Health
- Authority (finance, human resources, payroll, job costing, health, building and planning, rates, dogs, and others);
- TRIM (record management);
- Sensen (licence plate recognition);
- AutoIssue (fines and enforcement);
- ICON (online planning lodgement);
- Gladstone (leisure facility management);
- AMLIB (library management);
- EnvisionWare (leisure facility and library management), and
- Intramaps (geographic information system).

The Town has regularly engaged contractors to assist in the development and project management of the various productivity modules associated with each of these systems. The nature of the usage of these contractors, and the broad knowledge base requirement of these systems, is such that a Tender was called to ensure that the Town could secure the services of experienced contractors.

Options such as internal resourcing have been reviewed in detail and were deemed not feasible due to the strict deadlines of the aforementioned projects and the criticality of uptime of the corporate business systems. This review was based upon the complexity of the current environment and the availability of time and resources that would be required to sufficiently upskill an internal resource to accommodate.

**DETAILS:**

The tender was for the provision of Consultancy Services of Business Systems Analyst (2 years and thereafter will have provision of two possible 1 year extensions each).

A total of three (3) tenders were received by the due date and time, with two (2) being deemed compliant and one (1) non-compliant.

The two (2) compliant tenders were received from suitably qualified and experienced organisations/contractors and both conformed to the tender specification. The low numbers of tenders received perhaps reflects the difficulty in obtaining the specific level of knowledge and skill sets required for the Town's corporate business systems.

A like number of tenderers were received three years ago when a similar tender was called.

Scope of work under this tender

The scope of work that was included for tendering covered business analysis services and is shown following.

*The Town requires business analysis services to assist the Information and Communication Technology business unit of the Town of Victoria Park with the improvement of current business processes, existing business systems and future business systems. Each improvement will be completed in collaboration with identified stakeholders and as directed by the Information and Communication Technology Business Unit Manager.*

*The scope of work includes, but is not limited to;*

- *Providing vendor agnostic and unbiased leadership, guidance and advice on business systems solutions;*
- *Assist in project planning of all recommended solutions, required resources, prerequisites and timeframes in accordance with a suitable project management methodology;*
- *Using a comprehensive knowledge of database schemas to prepare and extract data from databases and use this data to write business and management reports, as well as modify existing reports, as required;*



- *Using a comprehensive and existing knowledge of database environments, interrogate the corporate databases for the purpose of error correction and data analysis;*
- *Provide Town of Victoria Park staff members with appropriate and timely information and training on the various business systems and databases;*
- *Provide guidance and advice on implementation and integration of new software being reviewed or purchased by the Town of Victoria Park, including ongoing development and review throughout;*
- *Identify and assist to resolve any data discrepancies of information held within databases; and*
- *Assist in reviewing business processes, inclusive of any recommended actions to be undertaken and assist with the implementation of those actions.*

### Selection Criteria

The selection criteria and points for the evaluation of this tender are as follows:

Item	Description	Points
1	Demonstrated experience with the Town's corporate business systems	140
2	Demonstrated experience with the Town's and industry standard processes	80
3	The price to supply the goods or services	80
4	Vendor agnosticism towards the change of corporate business systems	-30 (per event)
	<b>Total</b>	300

### Compliant Tenders Received

Compliant tenders were received from the following organisations:

- Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember; and
- Civica Pty Limited.

### Tenderer's Scores

The average scores (comparatively out of 10) of each of the compliant tenders are as follows:

- Outsource Business Support Solutions and Brenton Michael Pember – 8.08; and
- Civica Pty Limited – 5.17.

### Tender Evaluation Panel

The tender evaluation panel consisted of three Town Officers. After the four elements of the selection criteria were applied to each of the tenderers and, on the information supplied, one out of the two compliant tenderers are recommended to provide the most advantageous outcome for Council.

Both of the compliant tenderers demonstrated experience, necessary skills and a good understanding of the requirements, and submitted an appropriate price.

### **Legal Compliance:**

Section 3.57 (Tenders for providing goods and services) of the *Local Government Act 1995* states –

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

**Policy Implications:**

Council policy FIN4 – Purchase of Goods and Services applies. This Tender, and the process applied, is in accordance with this policy.

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

The Business Life Program Annual Budget contains allocations for the use of contractors / consultants to assist with various business system requirements. If approved, the usage of the successful Tenderers will be governed by the available allocation of funds. Approximate expense (based on current projections and information) on this tender, per annum, is estimated at \$225,000.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Having assessed all compliant tenders, Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember most suitably met the weighted tender specifications.

Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember demonstrated the successful application of similar skills with other Local Government clients, with particular relevance to this type of Business Systems Analyst services required by the Town. Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember have demonstrated their capacity to undertake this onsite consultancy.

**CONCLUSION:**

It is therefore recommended that the tender of Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember be accepted.

**RECOMMENDATION/S:**

That Council, pursuant to Section 3.57 of the *Local Government Act 1995*, and with reference to Tender TVP/15/05 - Supply of Consultancy Services of Business Systems Analyst, accepts the tender from Outsource Business Support Solutions Pty Ltd and Brenton Michael Pember for a period of 2 years (and thereafter will have provision of two possible 1 year extensions each), in accordance with the submitted tender, Council's contract documentation and budget allocations, at a commencing hourly rate of \$160.00 (GST exclusive).

**15 APPLICATIONS FOR LEAVE OF ABSENCE**

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

**17 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

**18 NEW BUSINESS OF AN URGENT NATURE**

**19 PUBLIC QUESTION TIME**

**20 PUBLIC STATEMENT TIME**

**21 MEETING CLOSED TO PUBLIC**

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

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

**22 CLOSURE**



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

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

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

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

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

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