

Ordinary Council Meeting

Agenda – 21 May 2019



WE'RE OPEN
VIC PARK

Please be advised that an **Ordinary Council Meeting** will be held at **6.30pm** on **Tuesday 21 May 2019** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.



Mr Anthony Vuleta – Chief Executive Officer
16 May 2019

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1 Opening

Prayer (by Chief Executive Officer)

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

And to Thee, be all blessing and glory forever.

AMEN

Acknowledgement of Country (by Mayor)

I acknowledge the traditional custodians of this land on which we are meeting, the Wadjuk people of the Noongar Nation and pay my respects to their past, present and emerging elders and thank them for their continued sharing of knowledge and leadership.

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 time and public statement time

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

In accordance with clause 5.15 of the *Town of Victoria Park Standing Orders Local Law 2011*, a person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.

A person present at or observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

When the presiding member speaks during public question time or public statement time any person then speaking, is to immediately stop and every person present is to preserve strict silence so that the presiding member may be heard without interruption.

2.3 No adverse reflection

In accordance with clause 14.1 of the *Town of Victoria Park Standing Orders Local Law 2011*, both Elected Members and the public when speaking are not to reflect adversely on the character or actions of Elected Members or employees.

2.4 Town of Victoria Park Standing Orders Local Law 2011

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

2.5 Introduction of live voting

This meeting will be the first meeting of Council to use our new live voting system. Elected members will now move and second motions, and cast votes, through their devices rather than by a show of hands. Upon the close of debate for each item, a voting period will commence. Once all votes are received, the final results will be displayed on both screens and read aloud by the Presiding Member.

3 Attendance

Mayor	Mr Trevor Vaughan
Banksia Ward	Cr Claire Anderson Cr Julian Jacobs Cr Ronhhda Potter Cr Karen Vernon
Jarrah Ward	Cr Jennifer Ammons Noble Cr Bronwyn Ife Cr Brian Oliver Cr Vicki Potter
Chief Executive Officer	Mr Anthony Vuleta
Chief Operations Officer A/Chief Financial Officer Chief Community Planner	Mr Ben Killigrew Mr Luke Ellis Ms Natalie Martin Goode
Manager Development Services Manager Governance and Strategy	Mr Robert Cruickshank Ms Danielle Uniza
Secretary	Ms Amy Noon

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.

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 can continue to provide advice to the Council in the decision-making process if they have disclosed their 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.

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	Deputy Mayor Vicki Potter
Item No/Subject	11.3 Change of use to Educational Establishment
Nature of interest	Impartiality
Extent of interest	Two children attend Ursula Frayne Catholic College

Name/Position	Cr Claire Anderson
Item No/Subject	11.3 Change of use to Educational Establishment
Nature of interest	Impartiality
Extent of interest	Daughter attends Ursula Frayne Catholic College

Name/Position	Mr Ben Killigrew
Item No/Subject	11.3 Change of use to Educational Establishment
Nature of interest	Impartiality
Extent of interest	Child attends Ursula Frayne Catholic College junior school

5 Public question time

5.1 Public question time

6 Public statement time

7 Confirmation of minutes

Recommendation

That Council:

1. Confirms the minutes of the Ordinary Council Meeting held on 16 April 2019.
2. Receives the notes of the Agenda Briefing Forum held on 7 May 2019.

8 Presentations

8.1 Petitions

A petition was received from the electors of the Town of Victoria Park relating to item 11.3 - Change of use to Educational Establishment (Green Space) and associated works - No 28 and 30 Teague Street.

It requested that the Council *"Approve - No. 28 (Lot 32) and No. 30 (Lot 33) Teague Street, Victoria Park – Change of Use to Educational Establishment (Green Space for Recreation and Other Purposes) and Associated Works Including Landscaping, Fencing and Retaining Walls."*

8.2 Presentations (awards given to the Town)

8.3 Deputations

9 Method of dealing with agenda business

Recommendation

That items 10.3, 12.1, 14.1, 14.2 and 14.3 be adopted by exception resolution, and the remaining items be dealt with separately.

10 Chief Executive Officer reports

10.1 Policy 001 - Policy management and development

Location	Town-wide
Reporting officer	Liam O'Neill
Responsible officer	Danielle Uniza
Voting requirement	Simple majority
Attachments	1. Policy 001 Policy management and development [10.1.1]

Recommendation

That Council:

1. Adopts Policy 001 – Policy Management and Development as included in Attachment 10.1.1.
2. Requests that the Chief Executive Officer conducts a review of the full policy manual, in line with Policy 001 – Policy Management and Development, and presents a report back to Council at its June Ordinary Council Meeting.

Purpose

To present Policy 001 - Policy Management and Development for adoption by Council.

In brief

- It has been identified that there is a need for a clearly outlined policy development, management and evaluation process.
- The Town has developed Policy 001 - Policy Management and Development in order to set out these processes and improve policy creation and implementation within the Town.

Background

1. In 2018 the Town identified that a diverse range of approaches were being taken to the development of policies in the town. This diversity of approaches can mean that the Town's policies are inconsistent in their construction which makes it difficult for the Town to have a consistent approach to its policies.
2. In preparing this policy, the Town sought to base it upon contemporary public policy development principles. The Town has also examined similar policies found at the City of Vincent and City of Gosnells which show the value of these sorts of policies to the sector.
3. There has also been an identified need to standardise policy content and policy templates as related to this action. While there was a resolution made at a Finance and Audit Committee to adopt a revised policy template [in November 2016](#) the report of the committee was not submitted to Council for adoption. This proposed change was requested by the committee at the time. The proposed template for future policies will be in line with the presentation of the proposed policy, as attached to this report.
4. The Town has also sought to provide for a clear framework for the types of policy documents that the

Town creates which currently includes, policy, procedure, management practices, guidelines and so forth. This policy would now create three types of documents, policy, management practices and guidelines.

5. Aside from issues identified in 2016/17, the Town has recently experienced some difficulties in the policy development processes recently with a few policies being referred back from Council to Committee, such as EM6 and HLTH6.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	The proposed policy sets out requirements for public participation in policy development.
CL04 - Appropriate information management that is easily accessible, accurate and reliable.	The proposed policy will assist in ensuring that policies are relevant and formalise the creation of guidelines for the ease of the community.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	Ensuring appropriate management of the Towns policies demonstrates modern governance practices.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	The management of policy is a legislative responsibility of the Council.

Engagement

Internal engagement	
Stakeholder	Comments
Managers	Managers were consulted in the development of the draft policy with managerial feedback incorporated into the policy.
Stakeholder Relations	Stakeholder Relations provided advice regarding community engagement.
Community Development	Community Development provided input into community engagement processes for policy.

Legal compliance

Not applicable.

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance Policy development occurs in an inconsistent manner resulting in various policy inconsistencies.	Minor	Likely	Moderate	Council adopts a policy managing policy development. Policy development is centrally supported for consistency
Reputational Community is	Minor	Likely	Moderate	Council adopts policy that sets a requirement

inconsistently engaged in policy development				for certain community engagement to be conducted during policy development.
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Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

6. This policy is endeavouring to address the following key issues:
 - a. What is a policy requiring Council approval and what is a matter for the CEO;
 - b. When does a policy require community consultation, community co-creation or no community involvement;
 - c. Assisting elected members, officers and community members in understanding their roles in policy development;
 - d. How and when policies should be reviewed and evaluated;
7. This policy does not apply to planning policies which are statutory instruments made as part of Town Planning Scheme No.1.
8. Under section 2.7(2)(b) of the *Local Government Act 1995* the Council determines the policies of the local government. This section does not define what a policy is or what this means. Section 5.41(d) of the *Local Government Act 1995* sets out the responsibility of the CEO to manage the day to day operations of the local government. This policy will assist in ensuring the strategic direction in policies by Council, whilst reserving the responsibility to operationalise policies by the administration through a management practice made by the CEO. This represents the appropriate governance within local government for the separation of the duties of Council and the duties of the CEO.
9. The CEO will under this policy establish management practices which are the CEO's method of operationalising policies. These management practices will also encompass matters of human resources policies/procedures and financial procedures for the purposes of regulation 5 of the *Local Government (Financial Management) Regulations 1996*.
10. The Town recognises there are varying interests from the community in the development of certain policies. It is intended that through the public participation policy community engagement will occur in the policy development process. The Town's previous approach to policy development engaged community sporadically and inconsistently across subjects. It is intended through this policy to empower our community in their involvement in the Town's policy development.
11. For the purpose of ensuring clarity in the role of each stakeholder relating to policy development the policy outlines the differing roles that each party plays in policy development to guide how each party should be involved in policy development.
12. The policy establishes the requirements for an annual review of all council policies and then a thorough evaluation of each policy to occur at least once every four years. The review is a desktop review that ensures matters such as related documents and legislative changes are captured and updated as appropriate. A policy evaluation is a comprehensive review of the policy against its objectives based on

a policy cycle approach.

13. The policy once approved will be implemented by the Town in its approach to policy development, evaluation and review. It will clarify the criteria for the development of policies, what constitutes a policy for Council adoption, and what constitutes a practice for CEO approval and internal use. Following approval a further report will be provided to Council in June 2019 as a result of the first full review of all policies with those policies converted across to the new template.
14. This policy also requires all policies of the Town are to be published on the Town's website to ensure public access to these important documents.
15. The codification of these processes is intended to assist elected members, community members and Town Officers in their respective roles in the process of policy development.

Relevant documents

Not applicable

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, the following additional information has been provided for clarity.

16. The management practices do not need to be endorsed by Council as they will be operational in nature. While not intended to be made available to the public at this time, when the proposed policy is reviewed in 12 months, this may be reconsidered. The Town will need to conduct a wholesale review of its management practices should Council resolve to adopt the proposed policy.
17. For clarify, the term 'policy response' is used in the proposed policy to signify when Council should opt to consider a policy approach in response to an issue. Other methods of dealing with issues, outside of a policy response, may be through the adoption of strategies, plans, etc.
18. The proposed policy has since been amended to clarify the definition of 'policy review' and 'policy evaluation', and the second point of the officer recommendation relating to 'policy review' has been amended to clarify that the review will be conducted in line with the proposed policy.

10.2 Policy 023 - Provision of Information and Services - Elected Members

Location	Town-wide
Reporting officer	Amy Noon
Responsible officer	Danielle Uniza
Voting requirement	Simple majority
Attachments	1. Policy 023 Provision of Information and Services - Elected Members [10.2.1]

Recommendation

That Council adopts Policy 023 Provision of Information and Services – Elected Members.

Purpose

To set the process and expectations for the provision of information and services to elected members.

In brief

- The proposed policy applies to all elected members and officers of the Town.
- The policy sets direction regarding appropriate methods of information provision to elected members.
- The policy preserves the integrity of the decision-making process by committing to consistency and equity in the provision of information and services to its elected members.
- The policy addresses feedback received regarding the needs of both the Council and Town officers.

Background

1. In the past, the Town has not had an agreed direction around how information or services should be requested by elected members or provided to them by the Town.
2. In the absence of an agreed direction, there has been a lack of clarity around how information should be provided to elected members, where elected members can access information and how elected members should request information or services. Concerns have also been raised about information not being provided in a timely manner.
3. There have been inconsistencies around elected members being equally informed regarding issues and concerns raised, particularly on matters requiring a Council decision. There have also been instances of confusion when requests are made verbally as expectations may not have been communicated in the same way that they were received.
4. Both elected members and the Town have expressed a need for a consistent formal process and agreed expectations for the provision of information and services to elected members.
5. It was decided that a policy would be the most appropriate method for setting a process as its formality allows for the Town and Council to be held accountable for their parts of the process.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL01 – Everyone receives appropriate information in the most efficient and effective way for them	Adopting a consistent approach sets the expectation for how information will be received. The clarity allows for information required to be sourced more efficiently.
CL07 - People have positive exchanges with the Town that inspires confidence in the information and the timely service provided.	Providing consistent information to all elected members means that members of the community will in turn receive the same level of information about an issue regardless of who they contact.
CL08 – Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	A consistent and equitable approach means that all elected members receive the same information to be able to make decisions for the good governance of the Town. The community may also have increased confidence that their interests are considered by all elected members when decisions are made.

Engagement

Internal engagement	
Stakeholder	Comments
C-Suite and Managers	Both groups support a consistent direction being set that addresses the needs of both the Council and the Town.
Elected members	Elected members trialled the policy to see whether it would meet their needs. Feedback received has been incorporated in to the changes to the original policy that was trialled. This feedback was around informing elected members of information provided to the community when they were included in the original request, all elected members only needing to be copied in to the final response to an elected member request, and the need to follow the policy in conjunction with the roles and responsibilities of an elected member.

Other engagement	
Stakeholder	Comments
Other local governments	A desktop review of Council policies showed that it is common for a policy of this nature to be adopted by Councils. These policies generally outline who requests should be directed to and how requests are dealt with.

Legal compliance

[Section 5.92 of the Local Government Act 1995](#)

[Regulation 10 of the Local Government \(Rules of Conduct\) Regulations 2007](#)

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance The absence of an agreed process could result in commitments under the relevant legislation not being adhered to.	Major	More than once per year	Extreme	The proposed policy clarifies actions that can be taken according to roles and responsibilities of the Council and Town in relation to the relevant legislation.
Reputational Differing levels of knowledge could negatively impact individual elected members or the Town.	Minor	Likely	Moderate	The provision of consistent information ensures that all elected members and the Town have a common understanding.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- The proposed policy sets direction around how information and services should be requested by elected members and provided to them by the Town. It has been informed through engagement with the elected members and the administration, with the aim of solving the concerns raised.
- The issue of elected members not knowing how they should be requesting information has been addressed by requiring all requests to be directed through one contact point, to the Governance service area. Governance will be able to make sure the right people are involved to provide the information or service required and reduce any double-handling or confusion that comes with multiple people being involved in isolation. This also allows for oversight of response times, set to one business day as a standard, and provides the ability to manage expectations around when items will be completed if more time is required.
- The Town will receive clarity through the introduction of this policy as they will now know where information should be provided depending on the action being requested of elected members. Items that require feedback are to be provided through a concept forum or the elected member portal, depending on the complexity of the subject matter. If an item is purely for the information of elected members, with no action required, information will be provided through the elected member bulletin. In the case of the distribution of information being urgent or confidential, email will be used. Clarifying these methods of delivery will also assist elected members when searching for communication from the Town.
- There is a need to ensure that all elected members are equally informed regarding issues and concerns raised, particularly on matters requiring a Council decision. The proposed policy sets the requirement for responses to individual elected members' requests, excluding any requests of an administrative nature,

to be sent to all elected members. This means that all elected members will receive the same information. Further to this, a request will not be considered or actioned until it is received in writing by the Governance service area. This eliminates any chance of information being provided to one elected member at the time of request, bypassing the opportunity for all to be informed. It will also ensure that a request is clearly understood before any attempt is made to address it.

10. The policy that is presented for adoption will provide consistency and equity in the provision of information to elected members. It sets out clear guidance for how an elected member should make a request of the Town and allows the Town to have clarity about what is expected.

Relevant documents

Not applicable.

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, the following additional information has been provided for clarity.

11. Elected members will be able to request that an item be added to the Concept Forum agenda by completing a form and submitting this to the Town. In turn, the Town will propose the next appropriate steps to ensure that elected members are provided with sufficient information to guide discussion at the Concept Forum.

10.3 Review of the Finance and Audit Committee

Location	Town-wide
Reporting officer	Danielle Uniza
Responsible officer	Anthony Vuleta
Voting requirement	Simple majority
Attachments	1. Audit Committee Schedule [10.3.1] 2. Finance and Audit Committee - Terms of Reference - Current [10.3.2] 3. Finance and Audit Committee - Terms of Reference - 2016 [10.3.3] 4. Proposed - Audit Committee - Terms of Reference [10.3.4] 5. 10.3 - Establishment of Council - Created Committees Appointments version 2 [10.3.5]

Recommendation

That Council:

1. Endorses changing the name of the 'Finance and Audit Committee' to the 'Audit Committee'
2. Adopts the Terms of Reference for the Audit Committee, as included in Attachment 10.3.4
3. Requests that the Audit Committee conducts work specified in the Audit Committee Schedule, as included in Attachment 10.3.1 and reports its recommendations back to Council as appropriate.

Purpose

To present findings from the review conducted of the Finance and Audit Committee's terms and functions for Council's consideration.

In brief

- At its Ordinary Council Meeting (OCM) held on 19 March 2019, Council requested the Chief Executive Officer to review the functions and terms of the Finance and Audit Committee, and present a further report back to Council by July 2019.
- While the terms and functions of the Finance and Audit Committee (the Committee) were last adopted by Council at a Special Council meeting held on 23 October 2017, the Committee was first established in October 2016. Prior to this, Council had an 'Audit Committee' in its place.
- In accordance with section 7.1A of the *Local Government Act 1995* (the Act), each local government is required to establish an audit committee. The functions of an audit committee established under the Act is prescribed within the Local Government (Audit) Regulations 1996 (the Regulations).
- The Town has conducted a review of the Committee under the existing legislative framework and guidelines provided by the Department of Local Government (the Department), whilst giving consideration to both the specific needs of the Town and opportunities for improvement.

Background

1. At its February 2016 OCM, Council resolved to establish a new committee structure comprised of seven committees, including the Finance and Audit Committee. The role of the Committee at the time of its establishment was 'audit, budget, renewal, revenue diversification, land/asset optimisation, investment, rates, risk, grants and governance'. The full Terms of Reference (TOR) has been included in this report as Attachment 10.3.3. At its [Special Council Meeting held in October 2017](#), Council resolved to re-

establish the Committee under the same TOR.

2. At its [February 2018 OCM](#), Council resolved to change the TOR for each committee of Council for the purpose of aligning it with the adopted [Strategic Community Plan 2017-2032](#). This TOR, which is still operative today, has been included in this report as Attachment 10.3.2. Main changes to the TOR includes expansion of the purpose and scope of the Committee, and the inclusion of service areas within the Town that are 'likely to predominantly feature' in this Committee.
3. At its [June 2018 OCM](#), a report was presented to Council as a 'new business of urgent nature' for the purpose of appointing 'other persons' to committees of Council, including the Finance and Audit Committee. The report presented to Council stipulates that 'the appointment of enthusiastic and committed 'other person' [would] complement each of the Committee's skill set [and would] help achieve the vision and mission of the Town'. At current, the Committee is comprised of four elected members, and two independent committee members.
4. Prior to the Committee being established in February 2016, an 'Audit Committee' existed in its place. The purpose of the Audit Committee was to facilitate 'the enhancement of the credibility and objectivity of external financial reporting; the effective management of financial, and other risks, and the protection of Council assets; compliance with laws and regulations as well as use of best practice guidelines relative to audit, risk management, internal control and legislative compliance; and, the provision of an effective means of communication between the external auditor, the Chief Executive Officer and the Council.'
5. While no specific reason is contained within the officer report (included as Attachment 10.3.5), relating to the shift from the existing 'Audit Committee' to the 'Finance and Audit Committee', justification provided for the new committee structure in general was to promote a 'strategic focus'.
6. Although the requirement to establish an 'audit committee' is prescribed in section 7.1A of the Act, recent auditing reform in local government has resulted in changes to its purpose and scope, such as:
 - a. The expansion of the Auditor General's powers to undertake, and report on, financial and performance audits of local governments
 - b. Strengthening of the role of an audit committee to 'monitor and advise' the CEO in reviews conducted into financial management systems, and audit systems and procedures
 - c. Responsibility of an audit committee to oversee the implementation of audit recommendations, approved by Council, made by either the external auditor or have come from reviews of the local government's systems and procedures.
7. The Department stipulates that the new role is intended to 'reflect the importance of the Audit Committee as a section of council charged with specific responsibilities to scrutinise performance and financial management.' These changes are presented in the June 2018 Departmental [Circular No. 02-2018](#), and the Department's [Guide to Local Government Auditing Reform - June 2018](#).
8. Further information on the role of an audit committee is also presented in the [Local Government Operational Guidelines Number 09 – The appointment, function and responsibilities of Audit Committees](#). While these guidelines were last updated in September 2013, it contains relevant information regarding how audits of systems and processes in local government may be conducted, particularly relating to internal controls, legislative compliance and risk management (as required by Regulation 17 of the Regulations).

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	In conducting its review of the Committee's terms and functions, the Town have sought to take a more proactive, contemporary and principles-based approach, rather than only striving for compliance.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	The proposed Terms of Reference ensures that legislative responsibilities of the Committee are clearly captured, whilst its work plan ensures that it is managed appropriately.

Engagement

Internal engagement	
Stakeholder	Comments
Finance and Audit Committee	The draft Audit Committee Terms of Reference has been presented at a Finance and Audit Committee workshop, and placed on the Elected Members' intranet, for feedback. While the Committee has generally agreed with the proposed refocusing of the Committee's purpose from being predominantly finance to being more audit related, some concerns have been raised regarding the addition of new roles originally proposed such as the expansion of its oversight role in 'internal audit' and 'ethical responsibility', which resulted in the removal of those functions in the proposed TOR.

Legal compliance

[Section 7.1A of the *Local Government Act 1995*](#)

[Local Government Amendment \(Auditing\) Act 2017](#)

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

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance An audit committee, and its main functions, are stipulated in the Act and the Regulations.	Moderate	Possible	High	This risk can be mitigated by (1) retaining and continuing to establish an audit committee, and (2) by ensuring that the committee's terms and functions, at minimum, align with legislative

				requirement.
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Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

9. In line with Council's resolution, the Town has since conducted a review of the terms and functions of the Finance and Audit Committee. The review has sought to ensure that the conduct of the Committee complies with the existing legislative framework and guidelines provided by the Department, whilst meeting the specific needs of the Town and pursuing opportunities for improvement. As a result of this review, it is recommended that the existing TOR of the Committee be replaced with the TOR presented in Attachment 10.5.1, and that the name of the Committee be changed from 'Finance and Audit' to 'Audit' to reflect the refocus of its role and functions. The proposed TOR identifies four key areas of responsibility: financial reporting, internal control, risk management, and external audit.
10. It is to be noted that while the Council resolution has triggered a more thorough review of the Committee, its initial review commenced alongside that which was conducted of the former committees of Council (i.e. Future Planning, Community Development and Economic Development). The findings identified in the report on [Review of Council Committee Structure](#) presented at the March OCM applies to this Committee.
11. In relation to the Committee's function in financial reporting, the new TOR proposes refocusing its responsibility in financial oversight. While the existing terms of reference does not outline a deliverable specific to the Committee's role in financial reporting, data collected on the reports and items considered by the Committee has shown that, in practice, a majority relate to receiving the Town's monthly financial statements and schedule of payments. The proposed TOR seeks to refocus this scope to, instead, ensuring objectivity and clarity in the Town's financial reporting, as directed by Council.
12. In relation to the Committee's function in internal control, the new TOR outlines the Committee's responsibilities in relation to both internal control and legislative compliance, as presented in the Department's Guidelines, such as: reviews conducted under Regulation 17 of the Regulations, the Compliance Audit Return, and relevant policies relating to the scope of its duties. Further to this, the Committee will have additional duties in relation to ensuring continued compliance with relevant laws and regulations, as resolved by Council at its April Ordinary Council Meeting and presented in [Report 14.1.1 CEO Review of Systems and Procedures on Legislative Compliance](#).
13. In relation to the Committee's function in risk management, the new TOR proposes responsibilities in line with the Department's Guidelines, such as reviewing the Town's risk management framework, and receiving risk reports. As the existing TOR did not include any responsibilities relating to this area, the intent is to improve the Town's approach in line with industry best practice, and as a response to a motion carried at the December 2018 Annual Electors' Meeting relating to the review of the Town's risk management framework and matrix.
14. In relation to the Committee's function external audit, its previous role in appointing an external auditor has been removed in accordance with Section 13 of the *Local Government Amendment (Auditing) Act*

2017.

15. With the change in the terms and function of this Committee, it is proposed that its monthly meeting schedule be discontinued, and replaced with the meeting schedule and work plan as included in Attachment 10.5.6. Additional meetings, outside of the approved schedule, may be held by agreement of the Committee.
16. As this recommendation is only intended to rename and refocus the scope of the current 'Finance and Audit Committee', the term of this Committee is still in line with Council's resolution made at its October 2017 Special Council Meeting. The term of the Committee, and the appointment of all its members, expire before the October 2019 local government elections. It is intended that the TOR will be reviewed before its proposed re-establishment.
17. It is to be noted that as a result of the review, further additions to the original TOR were proposed to include functions relating to internal audit and ethical responsibility but have been removed as result of discussion at a Committee workshop. While not included in the proposed TOR, the Town will be progressing such initiatives through the development of its internal audit program and its integrity and ethical development plan. It is suggested that the Committee's role in both areas are reconsidered in the future.

Relevant documents

[Departmental Circular No. 02-2018 \(Department of Local Government\)](#)

[Guide to Local Government Auditing Reform - June 2018](#)

[Spotlight on audit committees \(Department of Local Government\)](#)

[Corruption Crime Commission – Media Release – New report delivers strong warning for local government – October 2016](#)

[Extract from Hansard – Second Reading of the Local Government Amendment \(Auditing\) Bill 2017](#)

10.4 Review of delegations

Location	Town-wide
Reporting officer	Liam O'Neill
Responsible officer	Danielle Uniza
Voting requirement	Absolute majority
Attachments	1. Town of Victoria Park - Delegations Register - 1 July 2019 - Council Delegations [10.4.1] 2. List of changed delegations [10.4.2] 3. List of repealed delegations [10.4.3]

Recommendation

That Council:

1. Reviews its delegations made under Section 5.42 of the *Local Government Act 1995*.
2. Delegates its powers, authority, duties and functions under the *Local Government Act 1995* and other various acts, regulations and local laws, as set out at Attachment 10.4.1 effective from 1 July 2019
3. Authorises the Chief Executive Officer, Chiefs and Managers to sign documents on behalf of the Town subject to the following conditions:
 - a. Any document requiring the common seal of the Town must have been approved by Council.
 - b. A person authorised by this resolution may only sign documents where:
 - i. it is consistent with the annual budget; and
 - ii. their existing delegations or sub-delegations; and
 - iii. up to the delegation for financial approval.
 - c. A document for the purposes of this resolution includes, but is not limited to, any contract, memorandum of understanding, agreement, undertaking, application, lease, deed, grant application or grant receipt, deal, compact, tender and certificate.
 - d. This authorisation is also extended to any person acting in a role authorised by this resolution.

Purpose

To present the annual review of the Town's delegated authority register for Council's approval.

In brief

- In accordance with section 5.46 of the *Local Government Act 1995* (Act), Council must review its delegations at least once each financial year.
- The last significant review was conducted on 12 September 2017, with the sub-delegations being revised in June 2018 at the conclusion of the 'Reshuffle' project.
- This review thoroughly overhauls current delegated authority register to reflect sector best practice, based upon the WALGA model delegations.

Background

1. Delegations by Council are an effective way to reduce red tape and improve customer satisfaction through prompt decision-making processes. Using the power of delegation appropriately assists local governments to efficiently deal with a wide range of operational matters that are minor, administrative in nature and potentially time consuming.

2. Certain safeguards are incorporated into delegations such as limiting the use of when a delegation can be exercised as well as granting appeal rights to the Council when an impacted individual is aggrieved with an officer's decision, as set out in Part 9 – Division 1 of the Act.
3. It is important to note that officers are not obliged to use a delegation; where a matter is determined to be of a contentious nature, the matter can be referred to Council.
4. The Town's current register of delegations can be found on the [Town's website](#). This review has been undertaken in line with the Department's Local Government Operational Guideline No. 17 – Delegations.
5. As is required by section 5.46 of the *Local Government Act 1995*, a review of the delegations 2018 – 2019 financial year has been undertaken. This review has been based upon a best practice approach to delegations in local government, referencing the WALGA template delegations and guidelines issued by the Department.
6. WALGA has developed template delegation register for use by local governments were last updated by WALGA in November 2018.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL05 - Innovative, empowered and responsible organisational culture with the right people in the right jobs.	Delegations and sub-delegations are a key part of ensuring Officers can carry out their roles with the Town.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	Adopting best practice in delegations will ensure that the Town displays visionary civic leadership and ensure appropriate decision making.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	Delegations ensure the appropriate management of legislative responsibilities.

Engagement

Internal engagement	
Stakeholder	Comments
C-Suite	Supportive of the review.
Managers	Managers with specific delegations were personally engaged regarding those delegations.
Ranger Services	Given the responsibility of ranger services for the implementation of several statutes under which delegations are made, ranger services were specifically consulted.
Technical Services	Technical services have a number of specific delegations and were closely involved in the review.
Community Planning	Feedback from across the community planning business area was closely incorporated into the review.
Financial Services	Financial delegations were closely examined by

Legal compliance

[Section 5.42 of the *Local Government Act 1995*](#)

[Section 9.49A of the *Local Government Act 1995*](#)

[Section 127 of the *Building Act 2011*](#)

[Section 48 of the *Bush Fires Act 1954*](#)

[Section 44 of the *Cat Act 2011*](#)

[Section 10AA of the *Dog Act 1976*](#)

[Section 118 of the *Food Act 2008*](#)

[Section 16 of the *Graffiti Vandalism Act 2016*](#)

[Section 21 of the *Public Health Act 2016*](#)

[Schedule 2 clause 82\(1\) of the *Planning and Development \(Local Planning Schemes\) Regulations 2015*](#)

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance The Council fails to review its delegations.	Moderate	Unlikely	Moderate	Council resolves the review of its delegations by 30 June 2019.
Compliance The delegations provided by Council are inappropriate, not within power or out of date.	High	Unlikely	High	The Town continuously reviews delegations to ensure they are up to date with relevant legislation, and appropriate

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- These proposed delegations are based upon templates produced by WALGA and the local government guideline on delegations. This model of delegation is steadily being adopted across the sector including at the City of Swan, City of Vincent and City of Kwinana. These delegations reference the specific sections of legislation where a delegation is made under, and detail the express function and to what extent that function is delegated. Details of specific changes can be found at attachment 10.4.2.

Local Government Act 1995

- There are several proposed revisions to the current financial delegations to meet sector best practice. In relation to tenders the delegations now specifically details exactly each of the tender functions that are delegated. Further, it has been recommended by financial services that the tender limit for approval by the CEO be increased to \$250,000 in order to streamline the process by ensuring only more significant tenders are considered by Council. This reflects the size of the tender threshold to the Town's budget. For example, the City of Perth and City of Stirling have a CEO tender approval threshold of \$1 Million. As

the Town's budget is around a quarter to a third of the size of the City of Perth it is proposed this threshold be increased to a similar level based on the size of our budget.

9. The delegations relating to the process of rating property and recovering rates from recalcitrant ratepayers have been revised to match sector best practice. The processes of pursuing rates debt however remain as set out in in policy FIN3 – Debt Collection, these delegations should be read in conjunction with that policy.
10. The other delegations represented minor changes to provided clarified powers and processes.

Building Act 2011

11. The delegations made under the Building Act 2011 remain broadly the same with the addition of new delegations around building plans, certificates, swimming pools and smoke alarms.

Bush Fires Act 1954

12. The Town does not have clear set of delegations under the *Bush Fires Act 1954*, as such all these delegations are essentially new. The addition of these new delegations will assist the Town's rangers in ensuring fire safety throughout the Town.

Cat Act 2011

13. The delegations under the *Cat Act 2011* remain the same with the addition of a delegation for applications relating to keeping more than the prescribed number of cats (currently 3 cats). This will mean that a Council resolution will no longer be required to deal with these applications.

Dog Act 1976

14. *Dog Act 1976* delegations are currently just one delegation. This single delegation has been split into the several functions of that Act to enable clear conditions and guidance to be provided.

Food Act 2008

15. Delegations under this act remain broadly similar with the addition of two new delegations relating to compensation and publication of a list of registered food businesses.

Graffiti Vandalism Act 2016

16. No delegations are currently made under this Act. The delegations proposed match those suggested in the WALGA template and will allow the Town to undertake legally enforceable processes in order to prevent graffiti vandalism and protect our urban environment.

Public Health Act 2016

17. No delegations have been given under this Act at this time.
18. The delegations proposed relate to appointing authorised persons, providing reports to the Chief Health Officer, determining compensation and commencing proceedings.

Planning and Development Act 2005

19. These delegations remain substantially similar to those reviewed in December 2018. The delegations have simply been combined.

Delegations made to the Town

20. This section details the delegations that have been made to the Town by the State Government.

Delegations not continued

21. A substantial number of delegations that are currently given have not been included which can be found at attachment 10.4.3. This is due to these delegations not meeting the statutory requirements of what a delegation should be. A delegation is the handing down of an explicit power given under a written law as is explained in both WALGA and department guidelines. A significant number of delegations related to matters given under policy which are not a form of written law (excluding planning policies). As such these delegations have been removed. A full review of the policy manual is expected to come to Council for consideration at its next meeting.
22. A further significant number of delegations related to powers that were already given to the CEO as part of their duties to manage the day to day operations of the Town. The Act does not give Council the authority to delegate those powers, as such those delegations have been removed.
23. Finally, the last significant group of delegations that have been removed are those that can be exercised by acting through the Town or the CEO. This refers to the idea of these being day to day functions that officers simply complete on behalf of the Town or CEO. This concept of acting through is also explained in the department guidelines.

Authority to sign documents

24. Previously the authority to sign documents was contained in a delegation. This is not the appropriate method to confer this authority. Section 9.49A of the *Local Government Act 1995* sets out that the Council, by resolution, may authorise persons to sign documents on behalf of the Town. It is accordingly proposed that Council make a resolution to grant this authority to the CEO, all Chiefs and all Managers.

Relevant documents

[Local Government Operational Guidelines Number 17 - Delegations](#)

Further consideration

25. Amendments have been made to the attached Delegations Register. This includes minor grammatical changes, as well as the following:
- a) The condition on Delegation 1.1.2 has been amended to replace the word 'settlements' with 'compensation payments'
 - b) The condition on Delegation 2.1.2 has been amended to read 'Exercise of delegation must be consistent with Council Resolution 71/2019'.

10.5 Town of Victoria Park Representative on Burswood Park Board

Location	Burswood
Reporting officer	Danielle Uniza
Responsible officer	Anthony Vuleta
Voting requirement	Simple majority
Attachments	1. Term of Office as Nominee Expires 31.7.2019 - Burswood Park Board [10.5.1]

Recommendation

That Council nominates an Elected Member, or an officer of the Town, to the Department of Racing, Gaming and Liquor, for consideration as the Town of Victoria Park's representative to the Burswood Park Board for the period of 1 August 2019 to 31 July 2021.

Purpose

To seek a nomination from Council to the Burswood Park Board.

In brief

- The current local government vacancy to the Burswood Park Board is filled by the Chief Executive Officer, Anthony Vuleta, and is due to expire on 31 July 2019.
- The Department of Racing, Gaming and Liquor (Department) has since written to the Town requesting that the Town's nominee for appointment to the Board, together with the curriculum vitae of the nominee, be forwarded to the Department no later than 15 May 2019.
- The term of appointment to the Board will be for a two-year period ending on 31 July 2021. An annual sitting fee of \$5200 is remunerated to the appointed board member, unless the appointed member is a government officer.

Background

1. The Burswood Park Board (the Board) was established in accordance with clause 6(1)(c) of the Agreement scheduled to the *Casino (Burswood Island) Agreement Act 1985*. Under the provisions of the *Parks and Reserves Act 1895*, the Board is responsible for the control and management of Burswood Park – a C class reserve for parks and recreation.
2. Burswood Park comprises 100 hectares of C class reserve which surrounds five major buildings which make up Crown Perth, parks and gardens, permanent car-parking areas and the State Tennis Centre.
3. The Board is a body corporate with its president and members appointed by the Governor of Western Australia. The Board is responsible to the Minister for Racing, Gaming and Liquor as the Minister charged with the administration of the *Casino (Burswood Island) Agreement Act 1985*.
4. Under the terms of the State Agreement, Burswood Park is developed and maintained by the Board from revenue received from Casino operations each and every month. The amount received is equal to the greater of \$83,334 or the aggregate of 1% of Casino Gross Revenue from Table Games, 1% from

International Commission Business and 2% from Electronic Gaming Machines for the month. Payments received from the Trustee under this Agreement for the 2017/18 financial year totalled \$8.437 million.

5. As stated in the *Casino (Burswood Island) Agreement Act 1985*, the Board is to be comprised of:
 - a) a members or officer of the Authority as defined in the Scheme Act
 - b) the Town Planning Commissioner as appointed under the *Town Planning and Development Act 1928-1983* or their nominee
 - c) the Commissioner of Main Roads appointed under the *Main Roads Act 1930-1984* or their nominee
 - d) a representative of the Local Authority
 - e) the Director of the Department of Conservation and Environment of the State or his nominee
 - f) a member or officer of the Swan River Management Authority Constituted under the *Waterways Conservation Act 1976*
 - g) a representative of the Manager's environmental consultants their
 - h) the Committee's nominated representative

Strategic alignment

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	Having representation on the Burwood Park Board will ensure that the needs and interests of the Town's community are safeguarded.

Engagement

Internal engagement	
Stakeholder	Comments
Not applicable.	

Legal compliance

[Casino \(Burswood Island\) Agreement Act 1985](#)

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Reputational Negative public perception towards the Town if it chooses not to take the opportunity to have presentation on the Burswood Park Board	Minor	Likely	Moderate	To nominate a representative to the Burswood Park Board

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

6. The Department has advised in a letter dated 14 March 2019 that the term of office of Council's nominee on the Board, Anthony Vuleta, expires on 31 July 2019.
7. To enable the continued representation of a nominee from the Town of Victoria Park on the Board after that date, the name of the Town's nominee for appointment to the Board needs to be forwarded to the Director General of the Department of Racing, Gaming and Liquor. A curriculum vitae for the nominee must also be submitted.
8. The Board typically meet on the last Thursday of each month, commencing at 9.30am, for approximately one hour. No meetings are held in January and special meetings may be held as required. Meetings are held in Burswood Park Boardroom.
9. The Board is accountable to the Minister of Racing, Gaming and Board members are each paid an annual lump sum fee which is currently \$5,200, unless they are a government officer.
10. The Burswood Park Board is administered by the Minister of Racing and Gaming and Liquor. The constitution of the Board provides for one member to be nominated by the local government where the Park is located that being the Town of Victoria Park.
11. Nominations submitted by the Town are subject to approval and appointment by the Minister of Racing, Gaming and Liquor. The appointment of the local government nominated representative is the prerogative of the Minister of Racing and Gaming and Liquor. The Minister is not bound to appoint a nominee submitted by the Town, or be subject to the Town's policies. Notwithstanding the above, it is understood that the Minister would consider any advice or request submitted by the Town relating to its nomination.

Relevant documents

Not applicable.

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, the following additional information has been provided for clarity.

12. The current area of focus and priorities for the Burswood Park Board are to instill good governance frameworks within the organisation, the master planning of land within the Board's control, and attracting events on the site.
13. While the letter sent by the Department seeking nominations to the Board has a 15 May deadline, the Town has since sought an extension to 24 May which has been granted.

11 Chief Community Planner reports

11.1 Proposed Scheme Amendment 82 to Town Planning Scheme No. 1 - Burswood Station East

Location	Burswood
Reporting officer	Carly Pidco
Responsible officer	David Doy
Voting requirement	Simple majority
Attachments	1. TP S 1 Amendment No. 82 - Scheme Amendment Report [11.1.1] 2. Agenda Briefing Forum 7 May 19 Presentation [11.1.2]

Recommendation

That Council:

1. Resolves pursuant to Section 75 of the Planning and Development Act 2005 to initiate Amendment No. 82 to the Town of Victoria Park Town Planning Scheme No. 1 by:
 - a) Reserving the land known as No. 1 Griffiths Street (Lot 9 on Diagram 3983) and No. 21 Stiles Avenue (lots 10 and 11 on Diagram 3983) as a Town of Victoria Park Scheme Reserve for "Parks and Recreation" and removing the "Office/Residential" zoning; and
 - b) Amending Precinct Plan P2 Burswood Precinct Sheet A as depicted in the Scheme Amendment Report.
2. Resolves that Amendment No. 82 is complex under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 as the amendment is not addressed by any local planning strategy.
3. Authorises the Chief Executive Officer and Mayor to execute the Town Planning Scheme No. 1 Amendment No. 82 documents.
4. Resolves that a copy of Amendment No. 82 be referred to:
 - a) The Environmental Protection Authority, in accordance with Section 81 of the *Planning and Development Act 2005*, prior to the commencement of advertising of the Amendment; and
 - b) The Western Australia Planning Commission, in accordance with Section 37 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, prior to the commencement of advertising of the Amendment.
5. Resolves that, on receipt of advice from the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* indicating that the Amendment need not be subject to an environmental assessment, and receipt of advice from the Western Australian Planning Commission under Section 38(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* that it is satisfied that the Amendment is suitable to be advertised, the Amendment be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* for 60 days.

Purpose

To initiate a Scheme Amendment to Town Planning Scheme No. 1 ("TPS1") that will amend the Burswood Station East Precinct Plan to facilitate redevelopment consistent with the regional strategic planning framework and Draft Local Planning Strategy, and reserve the land known as "Stiles Griffiths Reserve" under TPS1.

In brief

- The Town is in the process of preparing a planning framework for the Burswood Station East Precinct ("BSE Precinct") to facilitate redevelopment of aging industrial and commercial building stock to a vibrant urban neighbourhood. Until recently, the form of the future planning framework for the BSE Precinct was planned to be mostly via a Local Structure Plan.
- The Town have been able to resolve the majority of development considerations typically addressed in a Structure Plan outside of the structure planning process. Legal advice received confirms that a Structure Plan has limited practical impact in view of this progress, and the outstanding built form and public realm framework needs could be adequately and more simply addressed within a Local Planning Policy.
- Over the course of the BSE Precinct planning framework project, several development approvals have been granted within the precinct that exceed the baseline development requirements laid out in TPS1 but are consistent with the overarching strategic vision. These decisions have relied upon the discretionary powers given under Clause 29 of TPS1.
- A draft Scheme Amendment has been prepared to simplify the baseline development requirements for the BSE Precinct; achieve alignment with the Town's Draft Local Planning Strategy and regional planning framework; and reduce the reliance on Clause 29 in decision-making. The Scheme Amendment will be complemented by a Local Planning Policy to incorporate incentive-based provisions and providing more detailed guidance for decision-making.

Background

1. The BSE Precinct is bounded by Graham Farmer Freeway, Great Eastern Highway and the Perth-Thornlie/Armadale Railway Line. The Precinct is currently zoned "Office/Residential" under TPS1.
2. The BSE Precinct is included in the State Government's Burswood Peninsula District Structure Plan ("BPDSP"), with the most recent revision having been endorsed in March 2015. The BPDSP identifies the BSE Precinct as being suitable for redevelopment into a high density mixed-use and residential neighbourhood. For several years, the Town has been working with various consultants to compile a Local Structure Plan specifically for the BSE Precinct.
3. The current Precinct Plan provisions contained within TPS1 allow for a slight intensification of development from the predominant development form (up to 15m height and plot ratio of 2.0) but not to the level envisaged by the BPDSP, the Town's Draft Local Planning Strategy, or consultant recommendations received as part of the structure planning process.
4. In recent years, several development approvals have been issued either by the Town or the Metro Central Joint Development Assessment Panel for more mixed-use or residential developments more intense than what is outrightly permitted by the Precinct Plan. These approvals have been issued pursuant to the discretionary powers of Clause 29 of TPS1 and with regard for the existing and emerging strategic planning vision for the BSE Precinct.
5. Over the course of 2018, the Town has been able to resolve major development hurdles typically resolved through a Structure Plan outside of the structure planning process. In particular, the Future Planning Committee supported an informal recommendation not to proceed with a Developer Contribution Plan in August 2018, and land requirements for a new Water Corporation sewer pump station were resolved in December 2018.
6. In early 2019, the Town sought legal advice regarding the proposed planning framework for the Precinct. The advice noted that there was minimal purpose for a Local Structure Plan in the Precinct, and development issues could be adequately addressed through amendments to the Precinct Plan in TPS1 and a Local Planning Policy for the BSE Precinct.
7. Notwithstanding this, the BSE Precinct is located in an area designated "Activity Centre" in the

Department of Planning, Lands and Heritage's ("DPLH") Central Sub-Regional Framework and, based on a literal reading of State Planning Policy 4.2 Activity Centres for Perth and Peel, an Activity Centre Plan ("ACP") could be required for the Precinct. Officers at the DPLH have previously flagged this as a potential requirement.

8. However, the Town do not consider that major changes to urban structure, infrastructure and servicing are required in this Precinct. An ACP for the Precinct would primarily focus on built form outcomes, which could also be competently addressed in a Local Planning Policy (assuming the literal ACP requirement is not imposed by the DPLH).
9. The legal advice received in early 2019 provides recommendations for a public realm funding framework that could be implemented through a Local Planning Policy. Public realm improvements are required to upgrade the public spaces and streetscapes that require upgrade in BSE Precinct and make it a more desirable location for developers, businesses and residents.
10. In addition to the above, State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments ("SPP7.3") takes effect in May 2019. The development standards in the Precinct Plan and future Local Planning Policy provide allowable variations to SPP7.3 and these are outlined within the Scheme Amendment Report.
11. The Town also continues to receive enquiries for potential development in the BSE Precinct that would rely on the discretionary powers of Clause 29 of TPS1 to achieve approval. In response, the Town is now advocating for a simplified approach to the BSE Precinct planning framework comprising a straightforward amendment to the Precinct Plan to better facilitate the strategic vision, and a complimentary Local Planning Policy to guide built form outcomes, public realm improvements, and funding of public realm improvements.
12. Preliminary informal feedback from the DPLH at an officer level in February 2019 was positive, however, after further internal consideration, DPLH staff reiterated the stance that the Draft LPS should be progressed prior to amending the Scheme. This concern had also been previously raised by DPLH staff in relation to preparing a Structure Plan for the Precinct.
13. The timeframe for progressing the Draft LPS is uncertain, however, the process is likely to take some time. In the meantime, overreliance on Clause 29 in decision-making is undesirable where there is a lack of guidance on how that discretion should be exercised, as is currently the case in the BSE Precinct framework. Further, the broad strategic vision for the area has remained substantially unchanged for nearly a decade and continues to be perpetuated in the Draft LPS endorsed by the Council. Finalisation of a planning framework that will facilitate the BSE Precinct vision is a priority for the Town and expectation of the local community and on that basis we are recommending the initiation of an amendment to TPS1 in the BSE Precinct.
14. Details of the proposed Scheme Amendment are provided in the attached Scheme Amendment Report. The Scheme Amendment Report addresses the site and planning context, detailed description of the proposed Amendment and rationale for the proposed Amendment.

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	.

EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed.	.
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Engagement

Internal engagement	
Urban Planning	Input on strategic approach and draft Scheme Amendment has been provided and discussed.
Engineering and Street Improvements	Meetings held to discuss drainage, street lighting, parking cap, traffic and transport network issues. Draft Scheme Amendment documents provided for feedback.
Project Management Office	Advice on community infrastructure and developability has been provided.
Community Development	Meetings held to discuss community infrastructure and community profile. Draft Scheme Amendment documents provided for feedback.

External engagement	
Stakeholders	Landowners, residents, business operators, local developers
Period of engagement	July to August 2017 (online survey and community workshops) March 2019 (developer roundtable discussion)
Level of engagement	0. Not applicable (delete this table)
Methods of engagement	1. Online survey and YourThoughts page to develop BSE place vision and strategies, run by TPG + Placematch 2. Two community visioning workshops, run by TPG + Placematch 3. Facilitated discussion with developers active in local area to gain market perspective, run by ToVP staff
Advertising	Letter drop, direct emails
Submission summary	79 respondents to the 2017 online survey 21 attended the 2017 community workshops 8 attended the developer roundtable discussion
Key findings	• Redevelopment of the precinct largely seen as inevitable. • Future uses and activities should be eclectic, relaxed, comfortable and down-to-earth. • The precinct should provide a haven for residents or visitors living an inner-city lifestyle. • Future development should be modern, contemporary, innovative and consider the area's industrial past. • Improvements to public realm and transport infrastructure should be a priority • Planning framework should be flexible and allow for innovation and changing resident and business needs over time • Precinct offers an excellent Transit-Oriented Development opportunity for Perth.

Other engagement	
Department of Planning, Lands and Heritage	Multiple meetings held to discuss the planning framework approach.
Water Corporation	Negotiations for future land requirements held. Water Corporation concluded that no additional land is required.
Public Transport Authority	Multiple meetings held to discuss the future of the Burswood Station and adjacent rail corridor. Town staff are advocating for improvements to the accessibility and amenity of the Burswood Station.

Legal compliance

[Part 5 of the Planning and Development \(Local Planning Schemes\) Regulations 2015](#)

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Service Interruption DPLH may not support the proposed statutory approach and insist on finalisation of the Draft LPS or an ACP	Major	Possible	High	Ongoing discussions with DPLH have occurred at an officer level. Meeting to be held with DPLH officers to present the Draft Scheme Amendment and field questions. Advocacy above officer level to be pursued if support cannot be gained.
Financial Impact Formal reservation of the Stiles-Griffiths Reserve limits the opportunity for the Town to develop this land if required in the future	Catastrophic	Rare	Moderate	After internal discussions it is confirmed that the Stiles-Griffiths Reserve is not required for other purposes other than Public Open Space. The Stiles-Griffiths Reserve is considered as a public park in the Draft LPS and preliminary stages of the POSS project.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

14. The proposed Scheme Amendment will update the TPS1 Precinct Plan P2 Sheet A to better reflect the overarching strategic vision for built form in the BSE Precinct. It is not proposed to amend the zoning or land use permissibilities for developable private land in the BSE Precinct, which remains "Office/Residential".
15. The proposed amendments to the Precinct Plan will reset the base development intensity requirements in the BSE Precinct to reflect a medium-rise urban character. This is above the current Precinct Plan requirements, particularly in relation to an increase in building height and removal of plot ratio, however these increases are still below the full redevelopment intensity contemplated by the strategic planning framework. Development consistent with the proposed base requirements will not compromise future planning for the precinct, infrastructure and servicing or amenity.
16. The Town is currently preparing a draft Local Planning Policy to provide detailed guidance for development to potentially exceed the base requirements where consistent with developer incentive provisions. This will remove the reliance on Clause 29 in decision-making where proposed developments exceed the Precinct Plan base requirements but are still consistent with the vision for the area. This provides greater certainty for landowners and developers and will aid consistency in decision-making.
17. The proposed amendments to the Precinct Plan also achieve alignment with SPP7.3 for mixed-use and apartment developments.
18. The formal reservation of the Stiles-Griffiths Reserve is consistent with the broad public open space recommendations of the Burswood Peninsula District Structure Plan and Draft Local Planning Strategy. It ensures the ongoing availability of this park to the BSE community in the future, which will be vital as the population in the precinct increases.
19. The proposed Scheme Amendment is considered a "complex" amendment as it is not consistent with an adopted Local Planning Strategy. It is, however, consistent with the vision laid out in the regional planning framework, Draft Local Planning Strategy, and recommendations provided by consultants for this project. The "complex" designation arises more from consistency with the specific provisions of the Planning and Development (Local Planning Scheme) Regulations 2015 than a substantial departure from existing planning for the Precinct.

Relevant documents

Not applicable

Further consideration

The Chief Community Planner gave a presentation at the Agenda Briefing Forum explaining the statutory approach and process which is contained as an attachment.

Following the Agenda Briefing Forum held on 7 May 2019, the following minor amendments have been made:

- a) The recommended Council resolution has been amended to include a specific reason why the Scheme Amendment is considered to be complex.
- b) The resolution page of the Scheme Amendment Report has been updated to reflect the amended Council resolution.
- c) The proposed amended Precinct Plan has been updated to improve readability at headings 1 and 2 under Development Standards. The intent of these provisions has not changed.

11.2 Events Calendar 2019/20

Location	Town-wide
Reporting officer	Mathew Owens
Responsible officer	Kaitlyn Griggs
Voting requirement	Simple majority
Attachments	1. Events Calendar 2019 2020 [11.2.1]

Recommendation

That Council accept the Events Calendar for 2019/20 developed based on feedback from the Annual General Electors Meeting, Ordinary Council Meeting 19 February 2019, Events Calendar community consultation, and 25 Year Anniversary consultation.

Purpose

The Town received a Motion from the Annual Meeting of Electors regarding Morten Bay Fig Festival and a Notice of Motion regarding Christmas events and initiatives. The Town has consulted the community regarding the 2019/20 Events Calendar and ideas for the Town's 25th Year Anniversary Celebrations. This report addresses the above and provides an overview of the Town's Events Calendar for 2019/20, inclusive of 25th Year Anniversary Celebrations, as informed through community consultation.

In brief

- At the Annual Meeting of Electors held on 18 December 2018 Motion 3 was put and carried that "The Town of Victoria Park investigate the re-introduction of Moreton Bay Fig Festival".
- At the Ordinary Council Meeting 19 February 2019 Council carried a Motion regarding a review of Christmas events and initiatives, a refresh of Christmas events and initiatives, and a future report to the May 2019 Ordinary Council meeting.
- The Town consulted with the community and staff to generate ideas for the Town's 25th Year Anniversary Celebration.
- The Town undertook community consultation in March to inform the Events Calendar for 2019/20.

Background

1. At the Annual Meeting of Electors, held on 18 December 2018 Motion 3 was carried "That the Town of Victoria Park investigate the re-introduction of Moreton Bay Fig Festival" with all 20 Electors in attendance voting in favour of the Motion. This Motion was then carried at the Ordinary Council Meeting held on 19 February 2019.
2. The Moreton Bay Fig Festival was a family and children focused event held at John Macmillan Park annually between 2007 and 2015. The Moreton Bay Fig Festival ceased due to low attendance numbers and lack of return on investment. In response the Town has dedicated a Twilight Trio concerts to the children/ family demographic and introduced the Playtime in the Park event series.
3. At the Ordinary Council Meeting held 19 February 2019 a Motion was carried by Council that
 1. "Requests the Chief Executive Officer to:
 - (a) Conduct a review of events and initiatives held by the Town in previous years to celebrate its festive Christmas season, outlining associated costs, use of resources and any known community feedback; and

(b) Investigate options to refresh the Town's program of events and initiatives to celebrate the 2019 Christmas festive season, giving due regard to showcasing the Town's arts, culture and heritage, and increasing the Town's profile as a tourist destination.

2. Receives a further report at its May 2019 Ordinary Council Meeting to consider:

(a) Options to refresh the Town's program of events and initiatives to celebrate the 2019 Christmas festive season, along with any associated costs, and resources, to deliver such events and initiatives.

(b) Allocating funds in the 2019/20 budget to deliver the program of events and initiatives identified in 2(a)."

4. In the 2018/19 financial year the Town spent over \$220,000 on Christmas related events and initiatives such as the Albany Highway Christmas Decorations (\$149,761) and the Countdown to Christmas event partnered with Curtin University (\$9,290). The Town has reviewed the suite of Christmas initiatives and has proposed a refresh as detailed in the Analysis section.
5. The Town annually reviews its events and initiatives to align to community expectation. Feedback is gathered at events via Culture Counts, social media responses and any correspondence received by the Town. Community consultation was undertaken throughout March 2019 to inform the Town's Events Calendar for 2019/20 and to gather ideas for the Town's 25th Year Anniversary Celebration.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	The Events Calendar was developed based on community feedback gathered through consultation to ensure the services the Town delivers is meeting the needs and expectations of the community. The Town will communicate the results back to the community once the Events Calendar has been confirmed.
CL03 - Well thought out and managed projects that are delivered successfully.	Each event and initiative has been resourced appropriately in the proposed 2019/20 Annual Budget to deliver the best outcomes. If more events or significant changes are requested, there is potential that the quality will suffer or more funds and resources will be required.
CL06 - Finances are managed appropriately, sustainability and transparently for the benefit of the community.	The proposed calendar utilises the budget in the proposed 2019/20 Annual Budget to deliver quality outcomes that are supported by community consultation.

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	A full Events Calendar provides opportunities for people to visit from outside the area and motivates the community to deliver their own

	events. The Town is supportive of Asset Based Community Development, of which community led events are a key principle.
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Social	
Strategic outcome	Intended public value outcome or impact
S03 - An empowered community with a sense of pride, safety and belonging.	Events bring people together and are a melting pot that builds community connections. Pride, safety and belonging are built during these events and initiatives as the community interact and intersect in the places and spaces throughout the Town.
S04 - A place where all people have an awareness and appreciate of arts, culture, education and heritage.	Connecting all people in the community with a wide variety of high quality and well implemented initiatives. Events and initiatives that include the arts, our shared culture, focus on learning new things and promoting the heritage of the Town.

Engagement

Internal engagement	
Stakeholder	Comments
Street Operations	Christmas Initiatives: The estimates of \$115,000 is only for the Albany Highway Christmas Decoration. Estimates have been based from previous years. If there are any changes or additional work to be done as a result of the notice of motion, a new estimate will be required.
Library	Nil, satisfied with content of report
Community Development	Nil, satisfied with content of report

External engagement		
Stakeholders	Whole Community, event attendees, library patrons.	
Period of engagement	31 days, 1 March to 31 March	
Level of engagement	2. Consult	
Methods of engagement	Event	Activity
	Online	Formal engagement Your Thoughts landing page Idea sharing wall Survey
	Hard Copy	Formal engagement Hard copy surveys placed at Town buildings
	Park Flicks Patrons – hip hop operation movie night – Vic Park Collective – Memorial gardens	Informal engagement Tablets with officers asking survey before the film starts
	Vic Park Farmers Market patrons – Families and snr demographics	Informal engagement Priority voting activity - 3 dots

		Idea sharing wall Tablets with survey/hardcopy
	Park Flicks Patrons – Gurrumul movie night – Vic Park Collective – Rayment Park	Informal engagement Tablet with officers asking survey before the film starts
	International Women's Day	Informal engagement Priority voting activity 3 dots Idea sharing wall Tablets with survey/hardcopy
	Baby Rhymetime approx. 40 patrons – Mums & Bubs	Quick introduction prior to story-time and hard copy survey handed out with submission box placed at library
	Harold Hawthorn Patrons – March Lunch and Show Senior Demographics	Informal engagement Staff on Tablets asking survey
	Leisurelife patrons Wednesday night sporting - young families and gym users	Informal engagement Priority voting activity - 3 dots Idea sharing wall Tablets with survey/hardcopy
	Park Centre patrons	Informal engagement Priority voting activity - 3 dots Idea sharing wall Tablet available to complete survey
	Albany Highway weekend users – Visitors and community	Informal engagement Staff on Tablets asking surveys on Albany Highway Café strip EVP
	Playtime in the Park - Families and snr demographics	Informal engagement Tablet with officers asking survey
Advertising	• Webpage on Town's website • Posts via Town's social media • Hardcopy and displays at Administration Building and Town of Victoria Park Library	
Submission summary	• Your Thoughts page was visited 650 times with a maximum visitors per day of 49 and a total of 62 engaged participants. • 265 Your Thoughts Survey's completed with additional 289 engaged with the 'Voting Exercise' and 'Share your Idea' boards	
Key findings	The Key findings are a combination of Your Thoughts engagement and pop-up engagements. • 65% of respondents lived in the Town or were ratepayers of the Town • The Summer Street Party was the most enjoyed event that has been delivered in the last five years but only 9.5% of participants wanted to see	

regional events delivered

- The top three event types were:
 - 16% - Street Party/ Community
 - 14% - Music
 - 12% - Children/Family
- 11% of participants voted for Christmas events
- 36% of participants would prefer suburb level events of 1000 people or less. An additional 28% would like to see localised events of under 300 people.

Ranking	Event Theme	Raw votes numbers
1	Street Party	232
2	Music	207
3	Children/ Family	180
4	Christmas	158
5	Arts	141
6	Sporting	116
7	Multicultural	113
8	Sustainability	90
9	Seniors	78
10	Youth	48
11	Day Related	29
12	Volunteers	22

25 Year Anniversary Celebration Findings:

- A Summer Street Party Birthday Edition was ranked the highest with 33.21% of participant votes, followed by Suburb/Place celebrations community led (18.28%) and a time capsule (17.91%).

Ranking	Event Theme	Percentage of votes
1	Summer Street Party- Birthday edition	33.21%
2	Suburb/ place celebrations- community led	18.28%
3	Time Capsule	17.91%
4	Large celebratory Event- Moreton Bay 25 year addition	16.7 %
5	Suburb/ place celebrations- Town of Vic Park led	13.81%

Legal compliance

Not Applicable.

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Financial Impact Reputational. Low attendance at community events Consequence – Ineffective use of Council funds to deliver events that do not meet aims and objectives of the Town, and do not attract attendance from the community.	Moderate	Likely	High	Aligning Events Calendar with results of community consultation. Ensuring events are community suggested and community led. Robust engagement and advertising campaigns to attract attendance to events.
Financial Impact Reputational. Low quality events due to rushed planning. Consequence – Events and initiatives do not meet the quality levels expected by the community leading to misuse of funds and reputational quality damage.	Moderate	Likely	High	A comprehensive but reasonable Events Calendar is proposed that meets community expectations, and allows the Town enough time to appropriately resource, plan and implement these initiatives.
Service Interruption Events Calendar not implemented in its entirety due to lack of funds. Consequence – The ability of the Town to meet strategic outcomes through events and initiatives is reduced.	Major	Possible	High	The Events Calendar has been developed to meet the requests made of the Town and aligned to community consultation. Reasonable and achievable budgets have been assigned to each event and initiative.
Reputational Community concern over amount of funds spent on Christmas. Consequence – Loss of community trust that the Town is not spending public funds on services that most effectively	Major	Possible	High	The Events Calendar proposes a reasonable budget amount for Christmas celebrations without allocating budget that is to the detriment of other services.

meet the strategic community plan outcomes for the betterment of the community.				
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Financial implications

Current budget impact	Sufficient funds exist within the current 2018/19 annual budget.
Future budget impact	The proposed Events Calendar is dependent on the 2019/20 budget process. 2019/20 budgeted Christmas initiatives: • \$15,000 Community Development- Carols by Candlelight • Summer Street Party 2019- include Christmas elements • Economic Development initiatives with local businesses (budget to be determined) • \$5,000 for Library Christmas initiatives • \$115,000 for Street Operations Christmas lights and decorations along Albany Hwy 2019/20 budgeted 25th Year Anniversary events; • Anniversary Celebration at the Library \$3,000 • Major concert \$130,000 excluding performance fees. • Summer Street Party 2019- include Celebration elements

Analysis

6. A range of initiatives are scheduled to take place throughout 2019/20 (budget dependent) to celebrate the 25th Year Anniversary of the Town, inclusive of, but not limited to;
 - A time capsule to be buried at the launch of John MacMillan Park (June/ July 2019)
 - 25th Year Anniversary Celebration at the Library (November 2019)
 - Major Concert- 25th Year Anniversary Celebration (November 2019)
 - Other initiatives will be built into existing events.
7. The top four themes from the consultation include a Street Party with 232 votes, Music theme event with 207 votes, Children/ Family themed event with 180 votes and Christmas themed event with 158 votes. 36% of survey participants would prefer suburb level events of 1000 people or less. An additional 28% would like to see localised events of under 300 people. The findings of the consultation have informed the Calendar of Events 2019/20.
8. Community consultation rated Children/Family events as the third most important theme, indicating that there is a desire for events of this nature. The Town of Victoria Park Library provides a range of intimate Children/Family events and programs throughout the year, and the Town's Event Team delivers two Playtime in the Park events per year. A Twilight Trio concert has been dedicated to the Children/Family theme. The Town will explore hosting the event at John MacMillan Park to activate the new playground and celebrate the Moreton Bay Fig Trees on site. The event will include a kid's musical performer, games and entertainment. On this basis it is not recommended to re-instate the Moreton Bay Fig Festival in its traditional format.

9. The Town spent over \$220,000 on Christmas related events and initiatives in 2018/19 as detailed in the Notice of Motion endorsed by Council 19 February 2019. Community consultation rated Christmas as the fourth most important event theme. A refresh of Christmas events for 2019/20 include;
 - a review of Count Down to Christmas. Curtain University has been advised that it will be required to apply for Community Grant or Sponsorship agreement to ensure a consistent and transparent approach to funds allocation.
 - Investigate a Carols by Candlelight at John MacMillan Park or foreshore (\$15,000 in 2019/20 budget)
 - Refresh Albany Highway Christmas Decorations for improved lighting and visual aesthetic (\$115,000 in 2019/20 budget)
 - Enhance the Library's Christmas event (\$5,000 in 2019/20 budget)
 - Incorporate Christmas elements into the Summer Street Party 2019
 - Undertake economic development initiatives with local businesses.
10. This report addresses the Motion from the Annual Meeting of Electors regarding Moreton Bay Fig Festival, the Notice of Motion regarding Christmas events and initiatives, and provides an overview of the Town's Calendar of Events for 2019/20, inclusive of 25th Year Anniversary Celebrations, as informed through community consultation.

Relevant documents

Nil.

Further consideration

Following comments and questions the Agenda Briefing Forum on 7 May 2019, additional information has been provided below.

11. *What will be in the time capsule?*

The Town will work with local stakeholders to determine appropriate contemporary and historical items to include in the time capsule. Suggestions include items from local schools and the local history collection, and a hard drive containing high resolution photos and videos of key locations in the Town.

12. How are Christmas light decorations different?

The Christmas light decorations bought in 2018 include new red, silver and gold baubles, a new Seasons Greetings sign, and a variety of red and white star shaped lights. Pending the 2019/20 budget approval for Christmas light decorations, the Town will seek to purchase vibrant, contemporary and engaging decorations.

13. Why isn't Harmony Day in the event list for 2019/20

The Town of Victoria Park Library hosts a variety of programs and celebrations throughout the year and Harmony Day is one such event. The Library will continue to deliver this well attended event.

14. Additional comments have been added to paragraph 10 regarding the marketing of the Twilight Trio Concert for children and families.

15. Consider branding the children Twilight Trio event as 'Moreton Bay' or – 'Ficus Festival' perhaps a tree theme?

The Town will aim to host the children and families focused Twilight Trio at John Macmillian Park and include children activities and celebrate the well-established Moreton Bay Fig Trees that inhabit the park.

11.3 Change of use to Educational Establishment (Green Space) and associated works - No 28 and 30 Teague Street

Location	Victoria Park
Reporting officer	Sturt McDonald
Responsible officer	Natalie Martin Goode
Voting requirement	Simple Majority
Attachments	1. Site Photos [11.3.1] 2. Revised proposal and supporting information [11.3.2] 3. Schedule of submissions [11.3.3] 4. OCM Minutes 11.09.18 [11.3.4] 5. Previous proposal and supporting information [11.3.5] 6. Peer review - Noise modelling [11.3.6] 7. Historical aerial photos [11.3.7] 8. UFCC letter to parents [11.3.8]

Landowner	Roman Catholic Archbishop of Perth
Applicant	Roberts Day
Application date	21 February 2018
DA/BA or WAPC reference	5.2018.124.1
MRS zoning	Urban
TPS zoning	Residential
R-Code density	R40
TPS precinct	Precinct P6 'Victoria Park'
Use class	Educational Establishment
Use permissibility	'AA' Discretionary
Lot area	1442m ²
Right-of-way (ROW)	Right-of-Way No. 14
Municipal heritage inventory	N/A
Residential character study area/weatherboard precinct	Residential character study area
Surrounding development	Predominantly residential, with Ursula Frayne Catholic College being located south of the subject site - between Duncan Street, Teague Street, Harper Street and Shepperton Road.

Recommendation

That Council advise the State Administrative Tribunal pursuant to section 31(1) of the *State Administrative Tribunal Act 2004* that it has reconsidered its decision as follows:

1. Refuses the application submitted by Roberts Day (DA Ref: 5.2018.124.1) for Change of Use to Educational Establishment (Green Space) and associated works at 28 and 30 (Lot 32 and 33) Teague Street, Victoria Park, as indicated on the documents dated received 29 January 2019, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, for the following reasons:
2. The proposal is inconsistent with Town Planning Scheme No. 1 Precinct Plan P6 which provides that non-residential uses are to be limited to safeguard residential amenity and that any expansion of the School "will not be permitted where it involves significant loss of existing housing or will impinge on the amenity of surrounding residents".

3. The proposal is considered to impinge on the amenity of surrounding residents.
4. The proposed change of use would prevent the land from being redeveloped as residential lots, 'locking in' a significant loss of housing as a permanent rather than temporary state.
5. The proposal is inconsistent with the Town's Local Planning Policy 3 'Non-Residential Uses in or Adjacent to Residential Areas' because it will cause adverse amenity impacts on the locality including (but not limited to) isolation of residential lots from the residential streetscape, security issues associated with the development and noise from the proposed land-use.
6. The proposed development is considered to not satisfy the following matters identified in Schedule 2, Clause 67 "Matters to be considered by local government" of the *Planning and Development (Local Planning Schemes) Regulations 2015*:
 - i) Sub-clause (b) – the requirements of orderly and proper planning;
 - ii) Sub-clause (g) - any local planning policy for the Scheme area;
 - iii) Sub-clause (m) - the compatibility of the development with its setting including the relationship of the proposed development to development on adjoining land or on other land in the locality...
 - iv) Sub-clause (n) - the amenity of the locality including: environmental impacts of the development; the character of the locality; and social impacts of the development;
7. On the basis of the acoustic information provided and unresolved matters, the Council is not satisfied that noise impacts resulting from the development are acceptable and will not unreasonably impact upon the amenity of the adjacent residential properties.
8. Advises those persons who lodged a submission of Council's decision.
9. Recommends the applicant investigate options to engage relevant stakeholders, discussing a transparent and accountable 'top-down' approach to its intentions for growth.

Purpose

To consider a revised application for the Change of Use to Educational Establishment (Green Space) and associated works at 28 and 30 (Lot 32 and 33) Teague Street, Victoria Park. The State Administrative Tribunal has invited the Town to reconsider its 'Deemed Refusal' that was based on previous iteration of the proposed change-of-use application for the same site in 2018.

In brief

- An application for change-of-use to Educational Establishment for the subject site was submitted in late February 2018. The Town considered that the level of information provided (including retaining wall details, noise modelling etc) which was considered necessary for elected members to be able to make an informed judgement on the proposal was not sufficient. This was communicated to the applicant.
- The incomplete information outlined above caused delays in assessment and determination of the application. Shortly before the proposal was to be considered by Council at the September 2018 Elected Members Briefing Session with a recommendation for refusal, the applicant lodged an appeal with the State Administrative Tribunal on that basis that the Town had not determined the application within the statutory timeframe and that this absence of a determination was therefore a 'deemed refusal'. At the following Ordinary Council Meeting, Elected members resolved unanimously to advise the State Administrative Tribunal of a number of concerns regarding the proposal.
- Following State Administrative Tribunal mediation, the applicant has prepared and submitted a revised proposal for reconsideration by the Town. The revised proposal has attempted to address many of the issues identified by objecting submitters and Council Officers.
- Although improvements from the original have been noted, the proposal is recommended for refusal for reasons including, but not limited to, incompatibility of the proposal to its setting, the impact of noise on adjoining properties, the loss of residential amenity and the expansion of a non-residential

use with amenity impacts being contrary to the Town Planning Scheme Precinct Plan No. 6.

Background

1. Between 11 December 2000 and 18 April 2017, the School has acquired the properties at Nos. 20, 22, 28 and 30 Teague Street.
2. Notwithstanding each of these sites at Nos. 20, 22, 28 and 30 Teague Street being occupied by an 'original dwelling' in the Town's Residential Character Study Area, the School applied to the Town for a demolition permit for each site. Due to changes in State Planning legislation in October 2015, the demolition of the single house on each property is exempt from development approval and in turn the Council has no ability to require the retention of the dwellings. Accordingly demolition permits were issued by the Town and the dwellings were then demolished.
3. In correspondence relating to the demolition of the abovementioned sites, UFCC staff provided the following explanation in relation to the acquisition of these properties:
"the College has a long term strategy to acquire further properties along Teague Street which could assist the potential future growth of the College".
The Town has not been consulted with regard to the abovementioned 'strategy', nor has any draft or concept masterplan been provided to the Town, discussing the potential future growth of the College.
10. On 13 February 2018 the Town received an application for temporary car parking at No. 20 Teague Street. At the Ordinary Council Meeting held on 13 March 2018 the application was refused for the following reasons:
 - "1. It is inconsistent with the zoning of the area as residential as the carpark is not sympathetic to the residential zoned area.*
 - 2. It is inconsistent with the Victoria Park Precinct Plan which provides that non-residential uses are to be limited to safeguard residential amenity. This application does not safeguard residential amenity as set out below.*
 - 3. It is inconsistent with EN1 of the Strategic Community Plan because it does not involve land use planning that puts people first – instead it puts convenience for a private construction program and those workers first.*
 - 4. It is inconsistent with Local Planning Policy 3 because it will cause pollution from limestone dust for nearby residents, which is undesirable over a 12 month period.*
 - 5. Under clause 67(n) of the deemed provisions in the Planning and Development (Local Planning Scheme) Regulations, a relevant consideration is whether the use of the land as a carpark will be adverse to the amenity of the locality, which includes:*
 - 5.1 environmental impacts of the development;*
 - 5.2 the character of the locality; and*
 - 5.3 social impacts of the development.*
 - 6. Although there may be no adverse impact on the adjoining landowners of 18 and 22 Teague St, the use of the land as a carpark will be contrary to clause 67(n) because it is adverse to the amenity of the locality, which includes:*
 - 6.1 the amenity of all the surrounding residents in that stretch of Teague St;*
 - 6.2 the character of the locality, which is earmarked by character homes; and*

6.3 the social impact described by nearby landowners on their properties from dust, dirt and noise."

11. At the Ordinary Council Meeting in September 2018, the Council resolved as follows in relation to the application for the use of Nos. 28 and 30 Teague Street as green space :

"That Council advise the State Administrative Tribunal of the following concerns in relation to the application submitted by Ursula Frayne Catholic College (DA Ref: 5.2018.194.1) for a Change of Use to Educational Establishment (Green Space for Recreation and Other Purposes) and Associated Works Including Landscaping, Fencing and Retaining Walls at No. 28 (Lot 32) and No.30 (Lot 33) Teague Street, Victoria Park as indicated on the plans dated received 17 April 2018:

- 1.1 The proposal is inconsistent with Town Planning Scheme No. 1 Precinct Plan P6 which provides that non-residential uses are to be limited to safeguard residential amenity and that any expansion of the School "will not be permitted where it involves significant loss of existing housing or will impinge on the amenity of surrounding residents". The proposal is considered to have an adverse impact upon the residential amenity of the area.*
- 1.2 The proposal is inconsistent with the Town's Local Planning Policy 3 'Non-Residential Uses in or Adjacent to Residential Areas' because it will cause adverse amenity impacts on the locality including (but not limited to) the visual bulk and non-residential scale of works proposed, security issues associated with the development and noise from the proposed land-use.*
- 1.3 The proposed development is considered to not satisfy the following matters identified in Schedule 2, Clause 67 "Matters to be considered by local government" of the Planning and Development (Local Planning Schemes) Regulations 2015:*
 - a. Sub-clause (b) – the requirements of orderly and proper planning;*
 - b. Sub-clause (g) - any local planning policy for the Scheme area;*
 - c. Sub-clause (m) - the compatibility of the development with its setting including the relationship of the proposed development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
 - d. Sub-clause (n) - the amenity of the locality including: environmental impacts of the development; the character of the locality; and social impacts of the development.*
- 1.4 On the basis of the acoustic information provided and unresolved matters, the Council is not satisfied that noise impacts resulting from the development are acceptable and will not unreasonably impact upon the amenity of the adjacent residential properties.*
- 1.5 The setback and heights of the proposed retaining walls not satisfying the Design Principles in Clauses 5.3.7 and 5.3.8 of the Residential Design Codes.*

Application summary

12. Approval is sought for a change of use from 'Residential' to 'Educational Establishment' for the purpose of a green space, and associated development works including landscaping, fencing, lighting, seating and shelter. This green space is proposed to form part of the Ursula Frayne Catholic College precinct and

be utilised by students of the College.

13. This application was originally submitted in late February 2018. The Town considered that the level of information provided (including retaining wall details, noise modelling etc) which was considered necessary for elected members to be able to make an informed judgement on the proposal in insufficient. This was communicated to the applicant.
14. The incomplete information outlined above caused delays in assessment and determination of the application. Shortly before the proposal coming before Council at the September 2018 Elected Members Briefing Session with a recommendation for refusal, the applicant lodged an appeal with the State Administrative Tribunal on that basis that the Town had not determined the application within the statutory timeframe and that this absence of a determination was therefore a 'deemed refusal'. At the following Ordinary Council Meeting, Elected members resolved unanimously to advise the State Administrative Tribunal of a number of concerns regarding the proposal. (See attachment 4)
15. Following State Administrative Tribunal mediation, the applicant has prepared and submitted a revised proposal (See attachment with 2) for reconsideration by the Town. The revised proposal has attempted to address many of the issues identified by objecting submitters and Council Officers.
16. A description of previously proposed retaining walls and fencing is as follows:
"Along the common boundary with No. 26 Teague Street a retaining wall up to a maximum height of 1.27 metres above natural ground level is proposed. Along the common boundary with the adjacent right-of-way a retaining wall up to a maximum height of 1.1 metres above natural ground level is proposed. Atop each of these retaining walls is a 1.8m colorbond fence and a 3m chain mesh fence (located on the 'inner' side of the colorbond). "

The retaining walls, fill (which would have created a perfectly level site) and high fencing atop those retaining walls no longer forms part of the Development Application.

17. The proposed green space is intended to be used by pupils of the Ursula Frayne Catholic College for passive recreation activities (i.e. non-physical, contemplative, study and reading sessions) in addition to recess and lunch during school hours (8.00am to 4.00pm). The applicant has clarified the subject site would be used by maximum 70 students at any one time.
18. The green space is not proposed to be used for any organised sports (including ball sports) and does not incorporate any large-scale hard stand areas or sporting structures which could encourage active forms of recreation. The applicant has advised that staff supervision of students would ensure that such activities are not undertaken at the subject site.
19. This current application does not propose an increase to the number of students or staff currently at the College, with the green space to be utilised by existing students.
20. A shelter with seating is proposed to provide a shaded area for pupils to have recess/lunch or use for quiet contemplation and outdoor study.

Applicant's submission

21. The applicant has outlined in their report that their client has made a conscious effort to address the concerns and issues raised by the Town (see attachment 2). A summary of changes made to from the previous 'deemed-refused' proposal are listed as follows:
 - a) No ball sports or coaching (organised sport) to occur;
 - b) Passive recreation and 'Quiet contemplation' type activities;
 - c) Increase the number of trees proposed. A total of 9 were originally proposed. The current proposal outlines 17 trees to be planted, 10 of these being medium sized trees, 7 of them being small.
 - d) Shifting some trees away from the side lot boundaries to reduce the likelihood of students sitting under trees adjacent to the side boundaries - reducing potential noise impacts on neighbours;
 - e) Maintain the current topography;
 - f) Dense landscaping on edges to provide buffer to neighbouring houses;
 - g) High fences and high retaining walls on lot boundaries to be removed;

- h) Permeable front fence to provide security and control use, but allow passive surveillance to occur;
 - i) Provide further noise modelling;
 - j) Limit the number of students to 70 at any one time; and
 - k) Limit the use of the site from 8am to 4pm.
22. The applicant has outlined that the Environmental Protection (Noise) Regulations 1997 (WA) provides exemptions to the regulations for noise emitted from recreational or educational activities, provided the noise is not mechanical in nature.
 23. An Acoustic Report has been prepared for the applicant by Acoustical Consultants Gabriel Hearn Farrell (GHF). This report, according to the applicant "demonstrates that the predicted noise levels generated are considered reasonable".
 24. The applicant notes that the acoustic report "Worst case Scenario", which conveys a substantial increase in noise levels to adjoining residents, does not include management of activities or students on site. The applicant reiterates they expect this to be addressed via active management by supervising staff. (The Acoustic Report is contained within attachment 2).
 25. Student/traffic safety in relation to students crossing Teague Street are considered by the applicant to be addressed via staff supervision.
 26. The applicant contends that the neighbourhood and Teague Street Streetscape is of 'mixed character', describing the vacant lots on which Residential Dwellings have been demolished as 'non-residential'.
 27. The applicant contends that, in relation to amenity -
 "There is a reasonable expectation for properties in proximity to a school that there is a level of non-residential activity. The current layout of the College includes hard stand areas (including basketball and tennis courts) located on the boundary of Teague Street, directly opposite those properties adjacent to the proposal. These properties are therefore currently subject to the noise generated by active recreation."
 28. The applicant contends that in this context, in relation to amenity the proposal "does not generate a significant increase in impact from these non-residential land uses"
 29. In terms of the interface between a 'green' recreation space and residential properties, the applicant compares the proposal to the Duncan Street Reserve, Victoria Park Primary School ovals and park area and the Victoria Park Croquet club. The applicant contends that this demonstrates community acceptance for such interfaces between residential and non-residential land uses, and that the proposal is therefore consistent with the expectations of the community.
 30. The applicant outlines that the revised proposal has a built form that is consistent with the zone in terms of bulk and scale.
 31. The applicant indicates that, in terms of whether potential nuisances to adjoining residents can be managed, that a "*management plan should mitigate current uncertainties of the on-going maintenance and activities of the site*". This management plan is proposed to be prepared prior to the building permit. A list of the matters it would address is provided however (See attachment 2).
 32. The applicant contends that they have addressed the matters raised by objecting submitters. These matters include (but are not limited to) noise, traffic safety, lighting, retaining wall height, fencing and security.

Relevant planning framework

Legislation	<i>Planning and Development Act 2005</i> Town Planning Scheme No.1 (TPS1) TPS1 Precinct Plan P6 – 'Victoria Park Precinct' <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
State Government policies, bulletins or guidelines	State Planning Policy 3.1 - Residential Design Codes (R-Codes) Development Control Policy 2.4 – School Sites

Local planning policies	Local Planning Policy 3 – ‘Non-Residential Uses in or Adjacent to Residential Areas’ (LPP3) Local Planning Policy Streetscape (LPP25)
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General matters to be considered

TPS precinct plan statements	The following statements of intent contained within the precinct plan are relevant to consideration of the application. • “The Victoria Park Precinct will remain as attractive and essentially low to medium scale residential area set on some of the highest land within the locality...” • “...Development or expansion of existing non-residential uses in the precinct will be limited, to safeguard residential amenity.” • “The existing schools and the Association for the Blind are acceptable uses within the precinct. Any further expansion or intensification of the uses, however, will not be permitted where it involves significant loss of existing housing or will impinge on the amenity of surrounding residents. Generally, development should be in accordance with planning policy relating to non-residential development in or adjacent to residential areas. Height and scale of any development is to be compatible with existing buildings.” • “Priority will be given to ensuring that new development, particularly infill and development at higher densities, does not result in undue loss of privacy or amenity for existing residents.”
Local planning policy objectives	The following objectives of Local Planning Policy 3 – ‘Non-Residential Uses in or Adjacent to Residential Areas’ are relevant in determining the application. • to ensure non-residential uses are compatible with the residential character, scale and amenity of surrounding residential properties • to provide for non-residential uses which serve the needs of the community • to encourage the re-use of existing purpose built non-residential buildings for a mix of appropriate local convenience/service and commercial uses where it results in an economically viable use of the building and provides a service to the community • to minimise the impacts of non-residential development through appropriate and sufficient management of car parking and traffic generation, noise, visual amenity and any other form of emissions or activities that may be incompatible with surrounding residential uses • to ensure that the appearance and design of non-residential development is compatible with surrounding residential properties and the streetscape in terms of building size and scale, the provision of adequate landscaping treatments, the retention of existing mature trees and the suitable design and location of advertising signage • to maintain and enhance the amenity of residential environments through ensuring appropriate landscaping treatments, location of car parking and vehicular access legs, and the protection of visual privacy when considering applications for non-residential development • to avoid the concentration of non-residential uses where it would create a de-facto commercial area, isolate residential properties or contribute to the unplanned expansion of commercial or mixed use zones into surrounding residential zoned land.

Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	The following are relevant matters to be considered in determining the application. • (b) – the requirements of orderly and proper planning • (g) - any local planning policy for the Scheme area • (m) - the compatibility of the development with its setting including the relationship of the proposed development to development on adjoining land or on other land in the locality... • (n) - the amenity of the locality including: environmental impacts of the development; the character of the locality; and social impacts of the development • (y) any submissions received on the application • (zb) any other planning consideration the local government considers relevant
Development Control Policy 2.4 – School Sites (Western Australian Planning Commission)	The following guidance contained within Development Control Policy 2.4 – ‘School Sites’ are relevant in determining the application: • “Common boundaries of school sites with residential uses should be avoided whenever possible. There are a number of activities conducted on school sites which can adversely affect the amenity of residential properties, particularly where they are located very close to a school site. To avoid potential conflict with residential properties it is therefore preferable that school sites be surrounded by a combination of roads and amenities generally, including public open space and other compatible community, cultural recreation and sporting facilities.”

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the detailed assessment section following from this table.

Non-residential development		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council
Land use		☒
Building height	☒	
Street setback	☒	
Side setback	☒	

Change of use application		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council
Land use		☒
Car parking	☒ *	

Signage	☒	
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*Under Local Planning Policy 23 – ‘Parking Policy’, the quantity of car bays required by a development is proportional to the number of students proposed. Given that the proposed Educational Establishment is being treated as an extension to the UFCC Campus and no increase to student numbers is proposed “*as part of this Development Application*”, then no increase to parking requirements is noted in terms of the Compliance Assessment. Car parking requirements and student numbers, however, could be discussed as a broader consideration in relation to UFCC’s intended growth and the intent of the planning framework for this area.

Element	Permissibility	Recommendation
Land use (Educational Establishment)	Discretionary	Not supported

33. The subject properties are zoned ‘Residential’ under the Scheme. The proposed use of the site as green space for recreation and other purposes, with associated incidental works, is regarded as falling under the ‘Educational Establishment’ use class. The ‘Educational Establishment’ use class is an ‘AA’ (discretionary) use in a Residential zone. Council has the discretion to either approve or refuse the proposal.
34. The ‘Relevant Planning Framework’ and ‘General matters to be considered’ sections above outline several matters that Council must take into consideration when evaluating whether to approve or refuse the development application and, in the case of the Precinct Plan, certain ‘tests’ that the proposal must satisfy for the proposal to be approved. Residential amenity is a key element in most of these matters/tests to be considered by Council.
35. The Town is of a view that the proposal is inconsistent with the planning framework and fails to satisfy a number of considerations including, but not limited to, residential amenity. Accordingly it is recommended that the proposal be refused.
36. Assessing the proposal against the above described planning framework with regard to amenity is a more subjective process than, for example, assessing a Development Application for setback requirements. These matters are therefore discussed in further detail under the ‘Analysis’ section of this report.

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	The proposal is inconsistent with EN1 of the Strategic Community Plan because it puts the needs and wants of an applicant first, with urban design not being adequately considered. The ad-hoc expansion of a non-residential use into the residential zone does not enhance the Town’s Character, does not allow for different housing options and does not conserve the residential amenity of the area.

	Concerns in this regard are heightened by UFCC intentions that have been conveyed in regard to future school expansion with no top-down masterplan to ensure impacts are anticipated and then managed/mitigated effectively.
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Engagement

Internal Engagement	
Stakeholder	Comments
Health Department	Objection. The Town's acoustic consultant has highlighted a number of concerns with the Acoustic Report submitted (documented further below) and have concluded that the submitted noise assessment cannot be supported.
Street Improvement	No objections. Request a Traffic Management Plan regarding both pedestrian and traffic management for staff and students.
Building Department	No objections. Standard Advice Notes requested.
Parks Department	No objections. Standard Advice Notes requested.

External Engagement	
Stakeholders	Owners and occupiers of properties within a 200m radius of the site
Period of engagement	19 March 2019 - 9 April 2019, 21 days advertising period as per Local Planning Policy 37 'Community Consultation on Planning Proposals'.
Level of engagement	2. Consult
Methods of engagement	Written submissions; Your Thoughts
Advertising	Letters
Submission summary	53 submissions received, 37 supported, 14 objected and 2 neutral.
Key findings	Self-identified parents (15, in total) of Ursula Frayne students support the development, as do a number of other community members (21) whose interest in the proposal is less clearly defined. Supporters of the proposal indicate that the proposal either has no negative impact on nearby residents or has negligible impact on the residents when compared with the benefit to staff, students and the broader community. As with the previous round of consultation, the majority of local residents are strongly opposed to the proposal,

	indicating that the proposal would have a profound impact on their residential amenity. Recurring themes/issues include noise, traffic, security, unchecked increases to student numbers, the encroachment of non-residential uses northwards of Teague Street and the lack of a 'top-down masterplan' for what expansion UFCC intends in the area. For a full summary of submissions, see attachment 3
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Risk management considerations

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Environment Approval of this Development Application could be perceived as a precedent for further expansion of non-residential land uses into the residential area – undermining the intent of the Precinct Plan and adversely impacting the amenity of residents.	Major	Likely	High	Recommended refusal. Applicant also to be advised to investigate options for engaging relevant stakeholders, discussing a transparent and accountable 'top-down' approach to its intentions for growth.
Reputational The proponent has a right of review to the State Administrative Tribunal against Council's decision, including any conditions.	Moderate	Likely	High	Ensure that Council is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

Planning framework:

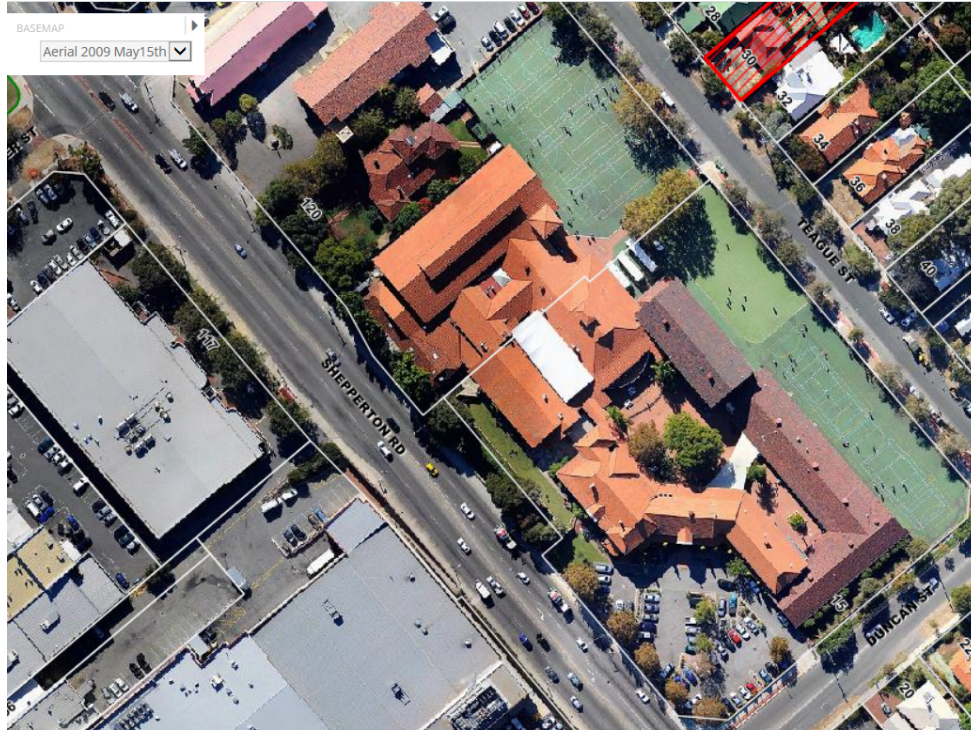
37. The subject properties are zoned 'Residential' under the Scheme. The proposed use of the site as green space for recreation and other purposes, with associated incidental works, is regarded as falling under the 'Educational Establishment' use class. The 'Educational Establishment' use class is an 'AA' (discretionary) use in a Residential zone. Council has the discretion to either approve or refuse the proposal.
38. In considering the appropriateness of the proposed use, the abovementioned planning framework should be considered including:
- (a) the following statements from the TPS Precinct Plan:
 - "The Victoria Park Precinct will remain as attractive and essentially low to medium scale residential area set on some of the highest land within the locality..."*;
 - "...Development or expansion of existing non-residential uses in the precinct will be limited, to safeguard residential amenity."*;
 - "The existing schools and the Association for the Blind are acceptable uses within the precinct. Any further expansion or intensification of the uses, however, will not be permitted where it involves significant loss of existing housing or will impinge on the amenity of surrounding residents. Generally, development should be in accordance with planning policy relating to non-residential development in or adjacent to residential areas."*;
 - and
 - "Priority will be given to ensuring that new development, particularly infill and development at higher densities, does not result in undue loss of privacy or amenity for existing residents."*
 - (b) the following provisions from LPP3 'Non-Residential Uses in or Adjacent to Residential Areas':
 - "Non-residential development on land which abuts land which is or may be used for residential purposes shall only be permitted where the nature of the non-residential use will not cause undue conflict through the generation of traffic and parking or the emission of noise or any other form of pollution which may be undesirable in residential areas."*
 - (c) deemed clause 67(m) of the deemed provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015*, and the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality.
 - (d) the following guidance contained within Development Control Policy 2.4:
 - "Common boundaries of school sites with residential uses should be avoided whenever possible. There are a number of activities conducted on school sites which can adversely affect the amenity of residential properties, particularly where they are located very close to a school site. To avoid potential conflict with residential properties it is therefore preferable that school sites be surrounded by a combination of roads and amenities generally, including public open space and other compatible community, cultural recreation and sporting facilities."*

UFCC intent/rationale:

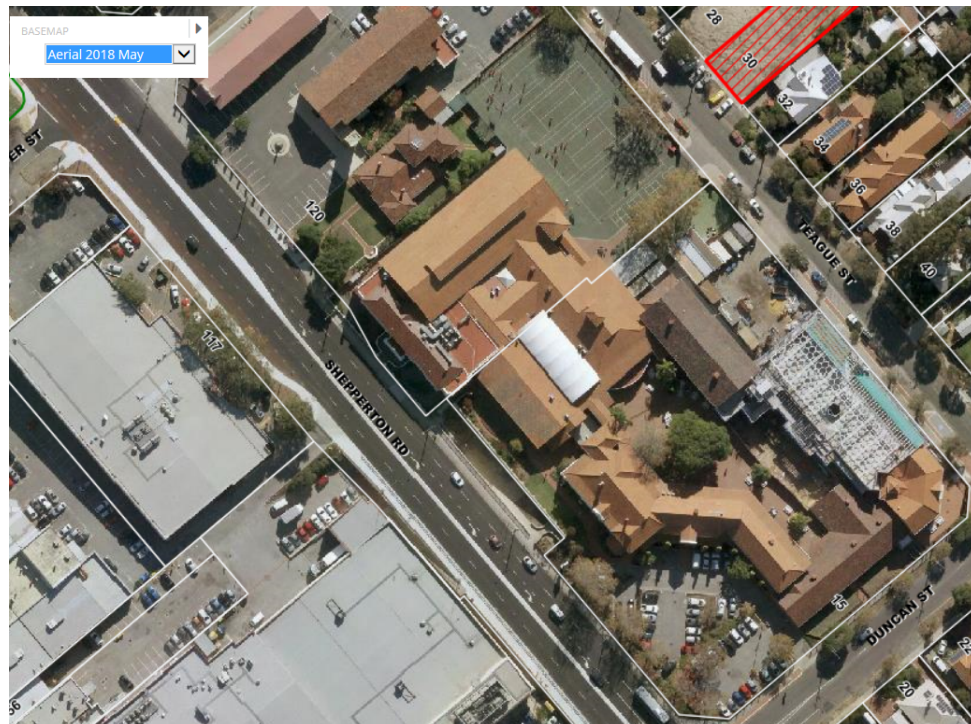
39. The Development Application as originally submitted to the Town described the proposal as being a green space used for 'passive recreation' and in the accompanying cover letter, 'a soft landscaped recreation space to enjoy'.

40. It is clear that the rationale for the proposed development is the School's desire for additional outdoor space for their students. This need has arisen due to an incremental loss of outdoor space on the school site due to School expansion through building additions and improvements that have occurred. The images below and those further images contained in Attachment 7 demonstrate the loss of available outdoor space on the School site, particularly along the Teague Street frontage:

May 2009 Aerial:



May 2018 aerial:



41. The loss of outdoor space that has occurred and the need for additional outdoor space, is compounded by an increase in the number of students attending the school, and possibly intended to be

accommodated at the School in the future.

42. In 2002 the College had 714 students and 75 staff. Council's records indicate the number of staff and students as being 740 and 75 respectively as per the Development Application (09/0541) approved at the Ordinary Council Meeting of 13 October 2009.
43. The College's web site currently states that "In 2017, Ursula Frayne Catholic College employed 95 teaching staff, comprising full-time and part-time staff." One of the submitters stated that "According to the Catholic Education Department, as of August 2017, the Ursula Frayne Duncan Street campus had 840 students."
44. The Town sought clarification from the College regarding student numbers. The College advised that:
"I have referred your email to our lawyers who are advising us on this development application and they have advised us not to provide this information to the Town. On that basis, your request for us to provide this information is politely declined. In any case, it is our view that the question of student numbers is not relevant to this development application, which proposes a green space and would not involve any change to student numbers."
45. For the reasons outlined below in this report, it is considered that the use of the subject sites as green space for recreation and other purposes would have a detrimental impact upon the amenity of nearby residential properties, particularly by way of noise impact.
46. Having concluded that there would be a negative impact on the residential amenity, the proposal does not satisfy the abovementioned planning provisions which state that any expansion of non-residential uses will not be permitted where it will impinge upon the amenity of residential properties.
47. It is acknowledged that the development application under consideration is only for No. 28 and No. 30 Teague Street. As part of their previous application package (see attachment 5), however, UFCC provided the following explanation of intent in relation to the acquisition of land north of Teague Street:

"Since the early 2000's, the College has acquired four properties on Teague Street between Harper and Duncan Streets and one on Camberwell Street. Some of these purchases were prompted by initial approaches from their owners or through vendors acting on their behalf. In recent years the College has been approached on a number of occasions by residents in close proximity to the College seeking to determine our level of interest in acquiring their properties. It is also a matter of public record that the College's intent behind these acquisitions has always been to convert these blocks into level, grassed, spaces for educational purposes."

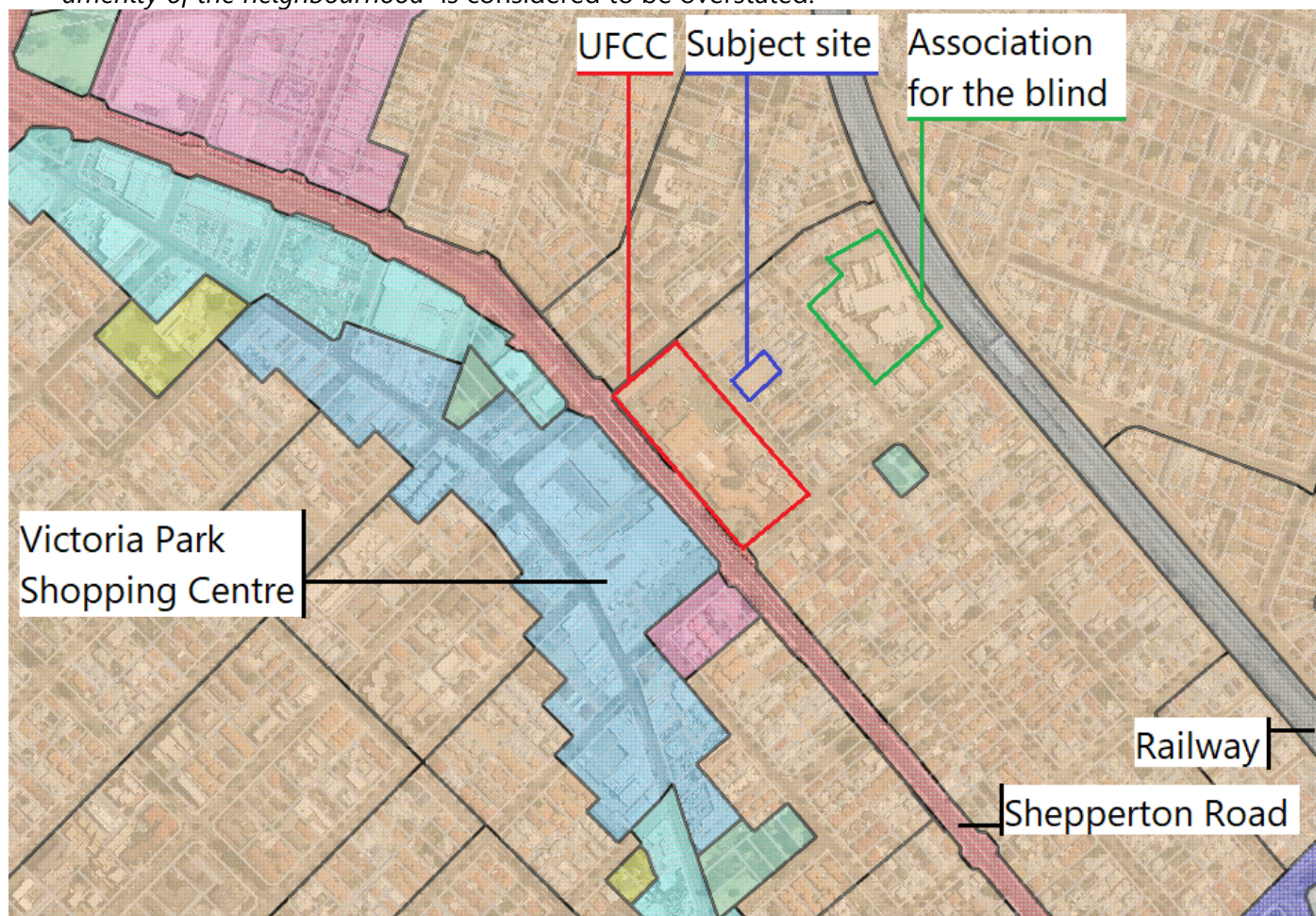
Given the similarity in sites and their context, the Council's determination of this current application would potentially set a precedent for a similar proposal for No. 20 and No. 22 Teague Street or, for that matter, any future properties UFCC acquires and demolishes.

48. Residents of Teague Street indicate they have not received any form of consultation in regards to UFCC's "long term strategy to acquire further properties along Teague Street which could assist the potential future growth of the College". No draft or concept masterplan in this regard has been provided to the Town, discussing the potential future growth of the College.

Site Considerations:

49. The isolation of the dwellings at No. 24, No. 24A and No. 26 Teague Street from the residential street block, as a result of demolition of the dwellings either side, is an issue that has been raised as a point of concern by the owner-occupants of these dwellings. While the demolitions were lawful under the current planning framework, it is noted that the resulting situation is one where the residential amenity of the abovementioned dwellings has been adversely impacted. The isolation of these residences from the streetscape will be entrenched if the subject properties (Nos. 20, 22, 28 and 30 Teague Street) are developed as green space rather than with buildings. This runs contrary to the objectives of Local Planning Policy 3.
50. Additionally the demolition of the dwellings at Nos. 20, 22, 28 and 30 Teague Street, although lawful, has changed the character of the street, where there was previously a consistent streetscape character with a continuous run of dwellings facing Teague Street, whereas there are now gaps in the streetscape. Similar to the above comments, the gaps in the streetscape will be entrenched if the subject properties are developed, in whole or part, as green space rather than with buildings. This runs contrary to the objectives of Local Planning Policy 3.
51. The comments from the School are noted that they are not in the business of residential property development and that the sites will otherwise remain vacant. If the application is refused, there is no reason why the landowner couldn't sell the properties. In any case, the relevant matter for consideration by the Council is whether or not the use of the land by a school for the purposes of green space is consistent with the intended use of Residential zoned land having regard to the relevant Scheme and Policy standards.
52. It is noted that, under the Planning and Development Regulations, UFCC could purchase any number of single dwellings in a residential zone and demolish them without planning approval. This was not the case when the Precinct Plan for the subject area was created as part of the Town of Victoria Park Town Planning Scheme No. 1.
53. It should not be construed that demolition of a residential dwelling inherently creates a 'non-residential' lot. It is noted, however, that the application material repeatedly refers to the vacant lots created by the demolition of character houses along Teague Street as "Non-residential". This is partly the basis for the argument put forth that the area is of "*mixed character*" and that residential amenity would not be "*significantly impacted*" by the proposed development.
54. The material prepared by the applicant depicts the demolished lots as 'non-residential'. Nearby submitters have objected to this depiction, noting that the zoning for this street is residential. Several outline that they purchased dwellings in this location with the reasonable expectation that their neighboring properties were zoned residential and would continue to be used for residential purposes. For the applicant to infer that the demolition of the dwellings on these lots constitutes a *defacto* change of use to non-residential is contrary to the principles of orderly and proper planning.
55. In regards to the above, it is noted that the only P 'Permitted' land uses within the residential zone are for different types of dwellings (single and grouped) and for a 'Home Office' – ie, a small office within a Dwelling. Any 'non-residential' land uses that the applicant suggests the subject sites might have changed to, either require development approval by the Town as an AA 'Discretionary' land use or are X 'Prohibited' uses that legally are not capable of being approved. In summary, from a legal standpoint, there is no lawful way the land uses of the subject sites have changed to 'non-residential'.
56. The depiction of the 'Residential uses' compared with 'non-residential uses' within the immediate area

conveys a pattern of non-residential development along a SW to NE axis. This depiction is considered to be an inaccurate representation of the area, failing to acknowledge that the Victoria Park Shopping Centre forms part of the Albany Highway commercial strip (which follows a broadly NW to SE axis). Victoria Park Precinct Plan P6 recognizes that the UFCC and the association for the blind are relatively isolated non-residential uses in a predominantly residential area, located between Shepperton Road and the train line. Shepperton road in particular, must be acknowledged as a dividing line between precincts, zones and intended land uses. The argument put forth by the applicant that *"there is a significant non-residential component existing within the locality that warrant consideration in describing the existing amenity of the neighbourhood"* is considered to be overstated.



Noise:

57. Noise is an important amenity consideration that must be evaluated as part of the proposed change-of-use. At the Town's request, the applicant engaged a suitably qualified consultant to prepare an acoustic report modelling the likely impact of noise generated by the proposed use of the land. This modelling and associated commentary form part of the revised application package (attachment 2). To verify both the process undertaken and the conclusions reached in the GHF acoustic report, the Town engaged an acoustic consultant of its own. The conclusion reached in this peer review (see attachment 6 for the complete technical memorandum) is as follows:

"There is an inadequate assessment presented by GHF of whether Unreasonable Noise will be produced by the proposed development.

From our review, there are very real concerns that Unreasonable Noise is generated and that the noise from these activities are likely to have a significant and substantial detrimental effect on the environment. For these reasons we do not recommend approval of the proposed development in its current form."

58. Both the applicant and their consultant have repeatedly stated that the Environmental Protection (Noise)

Regulations 1997 provide an exemption for noise emitted from recreational or educational activities. Such an exemption does not exclude noise from being considered by Council on amenity grounds under the applicable planning framework - this being the reason for requesting the acoustic modelling in the first instance.

59. Planning controls often refer to *"No undue loss of amenity"* or *"unreasonable impact"* as a consideration. The Precinct Plan for this area states that, in relation to the expansion of non-residential uses, such development *"will not be permitted where it ... will impinge on the amenity of surrounding residents"*. Noise generated from the proposed development must therefore be assessed against whether 'the amenity of surrounding residents impinged upon or not?'
60. The Town's reading of the noise modelling provided, even under a 'typical' rather than a 'worst case' scenario, is that the proposal results in increased noise being experienced by the adjacent dwellings and this noise being greater than 'Assigned Noise Level' expected for a residential dwelling in this location. This is considered to impinge on the amenity of surrounding residents, thereby failing the amenity test for expansion of non-residential uses as outlined in the precinct plan.
61. In relation to the likely noise impact of the proposed land use, the applicant's acoustic consultant has indicated that this is justifiable on the grounds that (a) noisy periods are expected to be primarily during recess and lunch periods, and therefore be limited to half an hour, twice a day (b) neighbours can close their side windows to reduce the extent of noise coming in from the side boundaries. These comments by the consultant provide evidence that the proposal would result in noise impacts for adjoining residents. Suggesting that the onus of mitigating the noise impact is on the adjoining residents rather than the proponent is not considered reasonable.
62. The table below summarises the predicted noise increases as a result of the application compared to the existing noise levels.

Excerpts from the acoustic report provided		
In summary, when comparing the L_{A10} current noise levels to the predicted noise levels during a typical recess or lunch break:		
• Adjacent Rear Yards		
Existing: 50.0* dB(A)	Predicted: 58.0 dB(A)	Increase: +8.0 dB(A)
• Adjacent Front Yards		
Existing: 61.8* dB(A)	Predicted: 63.0 dB(A)	Increase: +1.2 dB(A)
• Adjacent Windows (at top of window)		
Existing: 55.8 dB(A)	Predicted: 64.1 dB(A)	Increase: +8.3 dB(A)
• Rear House Windows (centre of window)		
Existing: 54.9 dB(A)	Predicted: 59.9 dB(A)	Increase: +5.0 dB(A)
*Measured values, all others are predicted from the acoustic modelling process.		
To give these values some perspective, to human ear the general rule of thumb is:		
1 dB difference	Almost imperceptible	
2 dB difference	Just perceptible	
3 dB difference	Noticeable	
5 dB difference	Clearly Noticeable	
10 dB difference	Twice (or half) as loud	

63. Comments made by the acoustic consultant in relation to use of the space outside of recess and lunchtimes include:
- "... it is our view that the Scenario 01 result represents a worst case scenario as it is a very conservative assessment, and in likelihood the actual noise emissions will be lower than this for much of the time if the*

staff manage the students. If managed correctly by the occupier for "quiet contemplation" or "outdoor study", the proposed Greenspace has the capacity to meet the Environmental Protection (Noise) Regulations 1997 e.g. an Art Class where every student spreads out individually and makes no noise"

A hypothetical condition of planning approval that required students to '*spread out individually and make no noise*' if applied by the Town would be difficult to enforce and likely to be held as invalid if appealed.

64. It is noted that the acoustic consultant has a divergent view from what the Town considers 'likely' or 'unlikely' in relation to the behaviour of up to 70 students. From the perspective of the Town, a school class (or cohort for 'passive recreation') where each student spreads out individually and makes no noise seems unlikely. The acoustic consultant has considered that it is highly unlikely that half the students would talk in the same given moment – this being the basis for both scenario 1 and 3 (ie, 'worst case scenario'). The acoustic consultant has not modelled the noise of three quarters of students, or all of them talking simultaneously. Although the Town does not expect this further modelling to be provided, it is worth noting what assumptions have been made in regards to what a 'worst case' scenario, and what has or hasn't been assumed as 'likely' or 'unlikely'.
65. The applicant contends that the acoustic modelling demonstrates that the predicted noise generated by the proposal *"can be adequately managed and is unlikely to cause any unreasonable impact on the adjoining properties"*. In contrast, the Town is of a view that the acoustic report demonstrates that a substantial increase in noise would result from the proposed development. Repeating the conclusion reached by the Town's own consultant that:
- "From our review, there are very real concerns that Unreasonable Noise is generated and that the noise from these activities are likely to have a significant and substantial detrimental effect on the environment."*

Conclusion:

66. Improvements from the proposal that previously has been considered by Council (attachment 5) are acknowledged. Such changes include the ruling-out of any ball sports on site, which in-turn allowed the natural contours of the site to be kept, rather than proposing site works to achieve level ground. This eliminated the need for a retaining wall up to 1.27m in height, or the need for a 3m high fence that was proposed in order to reduce the frequency of balls impacting adjoining properties. When council resolved to convey a number of concerns regarding the proposal to SAT (see attachment 4) these concerns included the following:

"The proposal is inconsistent with the Town's Local Planning Policy 3 'Non-Residential Uses in or Adjacent to Residential Areas' because it will cause adverse amenity impacts on the locality including (but not limited to) the visual bulk and non-residential scale of works proposed..."

"The setback and heights of the proposed retaining walls not satisfying the Design Principles in Clauses 5.3.7 and 5.3.8 of the Residential Design Codes."

And *"the likely effect of the height, bulk, scale, orientation and appearance of the development"*

These particular concerns are considered to be resolved by the revised proposal currently under consideration.

67. Notwithstanding the above noted improvements, the proposal is still considered to pose an adverse impact on nearby residents and remains inconsistent with the planning framework.

The proposed development is considered to be incompatible with its setting, with the issues raised by objecting neighbours being exacerbated by the ad-hoc approach taken to expansion of a non-residential land use into a residential area.

The proposed development is inconsistent with the aim and intent of Town Planning Scheme Precinct Plan P6 and contrary to the principles of orderly and proper planning.

Relevant documents

Not applicable.

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, the following additional information has been provided for clarity.

68. A question was asked from a member of the public as to why mechanical noise and the school siren had been excluded from the noise measurements. The noise consultant acting for the Town has advised that he does not believe these noise sources were excluded from the measurements.
69. The Town has received a petition from UFCC on 1 May 2019. Given the period for comment was between 19 March 2019 until 9 April 2019, this may be considered by Councillors as a late submission. The petition reads as follows:

"To the Elected Members of the Town of Victoria Park. We, the undersigned, all being electors of the Town of Victoria Park do respectfully request that the Council: Approve - No. 28 (Lot 32) and No. 30 (Lot 33) league Street, Victoria Park - Change of Use to Educational Establishment (Green Space for Recreation and Other Purposes) and Associated Works Including Landscaping, Fencing and Retaining Walls"

The petition contains 187 signatures. Ten of these do not state residential addresses, instead stating the address of the UFCC campus (15 Duncan Street). It is unclear whether these particular signatories are students, parents or teachers. The Town assumes, however, that their residential addresses are not 15 Duncan Street.

Of the signatories who did provide their residential address, only one has their place of residence within 200m of the subject site (and subsequently would have been sent a consultation letter by the Town). 21 signatories have their place of residence within the 'Victoria Park' suburb. 77 signatories list their address as being outside the Town of Victoria Park (some locations being as distant as Quedjinup and Australind). The majority of signatories have their address listed as being within the Town of Victoria Park, but not in close proximity to the school site.

Just as a commercial development that causes undue amenity impacts on a residential area cannot reasonably be justified on the basis that it will benefit their business or customers, the proposed expansion to an educational establishment with undue amenity impacts should not be considered acceptable on the grounds that it benefits students. UFCC have, as with previous iterations of this proposal, sought to harness its parent body to provide submissions in support of the proposal (see attachment 8). While these submissions are acknowledged, they are not considered to outweigh the concerns and objections of the residents who would be directly impacted by the proposal in the immediate locality.

64. In response to a concern raised by a member of the public, an Environmental Health Officer has been requested to inspect the subject sites for any evidence of asbestos.

11.4 Local Planning Policy - Tree planting and retention policy

Decision type	Legislative
Location	Town-wide
Reporting officer	Alex Thamm
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. Draft LPP - Tree Planting and Retention [11.4.1] 2. Consultation with other local governments [11.4.2]

Recommendation

That Council, in accordance with deemed Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertise the draft Local Planning Policy 'Tree Planting and Retention', as contained at **Attachment 1** to this report, for public comment for a minimum period of 42 days.

Purpose

1. In 2016, the canopy cover of the Town's urban forest was identified as one of the lowest in the Perth metropolitan area.
2. In September 2018, Council adopted the Urban Forest Strategy (UFS) with a commitment to increase tree canopy coverage within the Town from 10% to 20%. In 2016, the canopy cover of the Greater Perth region was 19.95%, as documented in the "Better Urban Forest Planning" guiding document (November 2018) published by the Western Australian Planning Commission (WAPC) in conjunction with the Western Australian Local Government Association (WALGA).
3. One of the strategic outcomes of the UFS (Strategic Outcome 1) is to plant and protect sufficient trees to achieve the 20% tree canopy target, as supported by Council. The UFS outlines the design of a new planning policy to assign a minimum tree canopy loading for all new developments within the Town, as a suggested action to assist in achieving this strategic outcome.
4. Without appropriate planning controls in place, there will likely be minimal uptake from landowners and developers to retain existing mature trees or plant additional trees when developing private land.
5. In response, this draft Local Planning Policy 'Tree Planting and Retention' sets out requirements for the planting of new trees and incentives for the retention of existing mature tree(s) on private land. Refer to **Attachment 1** to view a copy of the draft Local Planning Policy.

In brief

6. The ability to reach the target set under the UFS to increase the Town's tree canopy coverage to 20% is compromised by the loss of trees on private property, which predominantly occurs as a result of infill development.
7. Without appropriate planning controls in place, there will likely be minimal uptake from landowners and developers to retain existing mature trees or plant additional trees, and the loss of trees on private property will continue.
8. This proposed Local Planning Policy aims to deliver outcomes consistent with the Town's UFS and Strategic Community Plan, specifically Strategic Outcome EN07 – Increased vegetation and tree canopy.
9. It is recommended that the draft Local Planning Policy 'Tree Planting and Retention' be advertised for public comment for a minimum of 21 days.
 - i. If Council resolves to proceed with advertising the draft Local Planning Policy, following community consultation, an officer report with a recommendation on whether or not to adopt the draft Local Planning Policy as advertised or in a further, modified form, along with the public comments received, would be prepared and referred to Council for decision.

Background

10. The removal of trees associated with infill development, has been a contributing factor to the Town's tree canopy cover declining to 10% of its area of jurisdiction (based on data captured in 2016) and one of the lowest in Perth metropolitan area.
11. The pressures of urban infill and other development has led to ongoing removal of vegetation including mature trees, particularly on private land, which have not been offset by new tree plantings.
12. New housing typologies have evolved from the traditional single house, with a backyard which historically harboured many mature trees. A common form of redevelopment is for grouped dwelling developments, and/or dwellings with a larger built footprint and smaller outdoor uncovered spaces. The figure below demonstrates the decline of tree canopy coverage associated with the redevelopment of traditional single house lots.



Before Development



After Development

13. The reduction in urban forest canopy is not a localised issue faced by the Town. In discussions with other local governments, this pattern of development has seen tree canopy loss across suburbs within similar inner-city local governments such as the Cities of Canning, Stirling, Vincent and Bayswater.
14. The impacts of the loss of Town's urban tree canopy have been voiced by the community, and as an example the loss of established trees on private land and subsequent impacts are frequently raised as a concern during community consultation on applications for development approval.
15. Under past direction by the now-disbanded Future Planning Committee, this draft Local Planning Policy has been produced to integrate trees as an element of the development approval process and to combat the impacts of urban infill on the Town's tree canopy coverage loss.
16. To enable the regrowth of the Town's tree canopy, immediate and ongoing action is required by the Town and the community, including landowners and developers, to benefit residents and the Town's urban ecology into the future.

Urban Forest Strategy (UFS)

17. The UFS has been created by the community for the community and was endorsed by Council in September 2018. A UFS Implementation Action Plan is currently being drafted.
18. The UFS outlines many benefits of increasing the Town's urban forest canopy, including:
 - i. Environmental:
 - ii. Providing shade and cooling the Town
 - iii. Reducing air pollution and airborne particulates
 - iv. Reducing stormwater and nutrient loads
 - v. Storing and sequestering carbon
 - vi. Mitigating the impacts of climate change and reducing the Urban Heat Island effect
 - vii. Increasing biodiversity
 - viii. Economic:
 - ix. Reducing energy costs
 - x. Increasing property values
 - xi. Increasing business
 - xii. Community:
 - xiii. Providing a sense of place
 - xiv. Food security
 - xv. Public Health:
 - xvi. Encouraging outdoor activity
 - xvii. Reconnecting children with nature
 - xviii. Reducing exposure to the sun

- xix. Increased health outcomes
- xx. Providing a barrier between pedestrians and cars

19. The UFS is comprised of six (6) overarching strategic outcomes. Each strategic outcome has suggested actions to facilitate specific targets on both public and private land within the Town.

20. One of the strategic outcomes of the UFS (Strategic Outcome 1) is to plant and protect sufficient trees to achieve the 20% tree canopy target, as supported by Council. The UFS outlines the design of a new planning policy to assign a minimum tree canopy loading for all new developments within the Town, as a suggested action to assist in achieving this strategic outcome.

21. To view a full copy of the endorsed UFS, please refer to the 'Relevant Documents' section below.

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN07 - Increased vegetation and tree canopy.	The intent of this draft Local Planning Policy is to increase tree density and canopy cover to benefit residents and the Town's urban ecosystems. The proposed policy provisions will create new requirements for residential and non-residential development design to incorporate the planting of medium or large trees within private lots and/or retain existing mature trees onsite.

Social	
Strategic outcome	Intended public value outcome or impact
S01 - A healthy community.	Improving the urban forest canopy has shown to produce multiple public health benefits, including but not limited to: • Providing shade and cooling the Town • Reducing air pollution and airborne particulates • Encouraging outdoor activity • Reconnecting children with nature • Reducing exposure to the sun • Increased health outcomes • Contributing to a pedestrian-friendly environment by creating a natural barrier between pedestrians and cars.

Engagement

Internal Engagement	
Stakeholder	Comments
Place Planning business unit	Support given for the proposed Local Planning Policy.
Parks business unit	Support given for the proposed Local Planning Policy.
Environment business unit	Support given for the proposed Local Planning Policy.

Other Engagement	
Stakeholder	Comments
UFS Transition to Implementation Advisory Group	Largely supportive of the proposed Local Planning Policy for the planting of new trees and incentive for the retention existing mature trees on private land. Comments received in relation to the draft policy include encouraging a higher rate of tree replacement, more emphasis of the value of trees to be integrated into the policy and consider a trial period for the establishment of the policy, in addition to minor text changes.
Other Local Government's (Cities of Canning, Vincent and Stirling)	In preparing this Local Planning Policy, the Town consulted with other local governments in the Perth metropolitan area which have adopted similar provisions to their planning framework to allow for the retention of existing and/or planting of new trees on private land. Please refer to Attachment 2 to view the applicable tree planting and retention planning requirements and comments received from other local governments.

Consultation

- i. The Town's Local Planning Policy 37 'Community Consultation on Planning Proposals' outlines the required consultation methods and duration for proposed Local Planning Policies.
- ii. In relation to the draft Local Planning Policy 'Tree Planting and Retention', notification of the consultation period is to be published in the local newspaper and online on the Town's Your Thoughts consultation page. The public comment period is to be a minimum of 21 days in duration, commencing on the day of publication within the local newspaper.
- iii. As per Schedule 2, Part 2, Division 2, clause 4(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, if a local government resolves to prepare a local planning policy the local government, as a minimum, must:
 - iv. Publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of -
 - v. The subject and nature of the proposed policy; and
 - vi. The objectives of the proposed policy; and
 - vii. Where the proposed policy may be inspected; and
 - viii. To whom, in what form and during what period submissions in relation to the proposed policy may be made.
 - ix. If Council resolves to proceed with advertising the draft Local Planning Policy, following community consultation, an officer report with a recommendation on whether or not to adopt the draft Local Planning Policy as advertised or in a further, modified form, along with

the public comments received, would be prepared and referred to Council for decision.

Legal compliance

[*Planning and Development \(Local Planning Schemes\) Regulations 2015*](#)

Risk management consideration

Risk and Consequence	Consequence rating	Likelihood rating	Overall analysis	risk	Mitigation and Actions
Reputational If Council opts to not consent to the new draft Local Planning Policy proceeding to community consultation, this may result in negative public perception towards the Town, as it would be inconsistent with the adopted Urban Forest Strategy.	Moderate	Likely	High		Council to: a. Consent to advertise the attached draft Local Planning Policy 'Tree Planting and Retention', or b. Provide detailed reasons if does not consent to advertise the attached draft Local Planning Policy 'Tree Planting and Retention'
Community sentiment Whilst there are Town residents who are supportive of the Urban Forest Strategy and increasing the Town's tree canopy on private land as well as public land, there are residents who do not support further planning controls to private property and/or consider trees to be a nuisance.	High	Likely	High		To mitigate this challenge, a coordinated public communication campaign alongside the community consultation is recommended.

Environmental If Council opts to not consent to the new draft Local Planning Policy proceeding to community consultation, the Town's existing tree canopy cover will continue to decrease leading to impacts associated with the loss of urban tree canopy such as reduced amenity, ecology, air quality and increase the Urban Heat Island effect.	Moderate	Almost Certain	High	Council to: a. Consent to advertise the attached draft Local Planning Policy 'Tree Planting and Retention', or b. Provide direction of alternative mechanisms for the Town to investigate to mitigate the ongoing decline in tree canopy associated with infill development.
Urban Infill Preparing for 40,000 new residents by 2050 and increase of 19,300 dwellings presents an unprecedented social and environmental challenge for the Town.	High	Likely	High	Action is required by the Town, the community and other key stakeholders to mitigate the ongoing decline in tree canopy associated with infill development. This draft Local Planning Policy proposes provisions to depart from the 'status quo' and increase the tree canopy on privately owned land.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	In terms of staff resourcing and workload, assessment of the policy requirements of proposed Local Planning Policy will likely result in increased development referrals and requests for advice to the Town's Parks service area.

Analysis

Draft Local Planning Policy

22. The loss of urban tree canopy within the Town due to infill development on private property has been identified as a key challenge in achieving the strategic outcomes of the UFS, including the Town's commitment to increase canopy coverage to 20%.
23. As a result, the ability to realise the economic, environmental and social benefits that can come from having a healthy urban forest may be significantly compromised.
24. The proposed Local Planning Policy requirements have been 'road tested' to ensure that in the case of residential development, dwellings can be designed and not unduly impact landowners' development potential or the Town's meeting its urban infill targets.
25. As an overview, key aspects of the proposed Local Planning Policy "Tree Planting and Retention" are as follows:

Objectives

- a. To encourage the preservation of 'trees worthy of retention'
- b. To ensure appropriate 'medium' or 'large' trees are planted which are suited to their environment and location where 'trees worthy of retention' have been removed or do not exist on private land
- c. To promote and facilitate development that enables existing trees to be preserved
- d. Provide a diverse range of tree sizes and species to enhance visual interest and to assist with providing a more resilient urban forest
- e. To assist with achieving the Town of Victoria Park's objective to increase tree canopy coverage to 20% by increasing tree canopy coverage on public and private land

Policy Scope

26. The policy scope is aimed to be simple to understand and assess while providing a reasonable level of equity and the ability to meet the policy objectives.
27. The Local Planning Policy will apply to applications for development approval for a Single House or Grouped Dwellings.
28. In relation to new non-residential development, or additions to a non-residential development, which excludes a change of use or internal works, the Local Planning Policy will apply to applications for

development approvals which increase the existing net floor area and with a value exceeding \$200,000.

29. It is proposed that the Local Planning Policy will not apply to multiple dwellings in areas coded R40 or above, or mixed-use developments, which will be addressed by the provisions relating to tree canopy and associated deep soil areas within State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments (Design WA).
30. The Local Planning Policy cannot be applied to development which is exempt from requiring development approval.
31. The policy scope, in full, can be viewed at **Attachment 1**.

Tree Sizes and Tree Growth Zone (TGZ)

32. The draft policy has defined the minimum requirements for trees that are to be planted as part of any development application where this policy applies.
33. An example definition within the Local Planning Policy is as follows: 'Medium Tree' means a species of tree that has the potential at maturity to be a minimum height of 5m and a minimum canopy width of 4m and is a minimum size of at least 35 litres when planted.
34. The definitions related to the size of required trees (medium and large) and tree growth zone (TGZ) can be viewed at **Attachment 1**.

Tree Retention

35. The Town's current planning framework limits the Town's ability to retain trees on privately owned land. The status quo is that existing trees do not impede the current subdivision and development application process, nor do they halt the ability for a landowner to develop their land.
36. As noted by other local government experiences, the retention of existing mature trees has not been overly successful. Only through statutory provisions through a scheme amendment may the Town formalise any statutory power to retain existing mature trees.
37. An alternative option is to offer incentives to landowners and developers who retain existing mature trees deemed as 'Trees worthy of retention' under the proposed Local Planning Policy.
38. These incentives are:
 - i. A reduction in the rate of required trees onsite if a mature tree is retained
 - ii. Group dwelling example: Three (3) new dwellings on a site – if one (1) tree worthy of retention is retained, then only one (1) new medium tree required i.e.. Total of two (2) trees across the site.
 - iii. Non-residential development example: A new Office building on a lot of 1000m² - if one (1) tree worthy of retention is retained, then only one (1) new medium tree required i.e.. Total of two (2) trees across the site.
 - iv. Variations to development standards as prescribed in the Scheme, other local planning policies and/or the Residential Design Codes may be supported at the discretion of the Town,

in order to facilitate the retention of a 'tree worthy of retention'.

- v. The policy requirements relating to the retention of trees can be viewed at **Attachment 1**.

New Tree Planting

- 39. The rate of trees to be planted as part of a proposed development is dependent on the type of development proposed, the tree size to be planted and if any existing trees are being retained.
- 40. For example, a rate of planting for applications for development approval that involve a new Single House or Grouped Dwelling is as follows:
 - a. One (1) tree for each new dwelling in addition to any existing dwelling that is retained, or 1 per 'tree worthy of retention' that is removed (whichever is the greater).
 - b. One (1) new tree planted on the lot of each dwelling, unless otherwise approved.
- 41. Other local governments have based their rate on the predominant density coding (R-Code) found throughout their area of jurisdiction. This has led to trees to be provided as per a predetermined lot area. Due to the Town's diverse density codes ranging from R20-R80, applying a rate of trees per site area was not considered as appropriate to achieve the desired objectives of the Local Planning Policy.
- 42. For example, a rate of planting for applications for development approval that involve a new non-residential development or additions (i.e. Commercial or Industrial) is as follows:
 - a. One (1) tree for every 300 sq m of lot area (rounded to the nearest whole number)
 - b. One (1) new tree planted for every four (4) car bays or 1 per 'tree worthy of retention' that is removed (whichever is the greater).
- 43. The policy requirements relating to new tree planting for both residential and non-residential development can be viewed at **Attachment 1**.

Street Trees

- 44. Currently, the most common cause of street tree removal is new crossovers for additional driveways related to new development.
- 45. The proposed Local Planning Policy emphasises that existing street trees are to be retained, and the location and design of crossovers are to give priority to the retention of existing street trees unless it is demonstrated no other option is available.
- 46. In instances where a street tree must be removed to facilitate development, the Town's Park service area is the approving authority and would be assessed against Council Policy PKS2 'Street Trees'.
- 47. The Local Planning Policy acknowledges that opportunity exists for additional planting to take place dependent on the length of an applicable developments lot frontage. As such, additional provisions require a rate of 1 street tree to be provided for every 10 metres of lot frontage (rounded to the nearest whole number), at the cost of the landowner or developer.

Other

- 48. The Local Planning Policy also outlines policy requirements in relation to conditions of development approval, information to be submitted with an application for development approval and preferred tree species.

State Planning Framework

49. Historically, the removal of Perth Metropolitan Region's native vegetation has steadily increased as development continues to take place. The Western Australian Planning Commission (WAPC) have acknowledged this issue through the draft Green Growth Plan and aim to address the loss of vegetation through its review over a suite of State Planning Policies.
50. The Western Australian Planning Commission (WAPC) in conjunction with the Western Australian Local Government Association (WALGA) has prepared a guiding document in November 2018 to support the enhancement of urban forests in Western Australia (WA), titled "Better Urban Forest Planning". The document identifies current urban forest canopy issues faced by local governments and provides examples of planning mechanisms adopted by other WA local governments to support urban trees and forests. To view a full copy of this document, please refer to the 'Relevant Documents' section below.
51. Other planning mechanisms adopted by other WA local governments to support urban trees and forests include:
- a. a Significant Tree Register (with statutory weight through the Local Planning Scheme and Local Planning Policy)
 - b. Tree Preservation Orders (with statutory weight through the Local Planning Scheme and Local Planning Policy)
 - c. Tree Bonds (with statutory weight through Local Law and Local Planning Policy) and
 - d. Tree Management Incentives (with statutory weight through Local Law, Council policy or Local Planning Policy and reflected in Local Government budget)

These other planning mechanisms can be explored and considered for inclusion in the drafting of the forthcoming UFS Implementation Action Plan and Local Planning Scheme No. 2 (to supersede Town Planning Scheme No.1).

52. Recently, a suite of State planning documents forming 'Design WA Stage 1' have been released by the Minister for Planning and will become operational on 24 May 2019. In particular, State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments (Design WA) which applies throughout Western Australian for multiple dwellings in areas coded R40 or above, or mixed-use developments and contains performance-based provisions relating to tree canopy and deep soil areas. As this is contemporary planning document, applying throughout the State, it is recommended that the Local Planning Policy will not apply to multiple dwellings in areas coded R40 or above, or mixed-use developments, and instead will be addressed by Design WA. To view a full copy of this document, please refer to the 'Relevant Documents' section below.

Conclusion

53. Trees are an essential part of the urban fabric, providing a variety of social, economic, and environmental benefits to the community.
54. Draft Local Planning Policy 'Tree Planting and Retention' has been prepared in response to the Town's strategic intentions and to combat the loss of urban tree canopy from infill development.
55. The draft Local Planning Policy sets out policy requirements for the planting of new trees and incentive for the retention existing mature tree(s) on private land and is consistent with the approaches taken by other metropolitan local governments.

56. Without appropriate planning controls in place, the loss of trees on private property will continue and there will likely be minimal uptake from landowners and developers to retain existing mature trees or plant additional trees when developing private land.
57. To enable the regrowth of the Town's tree canopy, immediate and ongoing action is required by the Town and the community, including landowners and developers, to benefit residents and the Town's urban ecology into the future.
58. For the reasons outlined above, it is recommended that Council resolves to proceed to advertise draft Local Planning Policy 'Tree Planting and Retention'.

Relevant documents

[WAPC - Better Urban Forest Planning \(Published 2018\)](#)

[Urban Forest Strategy \(Adopted September 2018\)](#)

[State Planning Policy 7.0 and 7.3 - Design WA \(Adopted February 2019, Operational 24 May 2019\)](#)

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, the following additional information has been provided for clarity.

65. Clarification is being sought from the Town's Parks Service Areas regarding the cost of a medium and large tree.

66. It is proposed that community consultation on the draft Policy will comprise the following:

- (a) notice in the Southern Gazette newspaper;
- (b) notice through the Town's social media channels;
- (c) a public information session;
- (d) notification to regular builders and developers in the Town.
- (e) consultation for a period of 42 days.

67. The provisions of the Policy cannot be applied outside of a development application. An example of a development that would be exempt from a development approval, and hence the provisions of this Policy, would be a Single House that fully complies with the provisions of the R-Codes (or those provisions of the R-Codes varied by a local planning policy).

11.5 77 (Lot 31) Burswood Road, Burswood -Amendment to Development Approval for Change of Non-Conforming Use from Warehouse to Light Industry (Motor Vehicle Servicing)

Location	Burswood
Reporting officer	Doreen Rowley
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. 77 Burswood Road - Document and Plans for Council Determination [11.5.1] 2. Site Photos - 104 - 77 Burswood Road BURSWOOD - Amendment To Development Approval - Allering & Asso [11.5.2]

Landowner	Peters Investments Pty Ltd
Applicant	Allering and Associates
Application date	18 February 2019
DA/BA or WAPC reference	5.2019.104.1
MRS zoning	Urban
TPS zoning	Office/Residential
R-Code density	Not applicable
TPS precinct	Precinct P3 'Causeway'
Use class	Non-Conforming Use - Light Industry (Motor Vehicle Servicing)
Use permissibility	'X' (Prohibited) Use
Lot area	2913 m ²
Right-of-way (ROW)	5.03m wide right-of-way at rear of site
Municipal heritage inventory	Not applicable
Residential character study area/weatherboard precinct	Not applicable
Surrounding development	Office, Light Industry and Motor Vehicle Sales premises surrounding the site.

RECOMMENDATION

That Council approves the application submitted by Allering and Associates (DA Ref: 5.2019.104.1) for Amendment to Development Approval Application DA Ref: 5.2013.705.1 dated 11 March 2014 at No. 77 (Lot 31) Burswood Road, Burswood, as indicated on the documents 18 February 2019, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1. Condition No. 2 of Development Approval 5.2013.705.1 dated 11 March 2014 being deleted.
2. Remainder of the development complying with development application 07/0102 approved on 22 May 2007, and 5.2013.705.1 approved on 11 March 2014.

Advice to Applicant

- Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or Metropolitan Region Scheme and the applicant may

apply for review of the determination of Council by the State Administrative Tribunal within 28 days of this decision.

Purpose

The application seeks an amendment of the existing development approval DA Ref: 5.2013.705.1 dated 11 March 2014 at No. 77 (Lot 31) Burswood Road, Burswood by deleting Condition No. 2 as follows:

"2. This approval is valid for a further period of five (5) years form 22 October 2014. The owner is to arrange with the Town for the existing legal agreement to be modified, by the Town's Solicitors at the owners cost, limiting the use of the subject property for Light Industrial purposes Motor Vehicle Services Centre) to a maximum period of a further five years. The modified legal agreement shall be executed by all parties and to be secured by Absolute Caveat on the title of the property within 60 days from the date of this approval."

In brief

1. The applicant seeks to delete Condition No. 2 of development approval DA Ref: 5.2013.705.1 approved on 11 March 2014.
2. The initial restricted time frame development approval for Change of Non-Conforming Use from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing)' on the subject site was granted in 2007. The approved Non-Conforming use 'Light Industry (Motor Vehicle Services)' has continued on the site with the current approval being limited to the existing building until 22 October 2019.
3. The application seeks the removal of the time limited approval to allow for the Non-Conforming 'Light Industry (Motor Vehicle Servicing)' land use to operate from the building unrestricted.

Background

- At the Ordinary Council Meeting on 22 May 2007, Council resolved to grant conditional development approval for Change of Non-Conforming Use from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing Centre)' on the subject site. Condition 2 implemented a restrictive time approval condition of a maximum five years approval period.
- An additional 2.5 year period approval extension was granted for the approved Change of Non-Conforming Use from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing Centre)' on the subject site at the Ordinary Council Meeting on 3 July 2007, to a maximum of 7.5 years from 22 May 2007.
- At the 11 March 2014 Ordinary Council Meeting, further approval was granted for the Change of Non-Conforming Use from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing Centre)' for a further five year period, which will expire on 22 October 2019.

Application summary

- The development application proposes to modify development approval DA Ref: 5.2013.705.1 granted on 11 March 2014, by removing the restricted approval timeframe of Condition No. 2 of approval for Non-Conforming Use from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing Centre)'.
- Under the Town Planning Scheme No. 1 (TPS No. 1), the subject site is zoned 'Office/Residential' and located in the Causeway Precinct P3, with 'Light Industry' being an 'X' (Prohibited) use.
- Notwithstanding 'Light Industry' being classified as an 'X' (Prohibited) use in the Office/Residential zone, the subject site retains a legal right for the non-conforming use of the former 'Warehouse' use, which is also an 'X' (Prohibited) under the current Town Planning Scheme No. 1.

Applicants submission

- In support of the application, the applicant has submitted correspondence (see Attachment 1) which includes the following statement:

"Overall the continuation of the motor vehicle servicing centre in this location is considered to be consistent with the existing surrounding land uses and has not resulted in any adverse impacts in the past. Currently, the surrounding area does not contain any residential development and such development is not anticipated in the location within the short to medium term due to current market conditions..."

At the same time, the Motor Vehicle Services facility enhances the activation of the vicinity providing positive economic and employment inputs to the area. The premises were refurbished and landscaped in 2008 and have been carefully maintained since then, enhancing the quality of the streetscape and the amenity of the locality..."

Given the benefits provided by the ongoing non-conforming use, the client is seeking Council's approval for the indefinite continuation of the non-conforming use rights over the Subject site. This approval would not deter residential development in the locality, or on the subject site should changes in the housing market render residential development more favourable."

Relevant planning framework

Legislation	• Planning and Development Act 2005 • Deemed Clause 67 'Matters to be considered by Local Government' of the Planning and Development (Local Planning Schemes) Regulations 2015 • Town Planning Scheme No. 1 – Statement of Intent contained in Precinct P3 'Causeway Precinct' • TPS No. 1 Scheme Text, Clause 18(2) – Non-conforming Use
State Government policies, bulletins or guidelines	Not applicable
Local planning policies	• Local Planning Policy 22 – Developments Standards for Causeway Precinct.
Other	Not applicable

General matters to be considered

TPS precinct plan statements	The following statements of intent contained within the precinct plan are relevant to consideration of the application. <i>"The Causeway Precinct presents a rare opportunity to achieve a sustainable mixed use urban environment with its own distinctive identity on the city doorstep. Providing significant employment and housing, the Precinct offers opportunities for people to live and work locally, with many services and facilities within easy walk. Workplaces, local retail and the Albany Highway shopping strip, two train stations and the Bus Port, the river and parks and Burswood Peninsula leisure activities are all close by.</i> <i>Reinforcing the State Network City policy, this Precinct will become a major activity node providing homes for 2,300 people integrated with an intensive commercial centre of some 87,000m² floor space and 3,300 jobs within a high amenity setting. The centre will be of sufficient scale to become a sought after business destination in its own right. It will operate as part of the Perth inner metropolitan employment hub expanding the range of economic activity in the Town, particularly in professional and skilled employment areas.</i> <i>Links will be development with the proposed commercial activity around Burswood train station. Together these commercial areas will provide an equivalent of about half the commercial floor space of West Perth, making Burswood a regionally significant business and employment centre.</i> <i>High quality apartments, many with river and city views, will overlook upgraded public open spaces that will be safer and more pleasant for all users. Building height siting and design will be controlled to ensure it is a 'good neighbour' to adjacent residential development, accommodates view sharing from the ridge and presents an attractive address to the Town. A limited number of tall buildings up to 18 storeys are proposed to take advantage of the assets of this location whilst signifying arrival at a major mixed use centre."</i> The continuation of the 'Light Industry (Motor Vehicle Servicing)' land use is classified as an 'X' (Prohibited) use in the Office/Residential zone and does not align with the intent of the Causeway Precinct.
TPS No. 1 Scheme Text, Clause 18(2) – Non-conforming Use	<i>"A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the development approval of the Council under the Scheme and unless in conformity with any other provision and requirements contained in the Scheme. All applications for development approval under this clause will be subject to notice under deemed clause 64 and the Council shall have special regard to the impact of the proposed erection, alteration or extension of the building on the preservation of the amenity of the locality."</i>
Local planning policy objectives	The following objectives of Local Planning Policy 22 – Development Standards for Causeway Precinct are relevant in determining the application. • "A vibrant commercial centre will develop here, having sufficient overall floor space to become a significant business destination of choice with

	high quality contemporary offices and support services.” • “Office/commercial with support services and potential for a residential component that may be located above or beside the commercial use...”
Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	The following are relevant matters to be considered in determining the application. <i>“(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i> <i>(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;</i> <i>(g) Any local planning policy for the Scheme area</i> <i>(m)The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development</i> <i>(n) The amenity of the locality including the following-</i> <i>(i) environmental impacts of the development;</i> <i>(ii) the character of the locality;</i> <i>(iii) Social impacts of the development;”</i>

Compliance assessment

- The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park TPS No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the detailed assessment section following from this table.

NON-RESIDENTIAL DEVELOPMENT		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council
Land use		✓

- The proposed removal of the time restricted Condition No. 2 of development approval DA Ref: 5.2013.705.1 approved on 11 March 2014 for Non-Conforming Use from ‘Warehouse’ to ‘Light Industry (Motor Vehicle Servicing)’ is supported with due regard to the matters stipulated under Deemed Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, as follows:

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

The statement of intent for the Causeway Precinct in relation to development in the area is to provide for a range of commercial activities, which will not adversely impact on residents in the area as well as providing a high standard of design for buildings.

The proposed deletion of the time limited approval for Non-Conforming Use from ‘Warehouse’ to ‘Light

Industry (Motor Vehicle Servicing)' land use does not align with the statement of intent of the TPS No. 1 Precinct Plan P3 'Causeway Precinct'.

However, in accordance with the non-conforming use provisions of TPS No. 1 Clause 18(2), Council has discretion to consider an alteration to an existing Non-Conforming use. As such, a change of non-conforming use may be approved if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the original non-conforming use and closer to the intended purpose of the Zone or Reserve.

Since the original approval was granted in 2007, the proponent has significantly upgraded the commercial building on the subject site, providing an improved contemporary façade with landscaping to soften the impact of the building within the streetscape.

The building improvements were integral in the land use being considered as less detrimental to the amenity of the locality than the former 'Warehouse' land use that existed on the site.

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;

Notwithstanding the strategic vision for the Causeway Precinct, currently much of the immediate streetscape is used for commercial purpose, including light industry and motor vehicle sales. Consistent with orderly and proper planning, the 'Light Industry (Motor Vehicle Servicing)' land use on the subject site is considered to be less detrimental than the former 'Warehouse' land use.

(g) Any local planning policy for the Scheme area;

The proposed continuation of the 'Light Industry (Motor Vehicle Servicing)' land use for an unrestricted period does not align with the strategic vision of the Causeway Precinct. However, the continuation of a non-conforming use on the site would not preclude a change of use to office/commercial/residential land uses when market conditions are suitable to accommodate such uses consistent with the intent of the Causeway Precinct.

(m)The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development

The surrounding development consists predominantly of commercial uses and a built form of one to two storey commercial buildings. The single storey building on the subject site remain compatible and consistent with developments on adjoining land and in the locality.

(n) The amenity of the locality including the following-

- (i) environmental impacts of the development;
- (ii) the character of the locality;
- (iii) social impacts of the development;

The continuation of the Non-Conforming – 'Light Industry (Motor Vehicle Servicing)' land use with an unrestricted timeframe is unlikely to have a detrimental impact on the amenities of the locality. The land use is considered to be less detrimental than the former non-conforming 'Warehouse' land use and the existing refurbished and landscaped premises has demonstrated an improved appearance in the streetscape.

Strategic alignment

Economic

Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	The proposed continuation of the land use provides the Town with amenity and activity that is compatible with the surrounding environment.

Engagement

It was considered that the Non-Conforming - 'Light Industry (Motor Vehicle Servicing)' land use on the subject site has existed since 2007 and the proposed continued use without time limitations did not require community consultation in this instance.

Legal compliance

Not applicable

Risk management considerations

Risk and Consequence	Consequence rating	Likelihood rating	Overall analysis	risk	Mitigation and Actions
Reputation The applicant / owner has a right of review to the State Administrative Tribunal (SAT) in relation to any conditions of approval, or if the application was refused by the Council.	Moderate	Likely	High		Ensure that Council is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.

Financial implications

Current budget impact	Should the applicant be aggrieved by the Council's decision they have a right of review to the State Administrative Tribunal. If the applicant were to exercise this right, then there may be financial implications for the Town in terms of representation to defend Council's decision.
Future budget impact	Not applicable.

Analysis

- The change of Non-Conforming from 'Warehouse' to 'Light Industry (Motor Vehicle Servicing)' on the subject site was granted in 2007. The approved land use has continued to operate on the site since its initial approval with the current approval being limited until 22 October 2019.
- The currently approved Non-conforming 'Light Industry (Motor Vehicle Servicing)' land use was determined by Council to be less detrimental to the area than the former 'Warehouse' land use.

- At present, there are no mixed use commercial/residential development on the street block of the subject site, which is the intent of the Causeway Precinct.
- The subject site was refurbished and landscaped in 2008 presenting a maintained, visually attractive contribution to the Burswood Road streetscape.
- The land use is considered to contribute positively to the amenity, community and activity of the area with associated activation assisting other businesses in close proximity to the site.
- In regard to the matters listed under deemed clause 67, the following matters are considered to be the most pertinent:
 - “(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality...”*
 - “(n) the amenity of the locality...”*
- The unrestrictive Non-conforming ‘Light Industry (Motor Vehicle Servicing)’ land use is unlikely to have adverse impacts on the amenity of the locality, providing employment opportunities as well as a favourable contribution to the local economy, consistent with the Statement of Intent for the precinct.
- Furthermore deletion of the relevant conditions of approval as requested by the applicant, does not prevent the site from being developed consistent with the preferred form of development at a future time.
- While it would be preferable for the site to be redeveloped in the shorter term consistent with the Causeway Precinct vision, this is unlikely given market conditions and furthermore it is a well-established planning principle that planning decisions be made on the merits of the application and that decisions cannot be made based upon a different development or land use being preferable.
- In summary, the application is recommended for approval subject to conditions including deletion of the time frame restriction of Condition No. 2 of Development Approval 5.2013.705.1 dated 11 March 2014 and is consistent with the matters listed in deemed clause 67.

Relevant documents

Not applicable

Further consideration

There were no further questions asked at the Agenda Briefing Forum held on 7 May 2019 relating to this item.

11.6 No. 16 (Lots: 221, 222, 236, 237 and 238) Hampton Street, Burswood for Modifications to existing Lodging House

Location	Burswood
Reporting officer	Amie Groom
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. Development Plans - 16 Hampton Street [11.6.1] 2. Consolidated details regarding operation of lodging house [11.6.2] 3. Schedule of Submissions -16 Hampton St [11.6.3] 4. Site Photos [11.6.4]

Landowner	Meski International Pty Ltd
Applicant	C Criddle
Application date	4 February 2019
DA/BA or WAPC reference	Not applicable.
MRS zoning	Urban
TPS zoning	Residential
R-Code density	Residential R60
TPS precinct	Precinct 6 'Victoria Park'
Use class	Lodging House
Use permissibility	'AA' (Discretionary) Use
Lot area	5058 square metres
Right-of-way (ROW)	Not applicable.
Municipal heritage inventory	Not applicable.
Residential character study area/weatherboard precinct	Not applicable.
Surrounding development	Single houses, grouped dwellings and multiple dwellings to the north, south, east and west.

Recommendation

That Council approves the application submitted by C Criddle (DA Ref: 5.2019.49.1) for Modifications to existing "Lodging House" at 16 Hampton Street, Burswood as indicated on the documents dated 4 February 2019, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1. The development, once commenced, is to be carried out in accordance with the approved plans, date stamped 4 February 2019 at all times, unless otherwise authorised by the Town.
2. Existing trees identified on the approved site plan must be retained and protected in accordance with AS 4970-2009 and to the satisfaction of the Town.
3. Existing trees located within the verge are a Town asset and as such must be retained except where otherwise approved for removal by the Town.
4. Prior to lodging an application for a building permit, the applicant is to submit, and have approved to the satisfaction of the Town, a detailed parking plan design which complies with the Australian Standards AS/NZS 2890.1/2004 and AS/NZS1428, including 21 car bays (comprising 20 car bays, one accessible bay,

aisle widths, circulation areas, driveway/s and points of ingress and egress).

5. Before the subject development is first occupied or commences operation all car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Town.
6. Prior to occupation, 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 Town.
7. Operation of the "Lodging House" to be in accordance with the details provided in correspondence from the applicant dated 4 February 2019 and 18 February 2019. Any changes to the operations will require lodgement of a new application for development approval for consideration by the Town.
8. A Waste Management Plan must be submitted to and approved by the Town prior to lodging an application for a building permit. The plan must include the following details to the satisfaction and specification of the Town:
 - (a) The location of bin storage areas and bin collection areas;
 - (b) The number, volume and type of bins, and the type of waste to be placed in the bins;
 - (c) Details of the future ongoing management of the bins and the bin storage areas;
 - (d) Frequency of bin collections.

The Waste Management Plan must be implemented at all times to the satisfaction of the Town for the life of the development.

Advice notes

9. Any amendments or modifications to the approved drawings forming part of this development approval may require the submission of an application for amendment to development approval and reassessment of the proposal.
10. Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

Purpose

To consider an application for modifications to an existing "Lodging House" including a car parking shortfall at No. 16 Hampton Street, Burswood (subject site).

In brief

- The application seeks to modify an existing "Lodging House". The proposal includes reducing the number of bedrooms from 45 bedrooms to 34 bedrooms, the conversion of the existing convent to an incidental office and the construction of 21 car parking bays accessed from Hampton Street and Clydesdale Street.
- The intent is for the "Lodging House" to be used as a shelter for women experiencing homelessness.
- The "Lodging House" use was approved by Council on the 27th March 1984.

- Community consultation commenced on 1 March 2019 for a period of 14 days concluding on 15 March 2019. In total, 13 submissions were received, of which 12 submissions raised general concerns or objected to the proposal and one submission supported the proposal.
- The proposal is recommended for approval subject to conditions and advice notes.

Background

1. Development Approval was granted by Council on 2 April 1984 for the conversion of the existing "Retreat House" (used by the Franciscan Order) to a "Lodging House".
2. The existing premises contains 45 bedrooms, while the adjoining residence was to be occupied by the family which operated the "Lodging House".
3. Parking for 20 vehicles with access from Clydesdale Street was indicated on the submitted site plan and a grassed area capable of accommodating another 20 to 30 vehicles was also available, as well as a double carport. The applicant at the time advised that it was unlikely that more than seven or eight car bays will be used as residents did not normally have cars.
4. The "Lodging House" use was considered at the 27 March 1984 Agenda Meeting. The recommendation required further details to be provided regarding the provision of car parking layout and landscaping. The site plan was amended prior to a determination being made on the "Lodging House" use showing 41 car bays to be provided with access off Clydesdale Street. A note made on the site plan states *"ps the number of car bays necessary for the existing operation approx 7-8 only. Residents do not normally have cars"*.
5. A File Note dated 30 March 1974 prepared by the Planning Department at the time states *"The existing landscaping particularly along site boundaries provides a fairly effective screen and it is considered that this should not under any circumstances be removed to provide car parking. If this application is to be approved it would be preferable for it to be approved with a reduced number of car spaces rather than with reduced landscaping"*.

Application summary

6. The development application proposes modifications to an existing "Lodging House" including an Incidental Office.
7. The definition of a "Lodging House" was removed from Town Planning Scheme No. 1 (TPS1) as part of Scheme Amendment 48 granted by the Minister for Planning on 18 January 2011. The Town's Local Planning Policy No. 31 – Serviced Apartments and Residential Buildings including Short Term Accommodation defines a "Lodging House" as follows:

"has the same meaning as defined in the Health Act 1911, namely any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper, thereof, for hire or reward; but does not include-

- a) premises licensed under a publican's general licence, limited hotel licence, or*
- b) wayside-house licence, granted under the Licensing Act 1912;*
- c) residential accommodation for students in a non-government school within the meaning of the School Education Act 1999; or*
- d) any building comprising residential flats.*

8. The *Planning and Development (Local Planning Schemes) Regulations 2015* define an incidental use as

follows:

"means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use".

9. The office will be used by one Executive Manager (Director of Services), one Executive Manager (Internal Support Services), two case workers, seven support workers and one internal support service worker. The office space will be used for the management of the organisation and to work with the residents to create individualised support plans to enable the women to focus on implementing changes to their lives.

Applicants submission

10. The applicant's submission states *"Saint Benedicts Homeless Foundation was formed to take an integrated approach to transition the homeless from the streets through to independent living via safe accommodation, individual case management, vocational training and job locating. Currently no other organisations carries out this total holistic approach"* (see Attachment 2).
11. The shelter will initially provide accommodation for women only, with the possibility for a maximum of three families (mothers and their children only) to be accommodated in emergency situations once the home is in operation.
12. The Foundation proposes to reduce the number of beds from 75 beds to 34 by removing some of the internal non load bearing walls to convert the small rooms into larger living areas with ensuites.
13. The women will reside at the property for between 6 to 12 months, with qualified staff to support them 24 hours a day, 7 days a week. Saint Benedicts will be operational during normal business hours of 9am to 5pm Monday to Friday to conduct appointments with individuals, other service providers and other community members. There will be no people entering the site at night after 10pm apart from emergency crisis accommodation for domestic violence victims.
14. The complex would be operated by a total of 12 rostered staff at various times, with five staff working during the day and two staff overnight.
15. The building will be installed with all necessary security measures including CCTV, security doors, sensor lights and any other measures recommended by Security Advisors.

Relevant planning framework

Legislation	Planning and Development (Local Planning Schemes) Regulations 2015
State Government policies, bulletins or guidelines	Not applicable.
Local planning policies	• Local Planning Policy 23 – Parking Policy • Local Planning Policy 31 - Serviced Apartments and Residential Buildings including Short Term Accommodation
Other	Not applicable.

General matters to be considered

TPS precinct plan statements	The following statements of intent contained within the precinct plan are relevant to consideration of the application. <i>Housing Character:</i> <i>Existing housing that is reflective of the period of development of the area and is a contributing factor to its character, should be retained.</i>
Local planning policy objectives	The following objectives of Local Planning Policy 31 are relevant in determining the application. • To define and control the use, management and level of service provided for Residential Buildings and Serviced Apartments, including specialised forms of accommodation such as Lodging Houses, Bed and Breakfast Accommodation and Short Term Accommodation. • To protect the residential amenity of permanent and long term residents and minimise the perceived negative impacts that may be caused by the transient nature of alternative forms of accommodation. • To ensure various forms of accommodation, particularly where they are to be located within existing residential areas, are of a compatible scale and design with surrounding development. The following objectives of Local Planning Policy 23 are relevant in determining the application. • To ensure that adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand. • To ensure that the environmental and amenity objectives of the Town Planning Scheme, as outlined in the Scheme Text, are not prejudiced. • To provide guidance on the development and design of parking facilities.
Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	The following are relevant matters to be considered in determining the application. (g) Any local planning policy for the Scheme area (m) The compatibility of the development with its setting (n) The amenity of the locality (y) Any submissions received on the application

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the detailed assessment section following from this table.

Non-residential development		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council
Car parking		X

Based upon the above table, the following development standards require the discretion of Council.

Element	Requirement	Proposed	Variation
Car Parking	LPP23 – Lodging House – 1 for every bedroom or 1 for every 3 beds provided whichever is the greater. 34 beds proposed = 34 car bays required Total = 34 car bays	21 car bays	13 car bay shortfall
			Supported

- LPP23 Clause 5 a) states that *"Off-street parking should be provided at a rate that adequately meets the demand generated by a particular use or activity as determined by the Council"*.
- The applicant has provided comments regarding the proposed car parking shortfall due to their experience with the operation of the use. The applicant has advised that *"whilst we cannot comment for every person who is homeless, those who are fortunate enough to have a vehicle as a resource and maintain this vehicle with registration, fuel and various other costs on a Newstart allowance of approximately \$500-600/fortnight are very few. In our experience less than 10% of homeless people have vehicles due to the financial stress in keeping one"*.
- The existing "Lodging House" was operating with only seven car bays without any pressure on the surrounding publicly available parking including on-street parking. The nature of the use meant that there was no demand for additional parking as many of the residents did not own a vehicle. The women's shelter will operate in the same way with car parking demand being significantly reduced due to a reduction in vehicle ownership.
- Sufficient space exists at the rear of the existing property with access off Clydesdale Street to provide an additional 13 car bays, however a number of canopy trees exist on this rear lot (see Attachment 1) which would need to be removed to allow for these additional car bays.
- The Town's Urban Forest Strategy defines a canopy tree as a tree with a minimum height of 5 metres tall which creates at least 7m² of shade. Nine canopy trees exist along the shared northern boundary with 19 Clydesdale Street and another eight canopy trees exist on the southern portion of the rear lot. The applicant has advised that the proposed car parking layout does not require the removal of any of these trees.
- The number of car parking bays proposed are considered appropriate to the operation and parking demand of the "Lodging House" use as many of the residents will not own a vehicle. The reduction in car parking also permits a significant number of canopy trees to be retained which contribute positively to the existing amenity of the locality.

Strategic alignment

Environment

Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	The proposed modifications enable an existing approved "Lodging House" to continue to operate and cater for people with different housing needs.

Engagement

Internal Engagement	
Stakeholder	Comments
Building Department	Do not object – no additional comments
Health Department	Do not object – no additional comments
Engineering Department	Do not object – non-compliant vehicle access and turning to/from proposed seven new car bays off driveway from Hampton Street

External Engagement	
Stakeholders	Owners and occupiers within a 100 metre radius of the subject site.
Period of engagement	1 March 2019 to 15 March 2019, 14 day advertising period as per Local Planning Policy 37 'Community Consultation on Planning Proposals'
Level of engagement	Consult
Methods of engagement	Written Submissions; Your Thoughts
Advertising	Letters
Submission summary	13 submissions received including one letter of support and 12 general concerns/objections
Key findings	Refer Attachment 3

Risk management considerations

[Town's Risk Assessment and Acceptance Criteria](#)

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Reputational Negative public perception towards the Town may result if a car parking shortfall is supported.	Moderate	Likely	Moderate	Ensure that Council is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

16. Development Approval was granted by Council on 2 April 1984 for the conversion of the existing "Retreat House" (used by the Franciscan Order) to a "Lodging House". The proposal is for modifications to the existing "Lodging House" including an incidental office.
17. As per the comments under the compliance assessment, the proposal achieves the principles of the Town's Local Planning Policy 23. The car parking proposed adequately meets the demand anticipated to be generated by the use. The applicant has advised that *"whilst we cannot comment for every person who is homeless, those who are fortunate enough to have a vehicle as a resource and maintain this vehicle with registration, fuel and various other costs on a Newstart allowance of approximately \$500-600/fortnight are very few. In our experience less than 10% of homeless people have vehicles due to the financial stress in keeping one"*.
18. Based on the current operation of the "Lodging House", the 21 car bays proposed will sufficiently cater for the demand of off-street parking.
19. The 1984 Council Approval indicated parking for 20 vehicles with access from Clydesdale Street and a grassed area capable of accommodating another 20 to 30 vehicles was also available. Based on the submissions received, it is acknowledged that this car parking area was not constructed as it was not required for the residents at the time. The Town has not received any compliance requests regarding this rear car parking area and therefore it has not been investigated.
20. A File Note dated 30 March 1974 prepared by the Planning Department at the time states *"The existing landscaping particularly along site boundaries provides a fairly effective screen and it is considered that this should not under any circumstances be removed to provide car parking. If this application is to be approved it would be preferable for it to be approved with a reduced number of car spaces rather than with reduced landscaping"*.
21. Several canopy trees exist on the rear lot adjacent to Clydesdale Street. The Town's Urban Forest Strategy defines a canopy tree as a tree with a minimum height of 5 metres tall which creates at least 7m² of shade. Nine canopy trees exist along the shared northern boundary with 19 Clydesdale Street and another eight canopy trees exist on the southern portion of the rear lot. The proposed car parking layout (based upon a parking shortfall of 13 bays) does not require the removal of any of these trees. Alternatively, if no parking shortfall were supported and an additional 13 on-site car bays were required, then it is estimated that eight trees would need to be removed.
22. Based on the information submitted by the applicant, it is considered that the "Lodging House" and incidental office will be managed to minimise any impact on adjacent properties.
23. Having regard to the above, it is recommended that the application be conditionally approved.

Relevant documents

None.

Further consideration

Resulting from questions asked at the Agenda Briefing Forum held on 7 May 2019, paragraph 26 has been updated to clarify the impact of car parking on tree retention.

11.7 No. 915 (Lot:123) Albany Highway, East Victoria Park for Modifications to Existing 'Consulting Rooms' (Remedial Massage)

Location	East Victoria Park
Reporting officer	Amie Groom
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. Development Plans - 915 Albany [11.7.1] 2. Schedule of Submissions -915 Albany Highway [11.7.2] 3. Consolidated Photos [11.7.3]

Landowner	S Vic Park WA Pty Ltd
Applicant	Hailing Redfearn
Application date	29 November 2018
DA/BA or WAPC reference	Not applicable.
MRS zoning	Urban
TPS zoning	District Centre
R-Code density	Not applicable.
TPS precinct	Not applicable.
Use class	Consulting Room
Use permissibility	'P' (Permitted) Use
Lot area	998 square metres
Right-of-way (ROW)	Not applicable.
Municipal heritage inventory	Not applicable.
Residential character study area/weatherboard precinct	Not applicable.
Surrounding development	Commercial uses including offices and retail along Albany Highway and single residential houses along Hampshire Street.

Recommendation

That Council refuses the application for modifications to Existing 'Consulting Rooms' (Remedial Massage) at No. 915 (Lot: 123) Albany Highway, East Victoria Park, for the following reasons:

1. The proposed scale and intensity of the additional rooms, the hours of operation and the signage of the development are not compatible with the surrounding residential uses. The application does not meet the objective (c) of the Town's Town Planning Scheme No. 1 to ensure that the use and development of the land is managed in an effective and efficient manner which recognises the individual character of localities within the Scheme Area.
2. The proposal does not comply with the car parking requirements of the Town's Local Planning Policy 23 – Parking, and the proposed variation is not considered to meet the objectives of the policy as appropriate parking will not be provided to meet the needs of the users.
3. Consideration of the submissions received.

Purpose

To consider a planning application that includes a car parking shortfall due to the proposed increase in number of consulting rooms where the shortfall is not supported by Council Officers.

In brief

- The applicant seeks to amend two conditions of the development approval granted on 19 February 2018, including increasing the number of practitioners from one to three operating at any one time and increase the hours of operation from 7:00am to 6:00pm Monday to Friday to 9:30am to 7:30pm seven days a week.
- The number of treatment rooms is proposed to increase from one room to three rooms including a couple treatment room.
- The application proposes to change the style of massage from Remedial to Chinese Traditional.
- Community consultation regarding the application commenced on 15 February 2019 and concluded on 1 March 2019 for a period of 14 days. Eight submissions were received, all raising general concerns/objecting to the proposal.
- The proposal requires 12 car parking bays at all times. A maximum of four car parking bays are available between 7:00am and 6:00pm Monday to Friday only. The application will result in a shortfall of eight car bays between 7:00am and 6:00pm Monday to Friday and a 12 car parking bay shortfall between 6:00pm and 7:30pm Monday to Friday and all day Saturday and Sunday.
- The proposed modifications to the existing 'Consulting Rooms' are recommended for refusal.

Background

1. Development Approval was granted on 19 February 2018 under Delegated Authority for the Change of Use from 'Office' to 'Consulting Rooms' (Remedial Massage) and external alteration, subject to a maximum of one practitioner operating at the premises at a given time. Furthermore, the operating hours of the approved use were limited to 7:00am to 6:00pm Monday to Friday. The operators qualifications were provided as part of the initial application.
2. The use commenced operating in November 2018.
3. No. 915 (Lot: 123) and No. 917 (Lot: 124) Albany Highway are owned by the same landowner. The owner lodged a caveat in May 2018 over Lot 123 for the use of the 12 car parking bays located at the rear of the property for use by staff and patrons of Lot 124 after 6pm on weekdays and at all times on Saturday and Sunday. The agreed terms of the caveat also required that the tenancies at No. 915 Albany Highway must not operate after 6pm on weekdays or at any time on Saturday or Sunday.
4. A complaint was lodged by residents of Hampshire Street once the business commenced operating. A site visit was undertaken by the Town's Compliance Officer and Planning Officer on 5 November 2018 which confirmed that the business was not operating in accordance with the development approval. Specifically, several unauthorised signs had been installed on the front of the property, four rooms were operating, and the hours of operation advertised were 9am to 9pm seven days a week. A breach of the Development Approval conditions letter was hand delivered to the tenants on 8 November 2018. The letter required that within 28 days of the issue of the letter, the conditions of development approval were complied with and the two red flashing signs in the front windows be removed immediately.

5. An Amendment to Development Approval application was lodged with the Town on 29 November 2018. The development application plans submitted as part of the application represented no changes from the previous approval. Further information was requested on 2 January 2019, 15 January 2019 and 30 January 2019. The applicant responded via email on 30 January 2019 stating that they had been away and would provide the information by 8 February 2019. Amended floor plans were submitted on 1 February 2019.
6. Community consultation regarding the application commenced on 15 February 2019 and concluded on 1 March 2019 for a period of 14 days. Eight submissions were received all raising general concerns/objecting to the proposal. The summary of submissions received was provided to the applicant on 12 March 2019 which requested the applicant to make comment regarding the submissions. The applicant's response was requested to be provided within 14 days of receipt of the letter. No comments have been received from the applicant.
7. The Town's Compliance Officer reinspected the property on 27 March 2019. The operator advised that the business was still operating seven days a week from 9:00am to 9:00pm, three massage rooms were operational and numerous advertising signs on the front façade and the windows of the building remained.
8. A second breach of the Development Approval conditions letter was issued on 1 April 2019. The letter required that within 14 days of the issue, the conditions of development approval are required to be complied with and failure to comply with the conditions would result in a section 214 Direction Notice under the Planning and Development Act 2005 to commence legal proceedings.
9. A site visit on 17 April 2019 confirmed that the above awning side and one of the A-Frame signs have been removed from the property (Refer Attachment 3).

Application summary

10. The development application proposes modifications to the existing approved 'Consulting Rooms' (Remedial Massage).
11. Under the TPS1, a 'Consulting Room' is defined as follows:

"means premises used for the investigation and/or treatment of physical or mental injuries or ailments (not including a hospital) in the practice of a profession by a person who is a legally qualified medical practitioner, dentist, physiotherapist, podiatrist or similar, but does not include a masseur and does not include a premises practising therapeutic massage or similar services".

12. The development application was submitted in response to a Compliance Letter sent to the Operator on 8 November 2018.

Relevant planning framework

Legislation	Planning and Development (Local Planning Schemes) Regulations 2015
State Government policies, bulletins or guidelines	Not applicable.
Local planning policies	Local Planning Policy 23 – 'Parking' (LPP3)
Other	Not applicable.

General matters to be considered

TPS precinct plan statements	The following statements of intent contained within the precinct plan are relevant to consideration of the application. <i>This area shall be consolidated as a centre containing retail, civic, community, and recreational facilities. New development shall enhance the integration of these activities in the one general area, as well as providing various facilities to improve the public domain.</i> <i>Stringent design standards will be applied to private parking areas and other aspects to design in order to minimise conflict with adjacent uses, particularly residential uses. Effective landscaping, non-obtrusive lighting and restricted vehicular access from parking areas into residential streets shall all serve to protect the amenity of nearby residential areas. Vehicular access to Albany Highway will also be limited.</i>
Local planning policy objectives	The following objectives of Local Planning Policy 23 – Parking are relevant in determining the application. <i>To ensure the adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand.</i>
Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	The following are relevant matters to be considered in determining the application. (g) Any local planning for the Scheme area (m) The compatibility of the development with its setting (n) The amenity of the locality (y) Any submissions received on the application

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the detailed assessment section following from this table.

Change of use application		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council
Land use	Use previously approved	
Car parking		X
Signage		X

Based upon the above table, the following development standards require the discretion of Council.

Element	Requirement	Proposed	Variation
Car Parking	LPP 23 – Parking Consulting room – 4 bays per consulting room 3 consulting rooms = 12 car bays	7am to 6pm Monday to Friday – 4 bays After 6pm Monday to Friday and at all times Saturday and Sunday - Nil	8 car bay shortfall 12 car bay shortfall

			Not supported
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- LPP23 Clause 6 c) states *"where the number of bays proposed for a non-residential or residential development is less than the number required, the Council may approve the development, if it can be demonstrated that nearby off-street parking facilities are available to cater for the parking requirements, or a portion of the parking requirement of the use proposed, and that, if necessary, satisfactory agreements have been made to enable those facilities to be used."*
- Street parking along Albany Highway, Hampshire Street and Willis Street is limited and unable to cater for the additional car parking demand for the site. No public car park exists within close proximity to the subject site.
- Cash-in-lieu for the car parking shortfall can be considered by the Council, however the provision of cash-in-lieu shall not be used as an alternative to provide enough car parking bays on site.
- The proposed car bay shortfall will have a significant impact on the amenity of the surrounding areas. Due to the retention of existing weatherboard houses and street trees along Hampshire Street and Willis Street, many of the properties have restricted off-street parking available and rely on the on-street parking bays available. These parking bays are already largely occupied during the day.

Element	Requirement	Proposed	Variation
Signage	LPP38 – Signs Window Sign One or more signs are exempt where: a) they cover not more than 25% of the window to which they are associated; and b) they have an aggregate area of 0.4m ² per 1m of street frontage of the subject tenancy (up to a maximum aggregate area of 10m ²)	The total aggregate area of the signs equates to 20.35m ² total. The signage covers all the windows.	The signage covers all the windows.
			Not supported

- Hampshire Street falls within the Town's Weatherboard Precinct. The design of dwellings along this street are required to conform with a variety of design requirements under the Town's Streetscape Policy. The amount of signage proposed to the shopfront is excessive and has a detrimental effect on the weatherboard streetscape of Hampshire Street.
- The signage does not meet the objectives of the Town's Local Planning Policy 38- Signs as signage will have an adverse impact on the amenity of the streetscape and surrounding area. There is a proliferation of signs on the individual sign and the signage is having a negative and visually intrusive impact on the surrounding residential properties.

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	The scale and intensity of the development will have a detrimental impact on the surrounding character of Hampshire Street.

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	The existing use creates an opportunity for diversity in local employment.

Engagement

Internal Engagement	
Stakeholder	Comments
Building Department	Do not object – An occupancy permit is required for the change of Class from Class 5 to Class 6. No occupancy permit has been issued for the tenancy.
Health Department	Do not object – No further comment.

External Engagement	
Stakeholders	Owners and occupiers of surrounding properties
Period of engagement	15 February 2019 – 1 March 2019 (14 days)
Level of engagement	Consult
Methods of engagement	Written Submissions; Your Thoughts
Advertising	Letters
Submission summary	Eight submissions were received all raising general concerns/objecting to the proposal.
Key findings	Refer attachment 2

Risk management considerations

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Reputational Negative public perception towards the Town may result if the modifications to the Development Approval is approved.	Moderate	Likely	High	Ensure that Council is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.

Financial implications

Current budget	Sufficient funds exist within the annual budget to address this recommendation.
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impact		
Future impact	budget	Not applicable.

Analysis

13. The proposed amendment to the development approval has been assessed with three key aspects forming the basis for the recommended refusal. These three aspects are car parking and the appropriateness of the scale and intensity of the land use and its setting, including signage.
14. In regard to car parking, the development proposes an eight and 12 car parking bay shortfall at different times. Street parking along Albany Highway, Hampshire Street and Willis Street is limited and unable to cater for the additional car parking demand for the site. No public car park exists within close proximity to the subject site.
15. LPP23 Clause 6 c) states *"where the number of bays proposed for a non-residential or residential development is less than the number required, the Council may approve the development, if it can be demonstrated that nearby off-street parking facilities are available to cater for the parking requirements, or a portion of the parking requirement of the use proposed, and that, if necessary, satisfactory agreements have been made to enable those facilities to be used."* The applicant has not demonstrated that nearby off-street parking is available to cater for the parking requirements.
16. Cash-in-lieu for the car parking shortfall can be considered by the Council, however the provision of cash-in-lieu should not be used as an alternative to providing sufficient parking on the site.
17. The proposed car parking bay shortfall will have a significant impact on the amenity of the surrounding areas where street parking is already restricted.
18. The scale and intensity of the land use with regard to its setting, conflicts with the residential properties along Hampshire Street due to the proposed hours of operation and the appearance of the development.
19. The proposed amendment to the use is already having an impact on the community of Hampshire Street and Willis Street. The existing consulting room directly faces two residential properties on Hampshire Street including their habitable rooms.
20. The operator and landowner have failed to respond to numerous requests to comply with the conditions of Development Approval.
21. In summary, the application is recommended for refusal.

Relevant documents

None.

Further consideration

No questions were asked at the Agenda Briefing Forum held on 7 May 2019 that required any further clarification in the report.

12 Chief Operations Officer reports

12.1 Appointment of preferred Tenderer - McCartney Crescent Parking Works

Location	Lathlain
Reporting officer	Frank Squadrito
Responsible officer	John Wong
Voting requirement	Absolute majority
Attachments	1. Sample photos of the Brachychiton acerifolius [12.1.1] 2. Tree Survey Report - opp. 10 Mc Cartney Crescent, Lathlain [12.1.2] 3. Tender Issue drawing - McCartney Crescent Parking - Roadworks Plan, carriageway section 1 [12.1.3] 4. Tender Issue drawing - McCartney Crescent Parking - Roadworks Plan, cariageway section 2 [12.1.4] 5. Tender Issue Drawing - McCartney Crescent Parking - Roadworks Plan, carriageway section 3 [12.1.5]

Recommendation

That Council awards the contract associated with , to Advanteering – Civil Engineers D.B. Cunningham Pty Ltd (ABN: 45 009 144 414), for the construction of McCartney Crescent parking bays, with the terms and conditions as outlined in the contract, for the lump sum price of \$789,112 excluding GST.

Purpose

To seek Council approval and appoint a preferred contractor for the McCartney Crescent Parking Works as the value of Tender TVP/19/02 exceeds \$150,000.

In brief

- Tender TVP/19/02 was advertised in the West Australian Newspaper on Wednesday 20 February 2019 and information also released via the Tenderlink portal on the same day
- Tender submissions were invited for the construction of car parking bays, footpath works and landscaping along McCartney Crescent between Roberts Road and Goddard Street
- The approved municipal funding allocation in the budget for the current 2018/2019 financial year is \$500,000
- An evaluation of the tender submissions against the prescribed criteria has been completed by the evaluation panel and it is recommended that Council accepts the submission made by Advanteering Civil Engineers D.B. Cunningham Pty Ltd and enters into a contract with them to construct car parking bays as per the design specifications and scoping defined in the Tender documentation TVP/19/02
- Eight compliant submissions were received by the deadline close off date at 2pm (WST) on Tuesday 12 March 2019

- The design incorporates a shared use path along the perimeter boundary of McCartney Crescent connecting to the existing network on Roberts Road and Goddard Street. Additionally 95 standard car bays, five Acrod bays and eight motorcycle bays will be constructed on the verge to accommodate visitors and event patrons.

Background

1. In June 2018 the Town engaged Wood & Grieve Engineers to deliver the civil detailed design package for Zone 7 – McCartney Crescent Parking Works.
2. The Lathlain Precinct has long been identified by the Town as an area for enhancement and revival. The Lathlain Precinct Redevelopment Project (LPRP) is now in the Town's Strategic Community Plan as a priority project. This includes eight project zones of which Zone 7 known as the "Equitable Access Zone" encompassing projects such as the McCartney Crescent has now been progressed to a construction phase.
3. The need to formalise parking on McCartney Crescent presents an opportunity to enhance the streetscape amenity, maximise parking in an orderly way, improve pedestrian connectivity to the ovals and align itself to concurrent works at the interface with Zone 2.

Compliance criteria

Evaluation process

Relevant experience - Provide details of similar work undertaken - Provide scope of the Tenderers involvement including details of outcomes - Provide details of issues that arose during the project and how these were managed - Demonstrate competency and proven track record of achieving outcomes - Project reference sheet	Weighting 15%
Key Personnel Skills and Experience - The Tenderers role in the performance of the contract - Curriculum vitae of key staff inclusive of membership to any professional or business association, qualifications etc.	Weighting 10%
Tenderer's Resources - Plant, equipment and materials - Any contingency measures or backup of resources including personnel (where applicable) - OHS Survey - Safety Record - Resources Schedule	Weighting 15%
Demonstrated understanding - A project schedule/timeline (where applicable) - The process for the delivery of the Goods/Services - Training processes (if required); and - Demonstrated understanding of the Scope of Work	Weighting 20%

Price i). Fixed Price Lump Sum to supply the goods and services	Weighting 40%
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Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	Through a competitive tendering process, the Town will deliver a project that is value for money and public assets are installed to a high standard

Economic	
Strategic outcome	Intended public value outcome or impact
EC02 - A clean, safe and accessible place to visit.	The project is anticipated to significantly enhance the built and soft environment through the provision of high-quality pathways, landscaping treatments, improved and efficient car-parking facilities (including ACROD bays) and other assets in the public realm which will attract visitors to the area.

Engagement

Internal Engagement	
Stakeholder	Comments
Procurement	Senior Procurement Officer provided advice and acted as an internal probity advisor throughout the process
Project Management Office	Provided input into design parameters and issues raised by the engineering consultants
Place Planning	Comments received in January 2019 mainly relating to the following aspects of design: • Entry statements – Were not considered as part of the scope as works but will be considered as part of any future Lathlain Traffic Management project actions. • Creation of a forecourt to Lathlain Place – Design now incorporates this suggestion • Early planting – Proposed timing of works allows planting to be undertaken in the winter months which is more likely to achieve a higher level of tree survival and lower watering costs • Potentially removal of existing traffic calming – Not considered as part of the scope as an evaluation of traffic calming has not been completed. Changes may occur in future subject to assessment
Parks	The Parks team have provided landscaping advice
Operations	Civil design plans provided – Operations staff will likely oversee day to day works onsite

Legal compliance

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

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

Risk management considerations

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Reputational Public expectations are high and could be dissatisfied with the design outcome	Moderate	Likely	High	Detailed Design drawings have been placed on the Town's website for public viewing so that information is available.
Financial Insufficient funds to complete project as a result of utility service conflicts	Moderate	Likely	High	The Town has identified a major risk with the existing high-pressure gas main in the verge where construction will occur. Verge finished height has been lifted in the design to ensure that suitable depth to the pipeline can be achieved and the risk of service conflict removed
Environmental Loss of trees on the verge that are currently identified for removal.	Moderate	Almost certain	High	A number of Illawarra Flame Trees (<i>Brachychiton acerifolius</i>) on the road reserve are small, malformed and in poor health. Independent assessment undertaken by an Arborist suggests removal. Many more suitable trees are to be planted in Zone 2. Further information on tree removals was presented at the LPRP Project Team meeting held on the 26 March 2019 and the Urban Forest Strategy Advisory Group meeting on the 16 April 2019 with general agreeance to remove these trees.

Current budget impact

Council Delegation 1.24 – Limits on Delegations to CEO requires all tenders exceeding \$200,000 to be by Council determination.

Council policy [FIN4 Purchase of Goods and Services](#) requires Council to invite tenders before the Town enters into a contract if the consideration under the contract is or is expected to exceed \$150,000. The provision of civil works to deliver the McCartney Crescent car parking

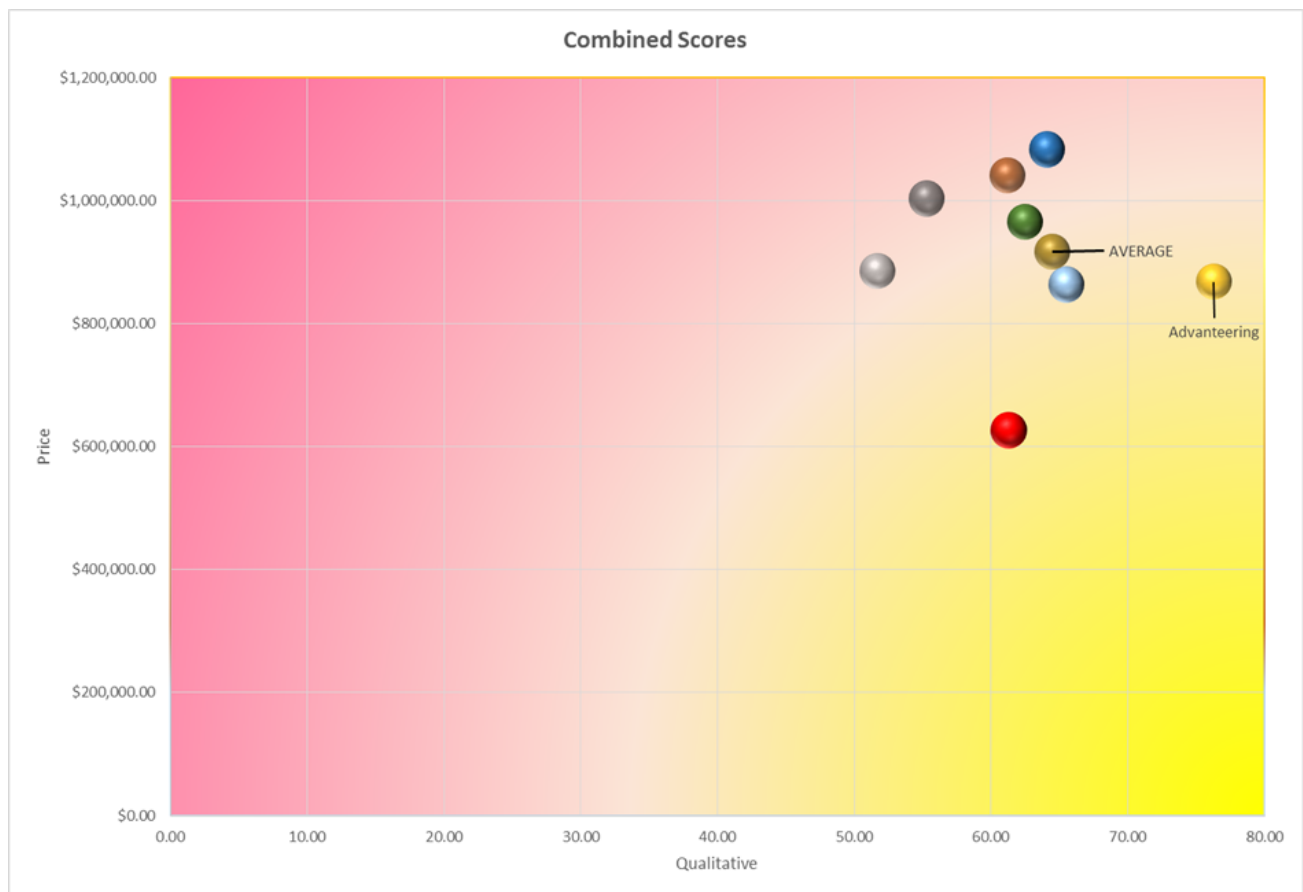
	bays via tender contract TVP/19/02 is likely to cost \$789,112 (GST excluded) over the contract term, therefore it is deemed necessary to enter into a contract. Sufficient funds exist within the annual budget to address the first stage of works. Within the current 2018/2019 financial year, \$500,000 has been allocated to commence substantial construction works. Execution of works, subject to Council approval, will likely occur in May 2019 and will continue into the 2019/2020 financial year.
Future budget impact	The remainder \$289,112 (Excluding GST) for the second stage of the project will be allocated in the 2019/2020 financial year. The Town's Long-term Financial Plan forecasts a \$428,000 expenditure in the 2019/2020 financial year specifically for this project, which may not all be required and any residual will be resolved at mid-year budget review. Carry forward funding from the 2018/2019 financial year will also be likely given the commencement date being near the end of financial year.

Relevant documents

[Council policy FIN4 Purchase of Goods and Services](#)

Analysis

4. The assessment of the submissions was formally undertaken by a panel that included:
 - Strategic Project Manager
 - Street Improvement Engineer
 - Principal Infrastructure Design Coordinator
5. The Town received eight submissions. All submissions were assessed and deemed compliant.
6. The highest quote received, inclusive of GST, was \$1,082,769.11 with the lowest quote being \$626,335.60.
7. After evaluating the Tenders against the selection criteria, a consensus scoring meeting was held with the relevant members of the panel to check for any evaluation anomalies.
8. The evaluation of the submissions against the quantitative and qualitative criteria are shown on the graph below.



9. Based on the above evaluation, the panel is recommending the Town enter into a contract with Advanteering Civil Engineers D.B. Cunningham Pty Ltd as the total evaluation score based on their offer was ranked the highest.

Further consideration

Previous discussion around tree removals has been focused on the *Brachychiton acerifolius* (Illawara Flame trees), however other significant species exist on the McCartney Crescent verge where proposed car park works will occur, as outlined in the arborist report. These include two *Eucalyptus marginata* and one *Eucalyptus cameldulensis*. Although these were indicated to be removed in the engineering design, design changes have since been made, including removal of one standard car parking bay, to ensure the retention of these trees with some pruning undertaken to ensure hazards are minimised.

12.2 Execution of Licence to Occupy - Public Transport Authority - Goodwood Parade Shared Path Project

Location	Burswood
Reporting officer	Patrick Bingham
Responsible officer	John Wong
Voting requirement	Simple majority
Attachments	1. L 7506 Licence to Occupy to the Town of Victoria Park_ [12.2.1]

Recommendation

That Council authorises the Chief Executive Officer and Mayor to execute the Public Transport Authority's Licence to Occupy Agreement for the Goodwood Parade Shared Path project, as included in Appendix 1.

Purpose

One of the Town's Capital Works projects for 2018/19 is the construction of a shared path along Goodwood Parade between Great Eastern Highway and Riversdale Road, Burswood. In order to commence construction, a licence agreement needs to be executed with the Public Transport Authority to allow a portion of the Town's path to enter land under their control, mainly to ensure the retention of mature trees where possible.

In brief

- A small portion of the Town's proposed shared path on Goodwood Parade is located within the rail reservation alongside Burswood Train Station
- The Public Transport Authority have prepared a Licence to Occupy Agreement ('the Agreement') which needs to be executed to allow the Town to construct the portion of the proposed path located within the rail reserve
- The Agreement is to be executed by the Town before construction works can commence

Background

1. The Town of Victoria Park and the Department of Transport have partnered to deliver improved walking and cycling facilities along Goodwood Parade, Burswood. The aim of this project is to provide a safe and convenient path for pedestrians and bike riders within the gap located between the existing Principal Shared Paths along the Graham Farmer Freeway and Welshpool Road.

2. The portion of the route between Great Eastern Highway and Griffiths Street has been proposed to be located within the Public Transport Authority (PTA) managed rail reserve to ensure the retention of existing mature or significant trees where possible.
3. Negotiations with PTA have been ongoing since February 2018 regarding the land access. An agreement has finally been reached where the PTA will now allow the Town to construct a portion of the shared path within the rail reserve subject to the execution of the Agreement (Licence to Occupy).
4. A Licence to Occupy (reference L 7506) has subsequently been prepared by PTA's Property Management department. The Agreement must be executed before construction works can commence. The extent of the subject land is approximately 1,725m² and is shown on a drawing appended to the licence.
5. The term of licence is ten (10) years commencing on 1st June 2019 and ending on 31st May 2029. The licence fee payable by the Town is \$1.00 each year and payable, if and when demanded. Six months before the licence expiry, the Town will be approached by PTA's appointed agent to determine whether licence renewal is required. The negotiations would then commence for the Town to enter into a new licence if required.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	The shared path has been partially located within the rail reserve in order to preserve the existing trees along Goodwood Parade. Partnering with Department of Transport allows the Town to realise external funding and reduce usage of municipal funding.

Economic	
Strategic outcome	Intended public value outcome or impact
EC02 - A clean, safe and accessible place to visit.	The proposed path creates a safe non-motorised link through the industrial area, making the route more attractive for users thus increasing visibility of nearby business.

Environment	
Strategic outcome	Intended public value outcome or impact
EN02 - A safe, interconnected and well maintained transport network that makes it easy for everyone to get around.	Cyclists using the route will be able to move between Graham Farmer Freeway and Great Eastern Highway away from the industrial traffic and heavy parking in the area.

EN03 - A place with sustainable, safe and convenient transport options for everyone.	The shared path links to the Burswood Train Station and will eventually complete a larger link between Armadale and the CBD for cyclists. Continuing to provide safe and efficient cycling facilities will encourage and facilitate more frequent use of bicycles rather than motorised vehicles, for commuting, transport or recreational journeys. Reducing vehicle dependency will help reduce vehicle emissions and vehicle noise
EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed.	By using the rail reserve for the path alignment, the path has been located away from existing trees to minimise future damage by root growth. The need for ongoing tree canopy pruning is reduced too.

Engagement

Internal engagement	
Stakeholder	Comments
<i>Parks</i>	<i>They approve of the proposed path alignment as it eliminates any removal of existing trees and the cutting of shallow roots that may affect the health of the tree.</i>

Other engagement	
Stakeholder	Comments
<i>Department of Transport</i>	<i>The Department of Transport has been involved in negotiations with PTA to support the Town's proposal for the path to be located within the rail reserve.</i>
<i>Public Transport Authority</i>	<i>PTA's Cycling Coordinator has advocated to internal departments of PTA to approve the path alignment and to provide a Licence to Occupy for the Town, which has ultimately been successful.</i>

Legal compliance

[Section 5.42 of the Local Government Act 1995:](#)

Register of Delegation of Authority –Delegation 30.2 'Sign Formal Contract Documents and Affix Common Seal' grants delegation to the CEO on condition that the contract has received prior Council approval.

Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance Execution of licence without appropriate delegation	Moderate	Unlikely	Moderate	Do not proceed to execute licence without Council resolution
Compliance	Moderate	Unlikely	Moderate	Execute licence

Licence not executed and therefore project not proceed and DoT funding lost				
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Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation with \$400,000 allocated to the project this financial year. The project is funded on a 50:50 basis by the Department of Transport up to a cap of \$200,000. Progressing to construction will allow the Town to claim the next milestone payment of \$40,000. Subsequent milestone payments are \$40,000 upon completion of construction and the marking of the path lines. A further payment of up to \$80,000 is claimable upon acquittal of the project. If PTA demand for the payment of the licence fee of \$1, it can be funded from the Street Operations operating budget. It is likely, due to the time taken to liaise with the PTA on this issue, that the majority of the budget allocated to this project will be carried forward into next year's budget.
Future budget impact	Likely carry forward of the majority of funds for this project into the 2019/20 annual budget

Analysis

- Preparations for the construction works are currently on hold until the licence is executed. As the construction works are in the vicinity of the railway, PTA require other approvals in relation to the construction processes but will not consider the Town's Contractor's submissions until the licence is in place. It is highly likely that the timeframe for PTA approvals will lead to a carry forward of the budget for this project.

Relevant documents

The Town's Integrated Movement Network Strategy (IMNS) and Bike Plan promote improved cycling infrastructure in order to encourage greater uptake of cycling to complement Community Wellbeing, improved transport network and safe, attractive streetscapes.

The Town is committed to delivering the project which is listed as one of the high priority actions in the Town's Integrated Movement Network Strategy (IMNS) developed in June 2013. Strategy element CW4 states the following: "supports the general increase of off-road shared paths throughout the Town and supports the extension of the Principal Shared Path network along the urban rail corridor".

13 Chief Financial Officer reports

14 Committee Reports

14.1 Recommendation from the Finance and Audit Committee - Financial statements for the month ending 31 March 2019

Location	Town-wide
Reporting officer	Bonnie Hutchins
Responsible officer	Ann Thampoe
Voting requirement	Simple majority
Attachments	{attachment-list-do-not-remove}

Recommendation from the Finance and Audit Committee

That Council:

1. Accepts the Financial Activity Statement Report – 31 March 2019, as attached; and
2. Investigate the inclusion of a budgeted cash position line in the total cash holdings graph in future financial statements.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 31 March 2019.

In brief

- The financial activity statement report is presented for the month ending 31 March 2019.
- The report complies with the requirements of Regulation 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996.

Background

1. Regulation 34 of the Local Government (Financial Management) Regulation 1996 states that each month, officers are required to prepare monthly financial reports covering prescribed information, and present these to Council for acceptance.
2. As part of the monthly financial reports, material variances are reported. Thresholds are set by Council and are as follows:
 - a) Revenue
Operating revenue and non-operating revenue – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and, in these instances, an explanatory comment has been provided.
 - b) Expense
Operating expense, capital expense and non-operating expense – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and in these instances, an explanatory comment has been provided.
3. For the purposes of explaining each material variance, a three-part approach has been applied. The parts are:

- a) Period variation
 - Relates specifically to the value of the variance between the budget and actual figures for the period of the report.
- b) Primary reason(s)
 - Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.
- c) End-of-year budget impact
 - Forecasts the likely financial impact on the end-of-year financial position. It is important to note that figures in this part are 'indicative only' at the time of reporting and may subsequently change prior to the end of the financial year.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL06 - Finances are managed appropriately, sustainability and transparently for the benefit of the community.	To make available timely and relevant information on the financial position and performance of the Town so that Council and public could make informed decision for the future.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	Ensure Town meets its legislative responsibility in accordance with Regulation 34 of the Local Government (Financial Management) Regulation 1996.

Engagement

Internal engagement	
Service Area Leaders	All Service Area Leaders have reviewed the monthly management reports and provided commentary on any identified material variance relevant to their service area.

Legal compliance

[Regulation 34 of the Local Government \(Financial Management\) Regulations 1996](#)

Risk management consideration

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Financial impact Misstatement or significant error in financial statements	Major	Unlikely	Moderate	Daily and monthly reconciliations. Internal and external audits.
Compliance Misstatement or	Moderate	Unlikely	Moderate	Internal review of monthly financial

significant error in financial statements				activity statement. External audits of monthly financial statements.
Financial impact Fraud and illegal acts	Catastrophic	Rare	Moderate	Stringent internal controls. Internal audits. Segregation of duties.

Financial implications

Current budget impact	Commentary around the current budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.
Future budget impact	Commentary around the future budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.

Analysis

The Financial Activity Statement Report – 31 March complies with the requirements of Regulation 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996. It is therefore recommended that the Financial Activity Statement Report – 31 March be accepted.

Relevant documents

Not Applicable

Further consideration

At its meeting on 29 April 2019 the Finance and Audit Committee provided an additional recommendation to Council to investigate the inclusion of a budgeted cash position line in the total cash holdings graph in future financial statements. Administration will investigate options to reflect the request change and provide findings at the next Finance and Audit Committee meeting.

14.2 Recommendation from the Finance and Audit Committee - Schedule of Accounts for March 2019

Location	Town-wide
Reporting officer	Bonnie Hutchins
Responsible officer	Luke Ellis
Voting requirement	Simple majority
Attachments	{attachment-list-do-not-remove}

Recommendation from the Finance and Audit Committee

That Council:

1. Confirms the accounts for 31 March 2019, as included in the attachment, pursuant to Regulation 13 of the Local Government (Financial Management) Regulations 1996.
2. Confirms the direct lodgement of payroll payments to the personal bank accounts of employees, pursuant to Regulation 13 of the Local Government (Financial Management) Regulations 1996.

Purpose

To present the payments made from the municipal fund and the trust fund for the month ended 31 March 2019.

In brief

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

Background

1. Council has delegated the Chief Executive Officer the authority to make payments from the municipal and trust funds in accordance with the Local Government (Financial Management) Regulations 1996.
2. Under Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, each payment is to be noted on a list compiled for each month showing:
 - a) the payee's name
 - b) the amount of the payment
 - c) the date of the payment
 - d) sufficient information to identify the transaction
3. That list should then be presented at the next Ordinary Meeting of the Council following the preparation of the list and recorded in the minutes of the meeting at which it is presented.

4. The list of accounts paid in accordance with Regulation 13 of the Local Government (Financial Management) Regulation 1996 is contained within the attachment and is summarised below.

Fund	Reference	Amounts
Municipal Account		
Automatic Cheques Drawn	608541 - 608551	26,055
Creditors – EFT Payments		4,840,725
Payroll		1,698,859
Bank Fees		6,562
Corporate MasterCard		3,857
		6,576,058
Trust Account		
Automatic Cheques Drawn	3652 - 3659	9,490
		9,490

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL06 - Finances are managed appropriately, sustainability and transparently for the benefit of the community.	The monthly payment summary listing of all payments made by the Town during the reporting month from its municipal fund and trust fund provides transparency into the financial operations of the Town.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	The presentation of payment listing to Council is a requirement of Regulation 13 of Local Government (Finance Management) Regulation 1996.

Legal compliance

[Section 6.10\(d\) of the Local Government Act 1995](#)

[Regulation 13 of the Local Government \(Financial Management\) Regulation 1996](#)

Risk management consideration

Risk and Consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and Actions
Compliance Council not accepting Schedule of Accounts	Moderate	Unlikely	Moderate	Provide reasoning and detailed explanations to Council to enable informed decision making.
Financial impact Misstatement or significant error in Schedule of	Major	Unlikely	Moderate	Daily and monthly reconciliations. Internal and

Accounts				external audits.
Financial impact Fraud and illegal acts	Catastrophic	Rare	Moderate	Stringent internal controls. Internal audits. Segregation of duties.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

All accounts paid have been duly incurred and authorised for payment as per approved purchasing and payment procedures. It is therefore requested that the Committee recommend that Council confirm the payments, as included in the attachments.

Relevant documents

[Procurement Policy](#)

Further consideration

The members of the Finance and Audit Committee sought further information on a number of payments made in March 2019. The following list represents the questions and answers associated with the request for further information.

- Ausfleet Software - Software and IT Solutions

This payment relates to the yearly subscription for Ausfleet Fleet Management software.

- Creative ADM – Advertising Services

This relates to multiple invoices which include collateral for the Town's 25th Anniversary Celebration as well as brand refresh services.

- CA Technology Pty Ltd – Audit Services Engineering

This payment relates to software modifications, technical deployment, configuration and training for existing project management software.

- Cadgroup Australia – Software and IT Solutions

This relates to the yearly subscription renewal of Drafting Design program and maintenance plan software.

- Data#3 Limited – Software and IT Solutions

This payment relates to two invoices. One being the desktop renewal project and the other being assistance with the agenda and minutes software project.

- Element Advisory – Town Planning Service

This relates to services for the review of Residential Character Study and Local Planning Policy 25 Streetscape.

- Fleet Commercial – Equipment Supply and Repair

This relates to the purchase of new equipment for the gym as per approved capital works program.

- Harbour Software – Software and IT Solutions

This relates to costs involved in the implementation of agenda and minute software with live voting capability.

- Kool-line Electrical & Refridgeration – Electrical Services and Maintenance

This relates to the supply, installation and take down of the Christmas decorations within the Town of Victoria Park.

- Links Modular Solutions – Software and IT Solutions

This relates to the final payment for implementation of the Leisure Facility Management software system installed at Leisurelife and Aqualife centres.

- McLeods – Legal Services

This relates to multiple invoices for legal advice provided to the areas of parking, leasing and building and planning.

- Minter Ellison – Legal Services

This relates to legal advice provided to the area of Human Resources.

- Redman Solutions – Software & IT Solutions

This invoice relates to the renewal of licenses for Email Archive Manager software.

- Véraison – Organisational Development Services

This invoice relates to the facilitation of two workshop's for Elected Members.

- WALGA – Local Government services

This relates to multiple invoices for services provided by WALGA including subscription to salary and workforce survey and registration to WALGA events.

14.3 Recommendation from the Finance and Audit Committee - FIN3 - Debt Collection Policy

Location	Town-wide
Reporting officer	Bonnie Hutchins
Responsible officer	Luke Ellis
Voting requirement	Simple majority
Attachments	{attachment-list-do-not-remove}

Recommendation from the Finance and Audit Committee

That Council adopt FIN3 – Debt Collection Policy subject to the deletion of the word "annually" from point five of the policy statement.

Purpose

This report presents a Debt Collection Policy for the recovery of overdue monies owed to the Town.

In brief

- The Finance and Audit committee is asked to recommend that the Debt Collection Policy FIN3 be approved at Council.
- The information required for Council to make this decision is included in the attachment.

Background

1. As part of continuous policy review, it was identified that the current endorsed Debt Collection Policy (FIN3) was at times inadequate in its policy principles for the identification, implementation, collection and accounting for debt requiring a full review.
2. The renewed policy provides clarity on asset classes, principles of collection as well as clear debt collection steps for the recovery of rates and service charges, sundry debtors and infringements.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL06 - Finances are managed appropriately, sustainability and transparently for the benefit of the community.	The debt collection policy provides guidance and transparency into the financial operations of the Town.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	The collection of debts by the Town are required to adhere to regulations within the Local Government (Finance Management) Regulation 1996 and guided by the Local Government Act.

Legal compliance

[Local Government \(Financial Management\) Regulations 1996 – Reg 5](#)

Risk management consideration

Risk and Consequence	Consequence rating	Likelihood rating	Overall analysis risk	Mitigation and Actions
Compliance: The policy being inconsistent with Act and Regulations	Major	Unlikely	Moderate	The proposed policy has been checked against relevant legislations to ensure compliance
Financial Impact: The policy not providing clear guidelines on the controls expected for debt collection by the Town	Major	Unlikely	Moderate	The policy and associated management practice have been created utilising industry examples and guidelines to ensure it is compliant and easily applied to the operation of the Town

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- The attached Debt Collection Policy ensures compliance with The Local Government (Financial Management) Regulation 1996 – Regulation 5 and is guided by the Local Government Act 1995. It also takes into account any requirements within AASB (Australian Accounting Standards Board). The policy provides the Chief Executive Officer a framework to establish and implement appropriate controls and procedures for management and collection of debts owed to the Town.

Relevant documents

Debt Collection Management Practice.

Further consideration

At its meeting on 29 April 2019 the Finance and Audit Committee provided a conditional recommendation to Council relating to the removal of the word “annually” from policy statement 5 in order to provide for the recognition of unrecoverable debt more often.

15 Applications for leave of absence

16 Motion of which previous notice has been given

16.1 Mayor Vaughan – Naming of Parks and Reserves

In accordance with clause 4.3 of the *Town of Victoria Park Standing Orders Local Law 2011*, Mayor Trevor Vaughan has submitted the following notice of motion.

Motion

That Council requests that the Chief Executive Officer investigates the naming of parks and/or reserves after women who have made a significant contribution to the Town, and presents a report back to Council at its August 2019 Ordinary Council Meeting.

Reason

The Town does not have any parks or reserves named after women. The council need to recognise women who have made significant contribution in the Town of Victoria Park. There are a number of parks and reserves that are not named after people for example Mint Street Reserve. These parks and reserves could have their name changed to recognise women. A change of name has happened previously in the renaming of Alan Gurney Park.

Strategic alignment

Social	
Strategic outcome	Intended public value outcome or impact
S01 - A healthy community.	Recognition of achievements of women in the Town.
S03 - An empowered community with a sense of pride, safety and belonging.	Empowering of women in the community and giving them greater pride in their achievements.

Officer response to notice of motion

Location	Town-wide
Reporting officer	Ruth Schofield
Responsible officer	Kaitlyn Griggs
Voting requirement	Simple majority

Officer comment

1. Aligned to the Town's GEN4 Commemorative Recognition Policy, Council is committed to honouring individuals, organisations or events that have made a significant contribution to the Town or the development of Western Australia.
2. The Town is compiling a list of women, both deceased and living, who have made a significant contribution to the local community or the development of Western Australia.
3. Additionally, the Town's Aboriginal Engagement Advisory Group (AEAG) is supporting the Town to compile a list of local Wadjuk family groups, individuals and women of the Noongar nation. The AEAG advocates for the consideration of Aboriginal women, who have made significant contribution to the cultural heritage of Victoria Park, to be included in the investigation of the naming of parks and or reserves.

4. Under the legislated delegated authority of the Minister for Lands, Landgate administers all official naming actions for Western Australia.
5. Council will follow the requirements of the Geographic Naming Committee Western Australia's Principles, Guidelines and Procedures as required.
6. The Town will provide a report back to Council by August 2019 with outcomes of the investigation.

Legal compliance

[Section 26 and 26 A of the Land Administration Act 1997](#)

Risk management considerations

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Reputational Failure to observe GEN4 Commemorative Recognition policy and management practices may create unrealistic and unsustainable community expectations for future Commemorative Recognition applications.	Moderate	Likely	High	All commemorative recognition applications adhere to GEN4 Commemorative Recognition policy and management practice to ensure equity for all future application consideration.

Financial implications

Current budget impact	Funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Relevant documents

[GEN4 Commemorative Recognition](#)

16.2 Cr Vernon – Tree Protection Local Law

In accordance with clause 4.3 of the *Town of Victoria Park Standing Orders Local Law 2011*, Cr Karen Vernon has submitted the following notice of motion.

Motion

That Council

1. Requests the Chief Executive Officer to report to Council at its June 2019 Ordinary Council Meeting as to whether a local law can be made for the protection of trees on private land.
2. Requests that a timeline for the making of such local law be included in the report if applicable.

Reason

The Council adopted its Urban Forest Strategy (UFS) in September 2018 with an ambitious target to increase the Town's urban forest canopy, whilst also requiring the protection of the existing urban forest canopy. This motion is about taking steps to protect the existing urban forest canopy on private land.

We are seeing a reduction in the number of large trees on private land as a result of increasing urban development. Trees are also being removed by private landowners for other reasons such as maintenance and convenience, but are often not replaced.

The current proposal to introduce a Local Planning Policy for the retention and planting of trees on private land as part of planning and development processes is an important step in linking the UFS goals to developments in the Town. However, the proposed policy will only be applicable once a development application is submitted, and there are a number of proposed limitations on its application.

At present, a landowner can demolish a single dwelling without Council approval, cut down all the trees on their property without Council permission, and only then apply for development approval. By doing so, the tree canopy has been lost, and the landowner can avoid the tree retention aspect of the proposed local planning policy.

At the Annual Meeting of Electors on 18 December 2018, a motion was passed for the reinvigoration of the Town's Significant Tree Register, which is another important initiative to recognise and value our urban forest, but it is dependent on our community to nominate trees for the Register.

As a Council we must act comprehensively to protect and maintain the existing tree canopy by recognising, valuing and protecting trees on private land. This can best be achieved if the Council can make a local law giving legal powers to the Town to regulate the removal and pruning of trees on private land, which will complement the proposed Tree Retention and Planting local planning policy.

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN04 - A clean place where everyone knows the value of waste, water and energy.	Protecting our tree canopy will:

	• provide amenities in streetscapes, microclimate and social values • ameliorate climate changes which helps reduce energy use • provide shelter from rain and storm damage by absorbing energy, reducing impacts on people and structures from wind, rain, hail, heat and cold (See Urban Forest Strategy)
EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed.	• Green suburbs are healthier and seen as more valuable • Trees provide amenity and environmental benefits that enhance quality of life and improve physical and mental health (See Urban Forest Strategy).
EN07 - Increased vegetation and tree canopy.	• To protect the loss and degradation of our tree canopy on private land that is occurring as a result of uncontrolled removals and pruning of trees.

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	• To support and assist the Town in delivering the successful implementation of the Urban Forest Strategy and its outcomes • To inspire, lead and engage our community through to achievable outcomes from the Urban Forest Strategy • The community knows that enhancing the urban tree canopy will improve our quality of life and add value to properties
CL07 - People have positive exchanges with the Town that inspires confidence in the information and the timely service provided.	• To inspire and lead our community in supporting and implementing the Urban Forest Strategy
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	• To provide the Town with formal powers to regulate the removal and pruning of trees on private land, including the power to impose penalties for breaches in order to protect our urban forest. • To complement other measures being applied by the Town to protect the tree canopy such as the Urban Forest Strategy and local planning policies.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	• To give the Town legislative responsibility to regulate the removal and pruning of trees on private land in order to protect our urban forest.

Social	
Strategic outcome	Intended public value outcome or impact

S01 - A healthy community.	Trees contribute to community health outcomes (See the Urban Forest Strategy)
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Officer response to notice of motion

Location	Town-wide
Reporting officer	Liam O'Neill
Responsible officer	Danielle Uniza
Voting requirement	Simple majority

Officer comment

1. Local laws relating to the protection of trees on private property are not currently in place in Western Australia. A [paper developed by Michelle Lensink MLC \(South Australia\)](#) runs through the different means through which different states and territories protect trees. In Victoria and Queensland, local laws are made by local governments for the protection of trees. The Brisbane City Council [Natural Assets Local Law 2003](#) and City of Darebin [Tree Protection Local Law 2019](#) are examples.
2. Currently Western Australian local governments manage trees through their Town Planning Schemes and Local Planning Policies. Preliminary research indicates that a local law of this nature has not been made by any local government in Western Australia. Should Council make this resolution, a further report would be presented to the June Ordinary Council Meeting to ascertain whether a local law of this nature can be made. This would include seeking advice from the Department of Local Government, Sports and Cultural Industries, examining decisions of the Joint Standing Committee on Delegated Legislation, seeking feedback from other local governments that have previously considered this approach, and, if applicable, assessing internal capability and resources, in order to produce a timeline as suggested in point two of the motion.
3. Noting that work towards this motion can only commence once it is carried by resolution of Council and in line with clause 13.3 of the *Town of Victoria Park Standing Orders Local Law 2011*, the motion, seeking a further report to be presented at the June OCM, will only allow the Town two to three days to conduct the proposed investigation. While the Town will endeavour to address the requirements of the motion in the time provided, it is worth noting that the quality of the further report presented may be impacted due to the short turnaround time.

Legal compliance

[Section 3.5 of the Local Government Act 1995](#)

Risk management considerations

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
Compliance Tree Protection Local Law is disallowed for not being within power.	Moderate	Possible	Moderate	Engage closely with Department of Local Government, Sport and Cultural Industries on development of Local Law. Seek independent

				external legal advice.
Quality The short turnaround time to conduct research and make appropriate enquiries may impact on the quality of advice contained in the further report requested.	Moderate	Likely	High	Seeking a further report in July instead of June will allow the Town to better respond to the requirements of the motion.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Relevant documents

Nil.

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 the public

21.1 Matters for which the meeting may be closed

21.2 Public reading of resolutions which may be made public

22 Closure