

# minutes

Ordinary Meeting of Council



To: His Worship the Mayor and Councillors

Please be advised that an Ordinary Council Meeting commenced at **6.30pm** on **Tuesday 9 December 2014** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

A handwritten signature in blue ink, appearing to read "Tina Ackerman".

**MS TINA ACKERMAN**  
**A/CHIEF EXECUTIVE OFFICER**

15 December 2014

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(To be confirmed 10 February 2015)

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(To be confirmed 10 February 2015)

## 1 OPENING

Mayor Vaughan declared the meeting open at 6.31pm. The A/Chief Executive Officer read the prayer.

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

And to Thee, be all blessing and glory forever.

AMEN

### Acknowledgement of Country (by Mayor)

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

## 2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

- There are guidelines that need to be adhered to in our Council meetings and while we are not as strict as we could be, it is important to remember that during question and statement time, I would like to request that the people speaking do not personalise any questions or statements about Elected Members or staff or use any possible defamatory remarks.
- At the conclusion of the Public Question Time, Public Statement Time and Deputations, Elected Members may debate items on the Agenda. Members of the public are therefore invited to remain in attendance should they wish to hear the debate and the Council's determination regarding each Agenda Item.
- The Mayor offered his congratulations to everyone involved in My Life My Place held at Burswood on Wednesday 3 December 2014, it was good to see such an inclusive event.
- City of South Perth and Town of Victoria Park residents will vote on the amalgamation of the Councils on 7 February 2015.

(To be confirmed 10 February 2015)

### 3 ATTENDANCE

<b>Mayor:</b>	Mr T (Trevor) Vaughan
<b>Banksia Ward:</b>	Cr C (Claire) Anderson (Deputy Mayor) Cr J (John) Bissett Cr K (Keith) Hayes Cr M (Mark) Windram
<b>Jarraah Ward:</b>	Cr V (Vince) Maxwell Cr D V (Vin) Nairn Cr B (Brian) Oliver
<b>A/Chief Executive Officer:</b>	Ms T (Tina) Ackerman
<b>Director Future Life &amp; Built Life</b>	Ms R (Rochelle) Lavery
<b>A/Director Renew Life</b>	Mr W (Warren) Bow
<b>A/Director Community Life</b>	Ms J (Jude) Thomas
<b>Director Business Life</b>	Mr N (Nathan) Cain
<b>Executive Manager Built Life:</b>	Mr R (Robert) Cruickshank
<b>Secretary:</b>	Ms G (Gaye) Last
<b>Public:</b>	31

#### 3.1 Apologies

<b>A/Chief Executive Officer:</b>	Mr A (Anthony) Vuleta
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#### 3.2 Approved Leave of Absence

<b>Jarraah Ward:</b>	Cr V (Vicki) Potter
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### 4 DECLARATIONS OF INTEREST

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

#### Declaration of Financial Interest

Nil

(To be confirmed 10 February 2015)

**Declaration of Proximity Interest**

Name/Position	<b>Cr Vin Nairn</b>
Item No/Subject	Item 11.2 – 1032 (Lot 8) Albany Highway, East Victoria Park – Application for Change of Use to Restaurant and Alterations to Commercial Building
Nature of Interest	Proximity
Extent of Interest	Own premises at 1026 Albany Highway

Name/Position	<b>Cr Vin Nairn</b>
Item No/Subject	11.5 – 1019 (Lot 5) Albany Highway, St James – Retrospective Approval for Modification to Planning Approval (Patron Numbers)
Nature of Interest	Proximity
Extent of Interest	Own premises at 1026 Albany Highway

Name/Position	<b>Cr Vin Nairn</b>
Item No/Subject	Item 11.9 – 1022-1024 (Lot 1) Albany Highway, East Victoria Park – Mixed Use Development (Shops, Fast Food Outlet and 40 Multiple Dwellings – section 31 Reconsideration (Confidential Item)
Nature of Interest	Proximity
Extent of Interest	Own premises at 1026 Albany Highway

**Declaration of Interest affecting impartiality**

Name/Position	<b>Cr Vin Nairn</b>
Item No/Subject	Item 12.1 – Proposed Lease of Premises at 18 Kent Street, East Victoria Park Carlisle Bowling Club Inc.
Nature of Interest	Impartiality
Extent of Interest	Member of Victoria Park Bowling Club

(To be confirmed 10 February 2015)

Name/Position	<b>Cr Vin Nairn</b>
Item No/Subject	Item 12.3 – Construction of a Memorial Wall at the Victoria park Returned and Services League of Australia (RSL) Property, 1 Fred Bell Parade, East Victoria Park.
Nature of Interest	Impartiality
Extent of Interest	Member of Victoria RSL

Name/Position	<b>Cr John Bissett</b>
Item No/Subject	Item 12.3 – Construction of a Memorial Wall at the Victoria park Returned and Services League of Australia (RSL) Property, 1 Fred Bell Parade, East Victoria Park.
Nature of Interest	Impartiality
Extent of Interest	Member of Victoria RSL

## 5 PUBLIC QUESTION TIME

Nil

## 6 PUBLIC STATEMENT TIME

### Joe Algeri

Mr Algeri made a statement regarding item 11.2 dealing with an application for change of use to a restaurant and the number of parking bays available for patrons.

### Katie McInerney

Ms McInerney made a statement regarding Item 11.3, 63 (Lot 8) Ashburton Street, planning application for additions to and existing dwelling.

### Steve Lozyk

Mr Lozyk made a statement regarding Item 11.7 and drawings that have been submitted regarding the sea containers.



## **7 CONFIRMATION OF MINUTES**

### **RESOLVED:**

**Moved: Cr Hayes**

**Seconded: Cr Maxwell**

**That the minutes of the Ordinary Council Meeting held on Tuesday, 11 November 2014 be confirmed.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

## **8 PRESENTATIONS**

### **8.1 Petitions**

Nil

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

Nil

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

Nil

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

Nil

(To be confirmed 10 February 2015)

**10 CHIEF EXECUTIVE OFFICER REPORTS****10.1 Review of Ward Structure for Proposed new Local Government**

<b>File Reference:</b>	GOV/1/0001~02
<b>Appendices:</b>	No

<b>Date:</b>	17 November 2014
<b>Reporting Officer:</b>	R. Fishwick
<b>Responsible Officer:</b>	A. Vuleta
<b>Voting Requirement:</b>	Absolute Majority

**Executive Summary:**

**Recommendation – That the Council revokes its decision of a preferred five (5) ward structure and ten (10) councillors for the proposed local government of the City of South Park and adopts a new preferred ward structure of six wards (6) and twelve (12) councillors as proposed by the City of South Perth.**

- The Council on 10 June 2014 adopted a preferred ward structure of five (5) wards and 10 councillors for the proposed new local government if the City of South Perth and the Town of Victoria Park were to be amalgamated.
- The Local Government Advisory Board (LGAB) has recommended to the Minister for Local Government that the new local government comprise twelve (12) councillors and a district ward (which means no wards).
- The Town may wish to have on record that it now supports the City of South Perth's proposal of a six (6) ward structure with twelve (12) councillors given the recommendation made by the LGAB.

**TABLED ITEMS:**

Nil

**BACKGROUND:**

The Department of Local Government and Communities and the Local Government Advisory Board (LGAB) through the reform process required nomination by both the City of South Perth and the Town of Victoria Park on key details for the potential new local government in preparation of the Governors Orders (the Orders).

The Orders formally implement the creation of new or altered local governments. The Orders will describe in detail the new district boundaries and include the starting names and dates of the new local governments, whether there are wards and the wards' names and the number of councillors. They will also cover a range of other technical matters.

Once they are complete and signed by the Governor, the orders will be published in the Government Gazette.

Under the *Local Government Act 1995*, they take effect from the date they are published or the date specified in the orders.

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(To be confirmed 10 February 2015)

Specifically, items required for the Orders include:

- The name of the new organisation;
- The Ward structure;
- The number of Elected Members; and
- The method of Mayoral election.

These were required to be submitted to the LGAB from reforming local governments by 13 June 2014.

The Council therefore at its meeting held 10 June 2014 when considering a proposed ward structure for the new local government to be established following the amalgamation of the City of South Perth, the Town of Victoria Park and that portion of the City of Canning north up to Leach Highway resolved as follows:

1. *Advises the Local Government Advisory Board by 13 June 2014 that the name of the potential new local government should be 'South Bank City Council'.*
2. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred Ward structure for the potential new local government should be a five (5) ward structure identified as the Five Ward Scenario Plan dated 6 June 2014.*
3. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred elected representative structure for the potential new local government is 11 elected members, comprising two (2) Councillors from each Ward (10) and a Mayor (1).*
4. *Advises the Local Government Advisory Board by 13 June 2014 that the method of Mayoral election should be by popular election.*
5. *Endorses the Memorandum of Understanding as contained within the Appendices, with modification to reference the preferred five (5) Ward model.*

The above decision was communicated to the LGAB prior to the 13 June 2014 as part of the submission from the Town of Victoria Park on the Local Government Reform.

### **LGAB – Ward Structure**

The LGAB upon completion of its inquiries into Local Government Reform made inter alia recommendations to the Minister for Local Government (the Minister) to abolish the districts of the City of South Perth and the Town of Victoria Park and amalgamate them into a new local government district.

The LGAB when reviewing the submissions from City of South Perth and Town of Victoria Park acknowledged that whilst both submitted a joint proposal for amalgamation, there was not an agreed position on a ward structure for the proposed new entity.

(To be confirmed 10 February 2015)

The City of South Perth’s preference was for a six ward structure and the Town of Victoria Park specified a five ward structure. The LGAB also acknowledged that both local governments supported a ward structure however a formal agreement was not reached between the two local governments on this matter.

The LGAB’s view was that equitable representation and engendering a whole of council approach is enhanced by a district ward structure. The LGAB noted the existing strong communities of interest between the districts as well as comparable local economies and demographic trends that could benefit from a district ward approach. The LGAB believed that a district ward (no wards) would effectively represent the new local government. The LGAB therefore recommended that the new local government operate under a district ward structure.

**LGAB - Representation**

The City of South Perth’s representation preference was for 12 offices of councillor, and the Town of Victoria Park’s preference was for 10 offices of councillor.

There was no agreement between the two affected local governments on the level of representation. The LGAB therefore recommended that the new entity have a total of 12 offices of councillor to support the new local government.

Both local governments will be abolished and all offices of councillor will be disestablished on 30 June 2015.

**DETAILS:**

Taking cognisance of the LGAB’s recommendation to have a total of 12 offices of councillor to support the new local government it would seem logical that if a ward structure was to be introduced for the new local government then there should be equal representation of offices of councillor in each ward. Various scenarios of office of councillor for wards could be considered for the new local government as follows:

<b>Wards</b>	<b>Office of Councillor in each Ward</b>
Two (2)	Six (6)
Three (3)	Four (4)
Four (4)	Three (3)
Six (6)	Two (2)
Twelve (12)	One (1)

In its report on Local Government Reform, the Town’s Administration recommended to the Ordinary Meeting of Council on the 10 June 2014 (Item 10.1 refers) inter alia that:

- “2. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred Ward structure for the potential new local government should be a six (6) Ward model, as per the plan contained within the Appendices;*

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(To be confirmed 10 February 2015)

3. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred elected representative structure for the potential new local government is 11 elected members, comprising two (2) Councillors from each Ward (10) and a Mayor (1)."*

The abovementioned recommendations were based on a six (6) ward model with twelve (12) offices of councillor and were in line with the adopted position of the Local Implementation Committee and the City of South Perth.

The Council's adopted position on a preferred five (5) ward structure could now be reviewed given that it was based on 10 offices of councillor and that the LGAB has now recommended to the Minister that there be 12 offices of councillor in the new local government.

**Legal Compliance:**

There is no provision in the *Local Government Act 1995* which would allow the Town to withdraw its proposal after it has been made to the LGAB.

However, the Town may advise the LGAB that it no longer supports the proposal to have five (5) wards and now supports the six (6) ward proposal submitted by the City of South Perth.

**Policy Implications:**

The Town does not have any formally adopted Policy regarding local government reform.

**Strategic Plan Implications:**

Nil

**Financial Implications:**

Sufficient funds are available within the 2014-2015 Budget to progress planning for reform. Detailed consideration of future funding needs will need to be given by Council in planning for the 2015-2016 financial year Budget.

**Sustainability Assessment:**

On behalf of the local government sector, the Western Australian Local Government Association concluded the Systemic Sustainability Study in 2007. This Study presented a suite of recommendations to improve the overall sustainability of the local government sector which included amalgamations.

**COMMENT:**

The Council is unable to withdraw its previous proposal submitted to the LGAB should it now wish to alter its preferred ward structure for the new local government from a five (5) ward structure to a six (6) ward structure with twelve (12) councillors.

The Town may however lodge a further proposal with the LGAB at any time. In practical terms, however, any further proposal should have been made before the LGAB delivered its recommendations to the Minister on those earlier proposals affecting the Town

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(To be confirmed 10 February 2015)

The proposed new local government (City of South Park) can submit a proposal to the LGAB to implement a ward structure (say 6 wards as proposed by the City of South Perth). This could be a resolution of the new local government under the appointed commissioners. If such a proposal was submitted to the LGAB and it was supported by the LGAB then the process to follow would not enable the wards to be in readiness for the October 2015 elections. In fact the commissioners appointed would be retained until say March 2016 before an election could be conducted under the new proposed six (6) ward structure.

### **Option 1 – Six (6) Ward Structure**

The advantages of a “6 Ward” Structure include:

- There will be twelve (12) Councillors with two (2) in each ward and thereby the same number of vacancies at each election.
- Electors within each of the six (6) wards have an affiliation with their Ward Representatives.
- Extra-ordinary elections only impact on one ward and not the entire district thereby reducing election costs.

### **Option 2 – No Ward Structure**

The advantaged of a “No Ward” structure include:

- All Councillors represent all people within the proposed new local government irrespective of where the people live or work in the district or which area elected them.
- The simplest/easiest method to elect Councillors is to allow all electors to have the opportunity to elect all the Councillors who represent them and make decisions on all their behalf.
- If the decision is not made to retain the “no ward” scenario it will continue to cost the proposed new local government time and money in having to conduct ward reviews and hold extraordinary elections (if councillors leave/resign during their term).

The “no ward” structure may result in additional issues with access to candidates during council elections. A concern is that the larger area and an increase in the number of electors would potentially increase the cost of running an election campaign and may restrict access for independent candidates seeking election particularly if preferential voting is reintroduced.

Adoption of Option 2 could potentially avoid the need to hold extraordinary elections (s4.17(3) of the Act) should a vacancy occur between elections, providing at least 80% of the positions on the Council remain filled.

Any increase or decline in growth throughout the proposed new local government would not impact upon the viability of Option 2. There would be no impact to a Councillor/Elector ratio deviation as one does not exist for a “no ward” scenario.

(To be confirmed 10 February 2015)

**CONCLUSION:**

A decision to change the Town’s preferred ward structure for the new local government from five (5) to six (6) in line with that submitted to the LGAB by the City of South Perth will have no effect on the current LGAB’s recommendation to the Minister.

The result of such a decision may however send a signal to the appointed commissioners in July 2015 and or the elected members of the new local government elected to office in October 2015 that if it is going to give consideration to implementing a ward structure the former Town of Victoria Park supported a six ward structure in line with that agreed to by the former City of South Perth.

In order for the Council to alter its position on a preferred ward structure for the proposed new local government it will need to revoke part of its previous decision made at its Ordinary Council Meeting held on 10 June 2014.

The following procedure will need to be followed in order for Council to consider revising its position on the proposed ward structure

**Call for One-Third Support**

The *Local Government Act 1995*, under regulations prescribed to deal with Section 5.25(e), lays down the following procedure for dealing with revoking or changing decisions made at Council or Committee meetings:

*“If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of offices (whether vacant or not) of members of the Council.*

*If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority.”*

***Prior to giving consideration to the following recommendation, Elected Members are required to give the support of one-third of their members, and such support is to be recorded in the Minutes of this meeting.***

The Presiding Member is therefore requested to call for support from at least one-third of the members of Council.

Support to revoke part of the Council’s resolution in relation to Item “10.1” entitled “*Local Government Reform – Items for Governors Orders and Memorandum of Understanding*” was given by:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

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(To be confirmed 10 February 2015)

**RECOMMENDATION/S:**

That Council:

1. BY AN ABSOLUTE MAJORITY REVOKES clauses 2 and 3 of the following decision made on 10 June 2014 (Item Number 10.1) as follows:

“Moved Cr Hayes      Seconded Cr Anderson

2. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred Ward structure for the potential new local government should be a five (5) ward structure identified as the Five Ward Scenario Plan dated 6 June 2014.*
3. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred elected representative structure for the potential new local government is 11 elected members, comprising two (2) Councillors from each Ward (10) and a Mayor (1).”*

(Absolute Majority Required)

2. Subject to Clause 1. above being adopted advises the Local Government Advisory Board (the Board) that given that the Board has recommended to the Minister for Local Government that the proposed new local government of the City of South Park will have 12 councillors;
  - 2.1 The Town of Victoria Park’s preferred ward structure for the potential new local government should be a six (6) ward structure as shown in “Attachment 1” identified as the “Proposed New Ward Structure”.
  - 2.2 The Town of Victoria Park’s preferred elected representative structure for the potential new local government is 12 elected members, comprising two (2) Councillors from each Ward (12) and a Mayor (1).”

**ALTERNATIVE MOTION:**

That Council:

1. BY AN ABSOLUTE MAJORITY REVOKES clauses 2 and 3 of the following decision made on 10 June 2014 (Item Number 10.1) as follows:

“Moved Cr Hayes      Seconded Cr Anderson

2. *Advises the Local Government Advisory Board by 13 June 2014 that the preferred Ward structure for the potential new local government should be a five (5) ward structure identified as the Five Ward Scenario Plan dated 6 June 2014.*
3. *Advises the Local Government Advisory Board by 13 June 2014 that the*



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(To be confirmed 10 February 2015)

*preferred elected representative structure for the potential new local government is 11 elected members, comprising two (2) Councillors from each Ward (10) and a Mayor (1)."*

2. Subject to Clause 1. above being adopted the Town of Victoria Park makes a further submission to the Local Government Advisory Board (the Board) that given that the Board has recommended to the Minister for Local Government that the proposed new local government of the City of South Park will have 12 councillors;

The Town of Victoria Park now supports;

- 2.1 A six (6) ward structure as shown in "Attachment 1" identified as the "Proposed New Ward Structure" for the proposed new local government of the City of South Park; and
- 2.2 An elected representation structure of 12 elected members, comprising two (2) Councillors from each Ward (12) and a Mayor (1) for the proposed new local government of the City of South Park;

**Note:**

**No decision was made because one third support to revoke part of the Council's resolution in relation to Item "10.1" entitled "Local Government Reform – Items for Governors Orders and Memorandum of Understanding" was not obtained.**

(To be confirmed 10 February 2015)

**Proposed Ward Boundary Map**

Electoral population: 48,254

Elected Member Breakdown:

- 1 Mayor
- 12 Councillors (2 per ward)



## 10.2 Appointment of WA Electoral Commission to Conduct a Poll on Amalgamation

<b>File Reference:</b>	GOV/7/14
<b>Appendices:</b>	No

<b>Date:</b>	14 November 2014
<b>Reporting Officer:</b>	R. Fishwick
<b>Responsible Officer:</b>	A. Vuleta
<b>Voting Requirement:</b>	Absolute Majority

### Executive Summary:

**Recommendation – That the Council by an absolute majority appoints the Western Australian Electoral Commissioner to conduct a postal vote for the Town of Victoria Park in relation to the amalgamation of the City of South Perth and the Town of Victoria Park subject to the Town receiving written confirmation from the Commissioner that he agrees to conduct the poll.**

- The Minister for Local Government has accepted the recommendation from Local Government Advisory Board (LGAB) that the City of South Perth and the Town of Victoria Park be amalgamated.
- It is envisaged that a poll will be requested by the Town's community.
- The Council can appoint the Commissioner to conduct the poll as a postal vote.
- Postal voting has a much higher participation rate than in person voting.

### TABLED ITEMS:

Nil

### BACKGROUND:

The Minister for Local Government and Communities announced on 22 October 2014 that he has accepted the recommendation from the LGAB that the City of South Perth and the Town of Victoria Park be amalgamated by 1 July 2015.

The notice from the LGAB was subsequently published in the West Australian on 5 November 2014 which informed electors that they may demand a poll on the amalgamation.

### DETAILS:

Under schedule 2.1, of the *Local Government Act 1995*, electors may demand a poll on a recommended amalgamation by the LGAB.

Where the LGAB makes a recommendation to the Minister to abolish two or more districts, and amalgamate them into one or more districts, the LGAB must give notice to affected local governments, affected electors and other electors of districts directly affected by the recommendation about the recommendation (schedule 2.1, clause 8(1) refers).

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(To be confirmed 10 February 2015)

This notice must advise electors of their right to request a poll. If within one month after the notice is given, the Minister receives a request signed by at least 250 electors asking for the recommendation to be put to a poll of electors, the Minister must do so (schedule 2.1, clause 8(3) refers). If at the poll, more than 50 percent of electors cast a vote, and the majority of electors who cast a valid vote reject the recommendation put forward by the LGAB, the Minister must then reject the recommendation to amalgamate the City of South Perth and the Town of Victoria Park.

The Minister may also require a poll of electors to assist in deciding whether or not to accept a recommendation from the LGAB (schedule 2.1, clause 7 refers). The result of a poll called by the Minister is not binding on the Minister.

At this stage it is unknown whether or not a poll will be requested, however the Administration considers it to be likely. The poll may be conducted as either a postal vote, or by voting in person. Voting in a poll is not compulsory.

### **Legal Compliance:**

Part 4 and Schedule 2.1 of the *Local Government Act 1995* are relevant to the contents of this report.

Should the Council require the Electoral Commissioner to conduct the poll and for the poll to be conducted by a postal vote, the Council must resolve by an *absolutely majority* to appoint the Electoral Commissioner to conduct the poll; and for the poll to be conducted by postal vote. This cannot be undertaken until after written agreement is received from the Electoral Commissioner to conduct the poll.

### **Clause 9 of Schedule 2.1 states that:**

#### 9. *Procedure for holding poll*

(1) *Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —*

(a) *the Advisory Board is to —*

(i) *determine the question or questions to be answered by electors; and*

(ii) *prepare a summary of the case for each way of answering the question or questions;*

*and*

(b) *any local government directed by the Minister to do so is to —*

(i) *in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and*

(ii) *subject to subclause (2), declare\* the Electoral Commissioner, or a person approved by the Electoral Commissioner, to be responsible for the conduct of the poll under Part 4, and return the results to the Minister.*

*\* Absolute majority required.*

(2) *Before making a declaration under subclause (1)(b)(ii), the local government is to obtain the written agreement of the Electoral Commissioner.*

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(To be confirmed 10 February 2015)

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

The WA Electoral Commission has advised that it will provide an estimate of costs in its letter to the Town, to be sent following receipt of a letter from the Town requesting that the WA Electoral Commission conduct the poll. At the time of writing this report, the estimate provided to the Town was in the order of \$45,000.

The final costs associated with conducting the poll can be reallocated as part of the Mid-Year Budget Review.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Where a poll is required (under schedule 2.1, clauses 7 or 8) the LGAB is responsible for determining the question or questions to be answered by electors (the YES and NO case); and for preparing a summary of the case for each way of answering the question or questions.

If directed by the Minister, the Town may be responsible for making this material available to electors before the poll is conducted (schedule 2.1, clause 9(1) refers). The Administration considers that this is likely.

The Town can request the Electoral Commissioner, or a person approved by the Electoral Commissioner, to be responsible for the conduct of the poll and return the results to the Minister. The Town must however first obtain written agreement from the Electoral Commissioner (schedule 2.1, clause 9(2) refers) before he can be appointed.

(To be confirmed 10 February 2015)

The Town has contacted the WA Electoral Commission regarding the poll provisions, and has been advised of the following key dates:

Milestone	Date
Minister's announcement	22 October 2014
Notice from the LGAB to Local Governments and affected electors regarding amalgamations	5 November 2014
Period during which a poll can be called (One month from notice date)	5 December 2014
Last day for Council to agree that the Electoral Commissioner conduct the poll	19 December 2014
Poll held (postal vote)	31 January 2014
Governor's Orders	February 2015

The WA Electoral Commission has advised that if there is a valid request for a poll from the Town's community by 5 December 2014, the Town of Victoria Park will need to write to the WA Electoral Commission requesting that the Electoral Commissioner conducts the poll on behalf of the Town. The WA Electoral Commission will then need to provide written agreement to the Council before the Council is able to formally declare the Electoral Commissioner as responsible for the conduct of the poll (schedule 2.1, clause 9(2) refers – absolute majority required). This declaration must be made by 19 December 2014.

The WA Electoral Commission has indicated that it would be willing to conduct a postal vote on behalf of the Town of Victoria Park.

#### **Choice of methods of conducting the poll**

As with any election conducted under Part 4 of the *Local Government Act 1995*, the poll may be conducted either by postal vote or by voting in person (section 4.61(1) refers). The Administration recommends a postal vote, as this is likely to result in a greater response rate from the community.

The Council must resolve by an absolute majority if it wishes for a postal vote to be conducted (section 4.61(2) refers). However, this decision has no effect unless it is made after a declaration is made that the Electoral Commissioner is to be responsible for the conduct of the poll. Hence, this decision will need to be made following receipt of written agreement from the Electoral Commissioner to conduct the poll.

#### **CONCLUSION:**

At the time of writing this report it is anticipated that a request from the Town's community to conduct a poll dealing with the amalgamation of the City of South Perth and the Town of Victoria Park will be achieved and that the Minister will then direct the Town conduct that poll.

In considering historical election data, a postal vote returns a much higher participation rate than an in person vote and has therefore been used as the preferred method at the Town continuously since the 1995 Ordinary Election.

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(To be confirmed 10 February 2015)

The Acting Chief Executive Officer therefore wrote to the Western Australian Electoral Commissioner seeking his written agreement to conduct the poll on behalf of the Town of Victoria Park should the poll provisions in the *Local Government Act 1995* be triggered.

It should be noted that if the abovementioned events occur then it is anticipated that the Town will receive the letter from the Western Australian Electoral Commissioner just before the Ordinary Council Meeting on 9 December 2014 which will enable the Council to consider appointing the Commissioner to conduct the poll as a postal vote. If the letter is received after the Ordinary Council meeting on the 9 December it will be necessary to conduct a Special Council Meeting which could be held on Tuesday 16 December 2014 after the Annual General Meeting of Electors.

**RESOLVED:**

**Moved: Cr Bissett**

**Seconded: Cr Anderson**

**That the Council:**

1. **by an ABSOLUTE MAJORITY in accordance with Schedule 2.1 Clause 9.1(b)(ii) of the *Local Government Act 1995* (the Act) declares the Western Australian Electoral Commissioner (the Commissioner), or a person approved by the Commissioner, to be responsible for the conduct of the poll under Part 4 of the Act, for the amalgamation of the City of South Perth and the Town of Victoria Park and return the results to the Minister for Local Government, subject to the Town receiving written confirmation from the Commissioner prior to the Ordinary Council Meeting to be held on the 9 December 2014 that he agrees to conduct the poll.**
2. **Subject to clause 1 above being adopted, determines by an ABSOLUTE MAJORITY in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the poll be by a postal vote.**

**The Motion was Put and**

**CARRIED BY AN ABSOLUTE MAJORITY (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

**10.3 Acting CEO Performance Review and Contract – *Confidential Item***

This matter was dealt with at Item 21.1.2.



## 10.4 Town Centre Redevelopment Project – Major Land Transaction Plan

<b>File Reference:</b>	PLA/6/0003
<b>Appendices:</b>	Yes

<b>Date:</b>	25 November 2014
<b>Reporting Officer:</b>	B. Rose
<b>Responsible Officer:</b>	A. Vuleta
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

#### Recommendation – that Council approves preparation and public advertising of a Town Centre Redevelopment Major Land Transaction Plan.

- The Council has recently:
  - approved the Vision and Objectives for the Town Centre Redevelopment Project;
  - approved the expenditure of funds to progress the project; and
  - established a Project Team of Councillors to provide strategic oversight for the project.
- Preparation of the required Major Land Transaction Plan with LandCorp is now required, followed by public consultation in accordance with the *Local Government Act 1995*.

### TABLED ITEMS:

Nil

### BACKGROUND:

Recent history (post 2013) in relation to the Town Centre Redevelopment Project (the Project) has seen the Town engage with LandCorp as its preferred project partner. Much preparatory work, at an operational level, has been undertaken between the Town and LandCorp as each party has completed internal due diligence processes, before committing to moving to the next stage.

At its September 2014 Ordinary Meeting, Council approved:

- the Project Vision;
- the Project Objectives;
- the preferred Partnership Structure with LandCorp;
- the expected Project Schedule; and
- the Project feasibility format.

At its October 2014 Meeting, Council approved:

- the Project budget through to 30 June 2015; and
- the establishment of a Councillor Project Team to provide strategic oversight and guidance to the Project.

(To be confirmed 10 February 2015)

On 12 November 2014, the Project Team convened to review the project status and resolve a path forward.

**DETAILS:**

At its 12 November 2014 meeting, the Councillor Project Team considered, and resolved, the following:

Item	Resolution
Clarification of Project Team Terms of Reference	None required (Council approved the Terms of Reference in October 2014)
Review of key actions and status update	The Project Team received the status update.
Concept Plan update	The Project Team endorsed the use of the Concept Plan for valuation purposes to Council.
Valuation update	The Project Team endorsed the land valuations to Council for use in the Major Land Transaction Plan.
Review of Terms Sheet	The Project Team endorsed the ‘Terms of Agreement’ to Council for use in the Major Land Transaction Plan.
Forward actions required	The Project Team acknowledged the Project schedule and key decision-points for Council in the process.

The primary forward-action is the preparation of a Major Land Transaction Plan for public advertising and submissions.

A full copy of the Project Team Action Notes are contained within the Appendices.

**Legal Compliance:**

Notwithstanding the Town owns the site in freehold, it is a legal requirement for all local governments to comply with Sections 3.58 “Disposing of Property” and 3.59 “Commercial Enterprises by Local Governments” of the *Local Government Act 1995* (the Act) and the *Local Government (Functions and General) Regulations 1996*.

The process for disposing of an interest in land by a local government is detailed under the provisions of the Act. This includes the requirements for “major land transactions”, in which the total value of:

- a) *the consideration under the transaction; and*
- b) *anything done by the local government for achieving the purpose of the transaction,*

*is more, or is worth more, than either \$10,000,000 or 10% of the operating revenue of the local government in the last completed financial year.*

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(To be confirmed 10 February 2015)

Given that the proposed consideration is greater than \$10 million, the Town is required to publically advertise the proposed “major land transaction” in the context of a Business Plan, which must include the following mandatory disclosures (section 3.59 of the Act):

- an overall assessment of the transaction;
- its expected effect on the provision of services and facilities by the Town;
- its expected effect on other persons providing services and facilities in the district;
- its expected financial effect on the Town;
- its expected effect on the Town’s Plan of Principal Activities (Strategic Community Plan);
- the ability of the Town to manage the performance of the transaction; and
- details of joint venture transactions.

Also, section 3.58(4) of the Act requires disclosure of the details of the proposed disposition, including:

- the names of all other parties concerned;
- the consideration to be received by the local government for the disposition; and
- the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

To this end, a ‘Major Land Transaction Plan’ (also termed a Business Plan) is to be prepared in order to progress the project.

**Policy Implications:**

There are no directly related Policies which apply to the Town Centre site or undertaking of Major Land Transaction Plans.

**Strategic Plan Implications:**

The proposed infill town centre development, in the context of a working partnership between LandCorp and Town of Victoria Park, is very consistent with both organisations’ strategic priorities.

The Town of Victoria Park’s 15 year strategic direction is published in the Town of Victoria Park Strategic Community Plan (June 2013) setting out organisational plans for each of the Town’s six program areas: Business Life; Community Life; Corporate Life; Built Life; Future Life; and Renew Life.

The Corporate Life Program supports the Town to achieve its goals by building organisational capacity and positioning the Town to the wider community. This includes the integration and management of projects at the strategic, tactical and operational levels; and seeks to grow the connection between Council, business and the community.

Moreover, the Corporate Life Program includes the creation of a vibrant Town centre as a key project for the Town:

(To be confirmed 10 February 2015)

Key Projects and Services	Actions include, but are not limited to,
<p>Redevelopment of the Victoria Park Town Centre to create a vibrant focal point for the community.</p>	<p><b>Town Centre Redevelopment</b>  <i>Including the planning and implementation of major development initiatives for the Town Centre.</i></p>

**Financial Implications:**

Internal Budget:

At its October 2014 Ordinary Meeting, Council approved the internal / operational budget reallocation from the Future Funds Reserve account. This budget is sufficient to progress the project to 30 June 2015.

Project Feasibility:

A Project Feasibility report has been prepared by the project staff and has been provided to Elected Members under separate cover, noting the commercial-in-confidence nature of the report with LandCorp. Full valuation details and other elements of the project financials will be openly disclosed to the public as part of the Major Land Transaction Plan process.

**Public Consultation:**

A project of this scale requires substantial focus on community engagement, from project initiation, right through to close-out; a period that could last up to 10 years. From a statutory perspective, there are numerous mandated stages at which public consultation must occur, including:

- Advertising of the Major Land transaction Plan;
- Advertising of the required Local Planning Scheme Amendments;
- Advertising of the required Structure Plan;
- Advertising of the Detailed Area Plans / Design Guidelines; and
- Advertising of major Development Applications.

In addition to the various statutory advertising required, the Town will need to consider a more active and tailored form of engagement with stakeholders. This will be a matter for discussion at a future Councillor Project Team meeting; in order to provide recommendations through to Council for deliberation.

Public advertising of the Major Land Transaction Plan is legislated in the Act, as follows:

- (4) *The local government is to —*
  - (a) *give Statewide public notice stating that —*
    - (i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*

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(To be confirmed 10 February 2015)

- (ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
- (iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

*and*

- (b) *make a copy of the business plan available for public inspection in accordance with the notice.*

Although the six week (42 day) public consultation period is longer than most local government statutory advertising periods, the Executive proposes to extend this period by a further week, noting the occurrence of public holidays over the advertising period (December 2014 – February 2015).

### **NEXT STEPS**

The next steps required to progress the project (in order) are:

- Prepare and publically advertise the Town Centre Redevelopment Major Land Transaction Plan (seven weeks);
- Collate and analyse public submissions received;
- Bring analysed public submissions to Council to aid the decision to progress (or otherwise);
- If Council resolve to proceed, then prepare land transaction contracts;
- Council resolution required to approve land transaction contracts;
- Execute contracts; and
- Commence town planning phase.

### **COMMENT AND CONCLUSION**

The Town of Victoria Park has long sought development of a town centre on its freehold landholding in the Albany Highway commercial precinct of East Victoria Park. Following various unsuccessful attempts over the past decade with a private developer, the Town approached LandCorp in late 2013 to explore the possibility of a partnership. Over the past year, the parties have collaborated to arrive at an agreed project vision, project objectives, draft development-valuation concept and commercial principles to secure project delivery.

It is proposed that the site will be acquired at an agreed valuation, with land transfer being conducted over two stages, due to a caveat affecting part of the site. LandCorp is also required to provide to the Town a fully serviced civic-use lot of 2,700m<sup>2</sup> at the cost of construction. A development agreement will confirm project objectives; provide for creation of a project control group; and provide for transitional arrangements in respect of Council tenants currently leasing buildings on the site.

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(To be confirmed 10 February 2015)

A two year approvals period, followed by project delivery of seven years is envisaged. The project will deliver a host of non-financial benefits including provision of a community focal point for the Town; transport oriented development that encourages use of public transport; and provision of dwellings toward *Directions 2031* density targets.

**RESOLVED:**

**Moved: Cr Oliver**

**Seconded: Cr Bissett**

**That Council:**

- 1. Endorses the Action Notes of the Town Centre Redevelopment Project Team Meeting of 12 November 2014, as appended;**
- 2. Requests the Acting Chief Executive Officer to prepare and publically advertise a Town Centre Redevelopment Major Land Transaction Plan in accordance with the *Local Government Act 1995*; and**
- 3. Requests the Acting Chief Executive Officer to present to Council any public submissions on the Town Centre Redevelopment Major Land Transaction Plan for consideration prior to the Council making any decision on the progress of the proposed land transaction with the WA Land Authority (LandCorp).**

**The Motion was Put and**

**CARRIED (6-2)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Oliver; and Cr Windram**

**Against the Motion: Cr Maxwell; and Cr Nairn**

## 11 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

### 11.1 No. 69 (Lot 12) Oats Street, Carlisle – Change of Use to Place of Worship

<b>File Reference:</b>	PR8083
<b>Appendices:</b>	No
<b>Landowner:</b>	M Smith
<b>Applicant:</b>	V J Moe
<b>Application Date:</b>	01/09/2014
<b>DA/BA or WAPC Ref:</b>	5.2014.525.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R30
<b>TPS Precinct:</b>	Precinct P8 'Carlisle'
<b>Use Class:</b>	Place of Worship
<b>Use Permissibility:</b>	'AA' (discretionary) use

<b>Date:</b>	3 December 2014
<b>Reporting Officer:</b>	C. McClure
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Refusal**

- Application seeks to change the use of an existing premises currently approved for 'Unlisted Use' (Art Gallery & Studio) to 'Place of Worship'.
- Community consultation carried out for fourteen (14) days, consisting of letters to surrounding owners and occupiers and a sign installed on the site. Five (5) submissions were received during the consultation period.
- The use proposes a departure from the requirements of Council Policy 5.1 'Parking and Access Policy' with a seventeen (17) bay parking shortfall proposed.

**TABLED ITEMS:**

- Development application form dated 1 September 2014;
- Plans dated received 1 September 2014 and 6 October 2014;
- Applicants supporting documentation 'Proposed Activity of the Building' dated 1 September 2014;
- Applicants supporting documentation 'Proposed Australian Burmese Christian Fellowship Church' dated 3 October 2014;
- Correspondence to applicant (advertising process letter) dated 8 October 2014;
- Consultation correspondence to adjoining owners and occupiers dated 31 October 2014; and
- Further supporting documentation provided by applicant dated 23 November 2014.

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(To be confirmed 10 February 2015)

**BACKGROUND:**

The existing building on the site was originally approved as a 'Warehouse/Showroom' by the City of Perth on 23 April 1976. The 'Warehouse/Showroom' was approved with the provision of 6 car parking bays, with vehicular access provided from the right-of-way at the rear of the property. Following the gazettal of Town Planning Scheme No. 1, which resulted in the property being rezoned, non-conforming use rights came into existence on the property as a 'Warehouse/Showroom' is an 'X' (prohibited) within a Residential Zone.

On 27 July 2004 the Council approved an application for the change of use of the premises from 'Warehouse/Showroom' to 'Educational Establishment' (Dance Studio) with a total of 6 car parking bays provided as per the prior use. The approval of the change of use extinguished the non-conforming use rights on the site as an 'Educational Establishment' is an 'AA' (discretionary) use within a Residential Zone. Conditions limiting staff and student numbers at the site were applied to prevent the creation of any car parking shortfall.

The last use approved and previously operating on the site was an 'Unlisted Use' (Art Gallery & Studio) which was approved on 9 February 2010 with specific conditions of approval restricting the hours permitted for gallery opening and exhibition events. This approval was also granted with a parking shortfall of 1 car bay.

**DETAILS:**

69 Oats Street is located near the intersection of Oats Street and Rutland Avenue approximately 65m from Oats Street train station and comprises of one lot zoned 'Residential – R30' in the Carlisle Precinct. There is an existing single storey building on site with access to six (6) on site car parking bays gained via a right-of-way at the rear of the lot.

The application seeks to change of the use of the premises from an existing 'Unlisted Use' (Art Gallery & Studio) to 'Place of Public Worship' for the Australian Burmese Christian Fellowship Church. It is proposed to divide the premises into a 105m<sup>2</sup> worship area, 39.8m<sup>2</sup> for a child Sunday school room, 50m<sup>2</sup> for a youth Sunday school and 28.5m<sup>2</sup> designated as a reading room in addition to associated amenity areas.

The applicant has submitted a letter with information in relation to the change of use which provides the following:

- The building is to be used as a place of worship for Australian Burmese Christian Fellowship Inc.
- Other activities include: Sunday school children bible teaching class, youth activities and church executive member meeting.
- The numbers of expectant members that attend services regularly are between 20 and 50 at any one time with up to 70 members during special occasions.
- Morning service would be approximately 20 members with the two afternoon services attracting approximately 50 members at each service.
- The requirement for member's car parking would be around approximately 15 – 20 cars.



(To be confirmed 10 February 2015)

The schedule of programs and weekly activities is as follows:

Day	Time	Activity
Monday	7:00pm - 9.00pm	Prayer house pastors and elders of church meet to discuss and pray
Tuesday	-	-
Wednesday	-	-
Thursday	-	-
Friday	6:00pm - 10:00pm	Karen language youth group and song practice
Saturday	10:00am - 6:00pm (usually maximum 2-3 hours) 6:00pm - 9:30pm	Praise and worship practice "Battlefield" youth group consisting of games, bible study and worship session.
Sunday	9:30am - 10:45am 11:00 am - 1:00pm 11:00am - 1.00pm 3:00pm - 6:00pm	English service Burmese service Sunday school youth classes Karen language service

In addition to the schedule provided, the following additional information was provided by the applicant regarding activities and additional intermittent events:

- On Saturday, song practice time may be subjected to Worship Team availability. Song practice usually takes around 2 to 3 hours maximum for each session. *Eg: from 11am to 1pm.*
- Executive meetings are held from 1pm to 2pm once a month after the Burmese speaking Service.
- Fundraising nights are held two (2) to three (3) times a year to raise funds for various missions that our Church supports. Fundraising nights are usually held on Saturday nights from 6pm to 9:30 pm.
- During Christmas Eve night (24th Dec) and New Year's Eve night (31st Dec) there is a Midnight Services from 10:30pm to 12:30am. During the Service music is only played by guitar to ensure no noise disturbs the surrounding neighbourhood.
- On Easter, there is a Sunrise Service from 6am to 9am. Music and sound is controlled to minimum.
- Occasionally once or twice in a year Bible Seminars may be held in the event of visiting Pastors. The Seminars may be held during the day or in the evenings from 6pm to 9pm.
- With regards to noise, during practice sessions doors are closed to ensure the noise does not disturb surrounding residential areas.
- The installation of sound proof equipment in the building to contain noise and music is also planned.

(To be confirmed 10 February 2015)

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 ‘Determination of Application – General Provisions’;
- Policy 3.5 ‘Non Residential Uses in or Adjacent to Residential Areas’ and
- Statement of Intent contained in Precinct Plan P8 ‘Carlisle Precinct’.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan:
  - 5.1 ‘Parking and Access Policy’.

Under the provisions of Policy 5.1 ‘Parking Policy’, the parking requirement for a ‘Public Assembly’ for the Worship area has been applied. The Reading and Sunday School Rooms were initially considered as ‘Office/administration’ for the purposes of calculating the required car parking. However, in acknowledgement that these areas will not generate parking as they will be used by patrons also in attendance for the worship service or children, it is calculated that there should be no parking required for this component of the proposed use.

Activity / Use	Parking Requirement
Public Assembly	1 for every 4.5 square metres of net floor area

The following car parking requirement is based on the proposed use of the premises on the site in accordance with Policy 5.1 ‘Parking Policy’:

Activity / Use	Parking Requirement	Bays Required
Worship (105m <sup>2</sup> )	1 per 4.5m <sup>2</sup> NFA	23 required
	<b>Total Provided</b>	<b>6 bays</b>
	<b>Parking Shortfall</b>	<b>17 bays</b>

The previous use as an Art Gallery & Studio required 7 bays with approval for a one car parking bay shortfall. The proposed change of use would result in a 17 bay shortfall on the site based on the Scheme requirements – being an increase in the parking shortfall by 16 bays.

With regard to Policy 3.5 ‘Non-Residential Uses in or Adjacent to Residential Areas’ non-residential development is only permitted where compatible with existing dwelling and not considered to cause undue conflict in term of traffic generation and parking or the emission of noise which may be undesirable in residential areas.

**Submissions:**

Community Consultation:

In accordance with Clause 18 and 35 of Town Planning Scheme No.1 and Council Policy GEN3 ‘Community Consultation’ the application was advertised for a period of 14 days, including letters to surrounding owners and occupiers and the installation of one sign visible from the Oats Street frontage.

(To be confirmed 10 February 2015)

Five objections were received as follows from four separate parties:

<b>CONSULTATION SUBMISSIONS</b>	
<i>Submission from owner/occupants of No. 67 Oats Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• Most of Tuckett and Mercury Street are no parking and Rutland Avenue has limited metered parking. We recognise that some members will utilise the train but are concerned that parking will be an issue. With 50 members at a service one would expect around 20 vehicles would need to be accommodated and they will not all be on the Councils lawn area next to the Health Clinic.</li> <li>• The group has over 700 likes on Facebook and we believe on special days of activity there would be a problem with service attendance at around 130 persons per day larger crowds would certainly eventuate. Our concern is justified especially given that when the art gallery had functions our parking spaces were utilised by agreement and we traded until 8:30pm. The youth activities and pray meetings on Saturdays may be an issue. We usually do not close until 5:30pm and later in summer. Also we trade sometimes on Sundays.</li> <li>• We have seen a video of the band that is an integral part of the Fellowships activities and remember when we had a band practicing in that premises on weekends when it was a dance studio. The noise was intrusive and disruptive to our business. We would not like to compromise their enjoyment but noise would need to be reduced.</li> <li>• The car movements could be a safety issue as the train crossing and intersection does experience speeding and impatient drivers on a regular basis. People will most likely park on the verge to the east of the crossing</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. Approval of the application with a 17 bay shortfall will place greater demand upon available parking in the surrounding area with patrons having to utilise other parking locations off site.</li> <li>• Noted.</li> <li>• The applicant has indicated that sound proof equipment will be installed in the building to contain noise and music. If Council were to support the proposal, an acoustic report would need to be provided as a condition of approval with any noise attenuation measures to be implemented if required.</li> <li>• Noted. Car movements to and from the site will be via controlled intersections.</li> </ul>

(To be confirmed 10 February 2015)

<p>where parking is free which will contribute to the damage the verge vegetation is sustaining since the new parking restrictions were put in place.</p> <ul style="list-style-type: none"> <li>• An adjoining business has previously approached Council and MRWA to request a crossover due to problems with pedestrian safety however were advised that Oats St is a main thoroughfare and no crosswalks would be permitted</li> <li>• Premises in this vicinity continue to experience issues with the lack of access to public toilets. The two toilets in situ at the Oats Street Train station are not available to the public. We are constantly receiving requests to use our toilets and at other times our storage area becomes a urinal.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal incorporates existing amenities for patrons and would therefore not require a demand for external facilities to be provided.</li> </ul>
<p><i>Submission from owner/occupants of No. 65-67 Oats Street, Carlisle</i></p>	
<ul style="list-style-type: none"> <li>• There is not enough parking available for such a proposed use. When the current owners opened an art gallery their launch nights created a major problem for access to my property at 65-67 Oats Street. Objections and clashes arose to my parking in my own driveway.</li> <li>• The noise of a band used by the previous dance studio was at times outrageous as they left the large back doors open while practicing.</li> <li>• I do not want non customers of my own or my tenant using parking areas at any time.</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. Approval of the application with a 17 bay shortfall will place greater demand upon available parking in the surrounding area.</li> <li>• Noted.</li> <li>• Noted.</li> </ul>
<p><i>Submission from owner/occupants of No. 248 Rutland Avenue, Carlisle</i></p>	
<p><b>Comments Received</b></p>	<p><b>Officer's Comments</b></p>
<ul style="list-style-type: none"> <li>• Our driveway and front verge is used as a public toilet and nappy changing station as the train does not have these important facilities available to the public</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal incorporates existing amenities for patrons and would therefore not require a demand for external facilities to be provided.</li> </ul>

(To be confirmed 10 February 2015)

<ul style="list-style-type: none"> <li>We love our peace and quiet and do not want to listen to the church band, lectures of the Pastor or chatter of people on top of all the noise that comes from the station.</li> <li>I have watched videos of the Australian Burmese Christian Fellowship's lecturing. It is not a quiet Sunday Affair with a microphone and loud speakers used to spread the sound. There is also a drum kit, electric guitars and keyboards.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Noted. The levels of noise and activities that would be generated are not expected to be significant given the soundproofing measures proposed by the applicant, and will need to comply with Council's requirements if approved.</li> </ul>
<ul style="list-style-type: none"> <li>These noises will be very disruptive and intrusive to weekends, the only time we get to relax.</li> <li>The allocated parking for the church will not be enough. We already have the problem of people parking on our verge, ruining the reticulation, chewing up the grass to make a sandy pit and block our driveway. It is never not busy even on a Sunday evening. With over 700 likes on their Facebook page, cars will be spilling onto the surrounding streets.</li> </ul>	<ul style="list-style-type: none"> <li>Supported. Approval of the application with a 17 bay shortfall will place greater demand upon available parking in the surrounding area.</li> </ul>
<p><i>Submission from owner/occupants of No. 11 Cohn Street, Carlisle</i></p>	
<p><b>Comments Received</b></p>	<p><b>Officer's Comments</b></p>
<ul style="list-style-type: none"> <li>The application underestimates the effect that their congregations will have on the area. Parking is currently woefully inadequate for commuters at Oats Street with many overflowing into garden beds along tracks and into residential streets. I also feel that they have overestimated the number of congregation who will walk to the church.</li> </ul>	<ul style="list-style-type: none"> <li>Supported. Approval of the application with a 17 bay shortfall will place greater demand upon available parking in the surrounding area.</li> </ul>

**Policy Implications:**

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

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(To be confirmed 10 February 2015)

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The subject site is an established non-residential use in the Residential zone with one other non-residential use on Residential zoned land at 65 Oats Street in the form of a book shop. It should be noted that there are two non-residential uses to the north-east and south-west on land reserved for 'Public Purpose – Civic Use' and zoned 'Commercial' respectively. The locality has historically had a number of non-residential land uses however is primarily a residential area.

Car Parking & Traffic

The proposed Place of Worship, in accordance with the Council's Policy 5.1 'Parking Policy', requires a minimum of 23 bays while only 6 bays exist which results in a shortfall of 17 car parking bays. Noting that the previous use had a 1 bay parking shortfall, this represents an increased parking shortfall of 16 bays.

As discussed, during the Community Consultation period five submissions were received, four from residential properties and one from a commercial property adjacent, all objecting to the proposal due to the lack of car parking on site and in the surrounding area, and their concern that the situation may be worsened if the proposal is approved.

As outlined above the applicant has submitted an additional letter during the assessment period which provides further details regarding the church use. With regards to parking, the applicant has provided information relating to the sites proximity to the train station and likelihood that a number of members may utilise the train as a means of transport. Additionally, the vicinity of the Transperth Circle Route high frequency bus service that provides access for the broader Perth metropolitan area is cited by the applicant in response to the parking shortfall. The applicant has acknowledged that up to 20 cars may access the site which could increase dependant on numbers of people attending services. Despite the availability of alternative means of transport, the provision of six car parking bays is not considered adequate for the number of expected members (generally 50 but on occasions up to 70) accessing the site at any given time.

The applicant contends that on-street parking along Rutland Avenue and Oats Street appears abundant and that church patrons could use these bays without the need to utilise residential streets only. Furthermore, the church has access to two (2) twelve (12) seat coaster buses which are available for pre-arranged pick-up of patrons to attend services.

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It is acknowledged that public parking exists nearby for train patrons. However, this parking is for train patrons. Council Officers are not satisfied that the proposed parking generated by the proposed use will not spill over into the adjoining residential streets and have concluded that the proposal is likely to result in on-street parking within residential streets. This is not acceptable for the amenity of the residential properties in the streets, and furthermore some of the surrounding streets are narrow.

It is concluded that while the availability of public transport, public parking and use of coaster buses may lessen the parking demand, it is not considered that the uptake of these alternatives would be significant, and would not eliminate the proposed use negatively impacting upon surrounding properties by way of car parking overflow.

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

As the proposed does not comply with the requirements of the Town Planning Scheme No. 1, Clause 38 of the Scheme requires that the Council needs to be satisfied by an Absolute Majority with the following matters if approval is to be granted:

#### The orderly and proper planning of the locality and the likely future development of the locality

The proposal does not comply with the minimum required car parking and therefore users of the Place of Worship will need to park on the street or in other properties. There is potential for the number of members and/or staff to increase in the future which could increase the requirement for additional car parking and the car parking demand.

#### The conservation of the amenities of the locality and the property in, or the inhabitants of, the locality:

The lack of car parking for the proposal will affect the amenities of the surrounding area. A 17 bay parking shortfall is significant and it is evident from comments received during the consultation period that there is already an existing parking and access problem in the vicinity of the proposal which would be further exacerbated by approving such a significant shortfall in car parking bays.

#### The occupiers or users of the development:

The proposal is non-compliant with the minimum car parking required for the use and will be to the detriment of many of the patrons of the Church who would have to access parking facilities elsewhere offsite which is undesirable.

#### **CONCLUSION:**

It is considered that the shortfall of car parking bays for the proposed use is significant and would place additional demands upon available on-street parking in an already highly constrained locality. Whilst the site is well serviced by public transport it is not considered to adequately compensate for such a significant shortfall in car parking bays available.

In view of the above, the application for a Change of Use to Place of Worship is not supported.

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(To be confirmed 10 February 2015)

**RECOMMENDATION/S**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Victor Joshua Moe on behalf of Melody Smith (DA Ref: 5.2014.525.1) for Change of Use to Place of Worship at No. 69 (Lot 12) Oats Street, Carlisle as indicated on the plans received 1 September 2014 be Refused for the following reasons:
  - 1.1 The proposal is non-compliant with the Town of Victoria Park's Policy 5.1 'Car Parking' in relation to the provision of on-site car parking which would negatively impact upon surrounding properties and nearby streets.
  - 1.2 Non-compliance with Town Planning Scheme No. 1 Clause 36 and Clause 38, with particular reference to the following:
    - the orderly and proper planning of the locality;
    - the conservation of the amenities of the locality;
    - the occupiers or users of the building; and
    - the property in, or the inhabitants of, the locality.

Advice to Applicant

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

**ALTERNATIVE MOTION:****Moved: Cr Hayes****Seconded: Cr Nairn**

1. **In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Victor Joshua Moe (DA Ref: 5.2014.525.1) for Change of Use to Place of Worship at No. 69 (Lot 12) Oats Street, Carlisle as shown on the plans received on 1 September and 6 October 2014 be Approved subject to the following conditions :**
  - 1.1 **Operation of the approved Place of Worship to be in accordance with submitted plans and details provided in correspondence from the applicant dated 1 September, 6 October and 23 November 2014. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.**
  - 1.2 **Operation of the 'Place of Worship' is restricted to a maximum of 70 people at any one time. Any increase in the number of people is not permitted without further planning approval.**



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(To be confirmed 10 February 2015)

- 1.3 A noise impact assessment report on the potential effect of noise on surrounding properties is to be submitted to the Town of Victoria Park for approval prior to the submission of an application for a building permit or, in the case of where a building permit is not required, prior to the commencement of operations. A qualified acoustic consultant must undertake the noise impact assessment report, and the premises shall be used/modified in accordance with the recommendations of the report.
- 1.4 This approval is valid until 9 December 2016 only. The use of the premises as a Place of Worship is to cease by this date, unless further planning approval is obtained from the Town for an extension of time.
- 1.5 The applicant shall provide a parking management plan outlining the measures to be implemented to minimise and control patron parking, and in particular to prevent the parking of patrons on adjoining private properties or nearby residential streets. The parking management plan is to be designed by a recognised and accredited company and is to be approved by Council prior to the use commencing. The ongoing use of the site shall be in accordance with the recommendations of the parking management plan.

**Advice to Applicant:**

- 1.6 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.7 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law. Please also note that should any signage not comply with the Signs Local Law further Planning Approval will need to be obtained prior to a sign licence application being submitted to the Council.
- 1.8 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
- 1.9 A building permit is required to be obtained from the Town prior to commencement of any work in relation to this Planning Approval.

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(To be confirmed 10 February 2015)

**1.10 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.**

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

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)



(To be confirmed 10 February 2015)

*Cr Nairn left the Council Chambers at 6.56.pm*

## 11.2 1032 (Lot 8) Albany Highway, East Victoria Park – Application for Change of Use to Restaurant and Alterations to Commercial Building

<b>File Reference:</b>	PR6444
<b>Appendices:</b>	No
<b>Landowner:</b>	Gianni Redolatti
<b>Applicant:</b>	Altus Planning and Appeals
<b>Application Date:</b>	14/10/2014
<b>DA/BA or WAPC Ref:</b>	5.2014.613.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	District Centre
<b>TPS Precinct:</b>	Precinct Plan P11 'Albany Highway Precinct'
<b>Use Class:</b>	Restaurant
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	3 December 2014
<b>Reporting Officer:</b>	I. Ahmad
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:****Recommendation – Refusal**

- Approval is sought to change the use of an existing building from 'Showroom' to 'Restaurant' which also involves building alterations on the abovementioned property.
- The proposal will increase the existing car parking shortfall on the site by 26 car bays.
- Community consultation carried out for 14 days, consisting of letters to surrounding owners and occupiers. Over the comment period, one (1) submission was received.
- The significant increase to the existing car parking shortfall on the site is considered to have an adverse impact on the amenity of the surrounding properties by way of traffic and parking generation and is therefore recommended for Refusal.

**TABLED ITEMS:**

- Development application form dated 14 October 2014;
- Original site and elevation plans dated received 14 October 2014;
- Referral letter to Main Roads WA dated 31 October 2014;
- Amended site plan and supporting documentation dated received 21 November 2014;
- Consultation letter to adjoining owners & occupiers dated 6 November 2014;
- Submission from owner of surrounding property dated received 24 November 2014; and
- Photographs of subject property.

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(To be confirmed 10 February 2015)

**BACKGROUND:**

- 10 February 2014 An application for Alterations and Additions to Commercial Building and Change of Use to Restaurant (DA Ref: 5.2014.62.1) on the abovementioned property was submitted to the Council.
- 14 October 2014 A separate application for Change of Use to Restaurant and Alterations to Commercial Building on the abovementioned property for the same building was lodged to the Council by a different applicant, which is the subject of this Report.
- 21 October 2014 The application for Alterations and Additions to Commercial Building and Change of Use to Restaurant (DA Ref: 5.2014.62.1) that was submitted on 10 February 2014 was deemed refused under delegated authority as there were outstanding information that were not provided to the Council.

**DETAILS:**

The proposal involves a change of use of an existing building from 'Showroom' to 'Restaurant' which includes building alterations. The site comprises a lot size of 916m<sup>2</sup> and has frontages to Albany Highway, Shepperton Road and a rear right-of-way. The site currently contains a single storey building (consisting of two commercial tenancies) at the Albany Highway frontage and a detached single storey building located at the rear of the lot with frontages to Shepperton Road and right-of-way. The remainder of the site comprises of an outdoor area of approximately 323.70m<sup>2</sup>. On the northern opposite side of the right-of-way lies a public car park.

Vehicular access to the site is via the right-of-way and a crossover from Shepperton Road which adjoins the right-of-way. There is another crossover from Shepperton Road which provides access to the middle portion of the subject lot. However, this crossover is owned by Main Roads WA and there is no record of a reciprocal rights agreement or rights-of-carriageway easement over the title to permit access onto the subject lot via this crossover.

The portion of land subject to this application comprises the existing building and outdoor area located at the rear of the lot which fronts Shepperton Road and the rear right-of-way. A search into Council's records indicates that the last approved use of the subject building is for 'Showroom' purposes.

The proposed 'Restaurant' entails 66m<sup>2</sup> of the internal floor area within the subject building to be utilised as a sit-down dining area whilst approximately 160m<sup>2</sup> of the adjoining outdoor area is to be used as an outdoor smoking (shisha) area. In addition, the applicant proposes the following building alterations and internal fit-out:

- Establishment of a commercial kitchen, counter and display area;
- Conversion of an existing roller shutter door access on the southern wall of the building to a French door;
- Re-instate existing door to the south-west of the building;

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(To be confirmed 10 February 2015)

- Conversion of the existing roller shutter door at the north-east of the building to a window;
- Provision of a cool room in the outdoor area abutting the western wall of the building; and
- Installation of a patio of 130m<sup>2</sup> in the outdoor area.

Currently, there are no car parking bays provided on the site. Notwithstanding this, Council recognises existing on-site parking shortfalls as part of its consideration of change of use applications. In this instance, the current 'Showroom' use has a total car parking shortfall of 11 bays on the site (11 bays required; 0 bays provided). In accordance with Council Policy PLNG4 'Car Parking Standards for Developments Along Albany Highway', based on a car parking rate of 1 bay for every 6m<sup>2</sup> of net lettable area of sit down dining areas (inclusive of walkways and counter queuing space), the proposed 'Restaurant' would require a total of 38 car bays. As such, the proposal would increase the existing on-site car parking shortfall by 27 bays.

As part of this application, two (2) tandem car parking bays have been proposed on the site. However, as per Policy 5.1 'Parking Policy' of the Council's Town Planning Scheme No. 1 Policy Manual, only one of the two tandem car bays can be calculated as part of the car parking provision. As such, the proposal would increase the existing on-site car parking shortfall by 26 bays in lieu of 27 bays mentioned previously.

The applicant submitted an amended plan and supporting documentation to justify the car parking shortfall, which is summarised as follows:

- Due to the restricted use of one of the crossovers which is owned by Main Roads, the subject lot could not accommodate more car parking bays on the site. Notwithstanding this, two (2) car parking bays have been proposed;
- Most restaurants/cafes along Albany Highway frontage would have the benefit of the verge area to be used as outdoor alfresco dining areas without attracting any additional on-site car parking bays. However, given the circumstances of this site, there is no opportunity for alfresco dining area. Therefore, it is considered reasonable to offset 10 car bays based on approximately 60m<sup>2</sup> of the adjoining verge area of Shepperton Road frontage into the existing car parking shortfall;
- The nature of the proposed business is that diners will not be separate patrons to the smokers. Accordingly, the proponent is prepared to accept a total restriction on the number of diners based on the available parking bays and credits;
- In combining the existing car parking shortfall of 11 bays, the proposed 2 bays and the 10 bay offset for the alfresco dining area, the proposal effectively incorporates 23 parking bays. In order to alleviate any concerns regarding the potential for both the internal dining area and designated smoking area to be at capacity at the same time, the applicant would be willing to accept a condition to restrict the total number of patrons to a maximum of 92 at any one time. This is based on a calculation whereby each of the 23 cars visiting the site brings a maximum of four (4) persons (**see Table 1 below**); and
- There is an existing 80 bay public car park which is located within close proximity of the subject site that could be utilised by the patrons.

(To be confirmed 10 February 2015)

<b>TABLE 1- PARKING CALCULATION</b>		
<b>Method</b>	<b>Number of bays</b>	<b>Equivalent dining/smoking area</b>
<i>Existing parking shortfall approved by the Town</i>	11	66m <sup>2</sup>
<i>On-site parking provided as per revised plans</i>	2	12m <sup>2</sup>
<i>Credit/offset for unused outdoor eating area (verge alfresco)</i>	9.7 (≈10)	58.2m <sup>2</sup> (≈60m <sup>2</sup> )
<b>Total</b>	<b>23</b>	<b>138m<sup>2</sup></b>

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Clause 38 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P11 ‘Albany Highway Precinct’;

Compliance with Development Requirements

- TPS 1 Scheme Text, Precinct Plan Policy Manual;
- Policy 5.1 ‘Parking Policy’ of the Council’s Town Planning Scheme No. 1 Policy Manual; and
- Council’s Policy PLNG4 – Car Parking Standards for Developments along Albany Highway;

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

<b>Item</b>	<b>Car Parking Rate</b>	<b>Floor Area</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Shortfall</b>
Internal sit-down dining area within the building	1 bay for every 6m <sup>2</sup> of net lettable area of sit-down dining area including walkways and counter-queuing space.	66m <sup>2</sup>	11 bays	1 bay  <i>Note: For tandem arrangement, only one of the two tandem car bays can be calculated as part of the car parking provision.</i>	37 bays
Designated outdoor smoking area		160m <sup>2</sup>	27 bays		
<b>Total:</b>		<b>226m<sup>2</sup></b>	<b>38 bays</b>	<b>1 bay</b>	<b>37 bays</b>
<b>Acknowledged current existing on-site car parking shortfall:</b>					<b>11 bays</b>

(To be confirmed 10 February 2015)

Based on the above table, the proposal would result in an increase to the existing car parking shortfall on the site from 11 car bays to 37 bays.

**Submissions:**

Consultation with other Agencies

In accordance with Part IV of the Metropolitan Region Scheme and Instrument of Delegation DEL 2011/02 – ‘Powers of Local Government (MRS)’ (23 September 2011), the application was referred to Main Roads WA on 31 October 2014 for comment and recommendation, as it abuts Shepperton Road which is classified as Category 2 Primary Regional Road on Plan No: SP696/3 which is under the control of Main Roads. To date, no formal advice/ recommendation has been received from Main Roads.

Community Consultation:

The proposal was the subject of consultation for a 14 day period in accordance with Council Policy GEN3 ‘Community Consultation’. This required notices to be mailed to owners and occupiers of surrounding lots that may be affected by the development. Consultation commenced on 6 November 2014 and closed on 21 November 2014. Over the comment period, one (1) submission was received as summarised and considered by Council’s Urban Planning Business Unit in the below table.

<b>Objection from owner/occupants of No. 1035 Albany Highway, St James</b>	
<b>Comments Received</b>	<b>Officer’s Comments</b>
<ul style="list-style-type: none"> <li>• It will have a significant negative impact on the business we are currently operating. As patrons of this proposal are already using the car bays that we provide for our customers on our site and that there are no additional car bays provided for this application, this will be detrimental to the operations of our business, increase traffic congestion and as a result endanger our customers in the car park on our site.</li> <li>• When receiving deliveries, some bays are required to be temporarily blocked to allow delivery trucks to access the site. However, non-customers would park on these bays. In turn, the truck has to park alongside the building making it dangerous for our customers to access their cars as a two-way lane is turned into one-way lane.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. The extent of car parking shortfall is considered to be excessive and would have potential for adverse impact on the amenity and undue interference to the surrounding locality in terms of traffic and parking generation.</li> </ul>

**Sustainability Assessment:**

External Economic Implications:

No impact.



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Cultural Issues:

No impact.

Environmental Issues:

No impact.

**COMMENT:**

Based on the above car parking calculation, it is determined that the proposed change of use would increase the existing car parking shortfall on the site by 26 car bays. The extent of the car parking shortfall is considered to be excessive and would have potential for adverse impact on the amenity and undue interference to the surrounding locality in terms of traffic and parking generation.

However, the applicant contends that due to the site context and circumstances, the subject lot should be credited an additional car parking shortfall, particularly, from the 60m<sup>2</sup> of the adjoining verge of Shepperton Road frontage which has a width of 29.32 metres. It is acknowledged that most restaurants or cafes along Albany Highway frontage have the benefit of the verge area to be used as outdoor alfresco dining areas without attracting any on-site car parking requirement (subject to Council's Health and Engineering regulations). However the intent of this is to create activation and vibrancy along Albany Highway. Shepperton Road is a much different environment and not one that is conducive to vibrancy or outdoor dining. In light of this, the proposed 10 car bays could not be credited as part of the current car parking shortfall as suggested by the applicant.

It is worth noting that the acknowledged existing car parking shortfall of 11 car bays for the current 'Showroom' use is a concession that has been applied to this use. In accordance with Council's Policy PLNG4, all ground floor development approved prior to 30 September 1998 within the 'District Centre' zone will be assessed on the basis that the approved use for the purposes of parking is a 'Shop' based on a car parking rate of 1 bay for every 10m<sup>2</sup>. As the existing 'Showroom' use was approved in 1995 and that it has a floor area of approximately 113m<sup>2</sup>, a total car parking credit of 11 bays have been applied to this portion of the site, in lieu of three (3) bays that were previously acknowledged for the 'Showroom' use. As such, the proposed internal sit down dining area which already attracts 11 on-site car bays combined with the large extensive area for patronage (which requires an additional 27 bays) is perceived as significant intensification of the use of the site as it would generate a higher demand of on-site car parking compared to the current 'Showroom' use.

Notwithstanding that there is an existing public car park nearby which could be utilised by the patrons, it should be noted that the land use pattern within the immediate locality may be substantially changed in the near future. There has been growing interest from prospective applicants to redevelop properties, in this part of Albany Highway, potentially into mixed use developments. As such, the subject public car park may be fully utilised once these developments have been occupied or commenced and would therefore restrict potential patrons the opportunity to use these public car parking bays in the future.

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(To be confirmed 10 February 2015)

As an alternative, the applicant has indicated their willingness to accept a condition to limit the total number of patrons to a maximum of 92 at any one time (based on a calculation whereby each of the 23 cars visiting the site brings a maximum of four (4) persons). However, it is considered to be onerous and impractical to impose any conditions restricting the number of patrons based on the assumption that the patrons would arrive on the site with each vehicle being at a full passenger capacity. This is due to the fact that there is a strong likelihood for patrons to arrive on the site with less than four (4) persons in a single vehicle and therefore, the proposed use may attract more than 23 vehicles at any one time.

Contrary to the applicant's argument that the nature of the proposed business is that diners will not be separate patrons to the smokers, it is often difficult to police the number of patrons given the nature and extent of use. As such, it is more sensible and justifiable to calculate the number of bays required for any 'Restaurant' use based on the net lettable sit down dining area. Council Officers are of the view that the smoking component of the proposal is likely to generate parking demand for patrons who will not necessarily dine at the premises, and therefore both the dining and smoking components will generate parking.

Council may consider the provision of cash-in-lieu of parking where developments propose or increase on-site car parking shortfall. However, a cash-in-lieu contribution for 26 car parking bays (at a rate of \$35,000 per bay based on Council's 2014/2015 financial year budget) would be significant in this instance. The applicant has advised that any cash-in-lieu contribution required as part of this application would make the entire proposal unviable.

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

In determining this application, Council must be satisfied by Absolute Majority that the proposal meets the requirements listed under Clause 38 of the Scheme if approval were to be granted.

Council needs to ensure that the proposed use is unobtrusive and operates with minimal risk of adverse impact upon the amenity of the surrounding properties. However in this instance, it is considered that the shortfall of car parking bays for the proposed use is significant and would place additional demands upon available on-street parking and the nearby public car park. In addition, the proposal would create an undesirable precedent for similar development, contrary to the intent of the Albany Highway Precinct and Policy 5.1 of the Town Planning Scheme No. 1 Policy Manual.

#### **CONCLUSION:**

In view of the above, the significant increase to the existing car parking shortfall on the site is considered to have an adverse impact on the amenity of the surrounding properties by way of traffic and parking generation and would compromise the orderly and proper planning of the Precinct. On this basis, the application for Change of Use to 'Restaurant' and Alterations to Commercial Building on the subject property is recommended for Refusal.

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(To be confirmed 10 February 2015)

**Further Comments:**

At the Elected Members Briefing Session on 2 December 2014, the applicant submitted that the outdoor smoking area would only be used by diners, and that they would accept conditions of approval that would restrict this and the total number of patrons. Council Officers note the popularity of shisha bars and are of the view that the majority of patrons attending the premises would be more likely attend to smoke rather than to dine. Council Officers do not accept the applicant's suggestion that the outdoor smoking area is incidental to dining, and are concerned that despite the applicant's stated intentions to limit the number of patrons, this is not manageable.

**RECOMMENDATION/S:**

Moved: Cr Windram

Seconded: Mayor Vaughan

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Altus Planning and Appeals on behalf of Gianni Redolatti (DA Ref: 5.2014.613.1) for Change of Use to Restaurant and Alterations to Commercial Building at 1032 (Lot 8) Albany Highway, East Victoria Park as indicated on the amended plans received 21 November 2014 be Refused for the following reasons:
  - 1.1. Non-compliance with Policy 5.1 'Parking Policy' of Town of Victoria Park Town Planning Scheme No. 1 Policy Manual in relation to the provision of on-site car parking.
  - 1.2. Non-compliance with Town Planning Scheme No. 1 Clause 38 – Determination of Non- Complying Application', with particular reference to the following:
    - The orderly and proper planning of the locality;
    - The conservation of the amenities of the locality; and
    - The property in, or the inhabitants of the locality.

Advice to Applicant:

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

The Motion was Put and

LOST (3-4)

In favour of the Motion: Mayor Vaughan; Cr Oliver; Cr Hayes

Against the Motion: Cr Windram; Cr Maxwell, Cr Bissett and Cr Anderson

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(To be confirmed 10 February 2015)

**ALTERNATIVE MOTION:****Moved: Cr Bissett****Seconded: Cr Windram**

1. In accordance with the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Altus Planning and Appeals on behalf of Gianni Redolatti (DA Ref: 5.2014.613.1) for Change of Use to Restaurant and Alterations to Commercial Building at 1032 (Lot 8) Albany Highway, East Victoria Park as indicated on the plans dated received 21 November 2014 be Approved subject to the following conditions:
  - 1.1 There are to be a maximum of 52 patrons on-site prior to 5.00pm and a maximum of 92 patrons thereafter.
  - 1.2 This approval is valid for a period not exceeding five (5) years from the date of approval.
  - 1.3 In order to confirm compliance with this planning approval and all relevant Council requirements, approval is to be obtained from the following Council Business Units prior to the submission of a certified application for a building permit:
    - Urban Planning;
    - Street Life;
    - Environmental Health;Failure to do so may result in refusal of the application for a building permit (refer related Advice Note).
  - 1.4 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 Manager Urban Planning.
  - 1.5 Before the subject development is first occupied or commences operation, all on site car bays being provided in accordance with the approved plans.
  - 1.6 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

**Advice to Applicant**

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

(To be confirmed 10 February 2015)

- 1.8 All car parking bays to be lined-marked and designed in accordance with AS2890.1 and AS2890.6.**
- 1.9 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law. Please also note that should any signage not comply with the Signs Local Law further Planning Approval will need to be obtained prior to a sign licence application being submitted to the Council.**
- 1.10 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.**

**The Motion was Put and**

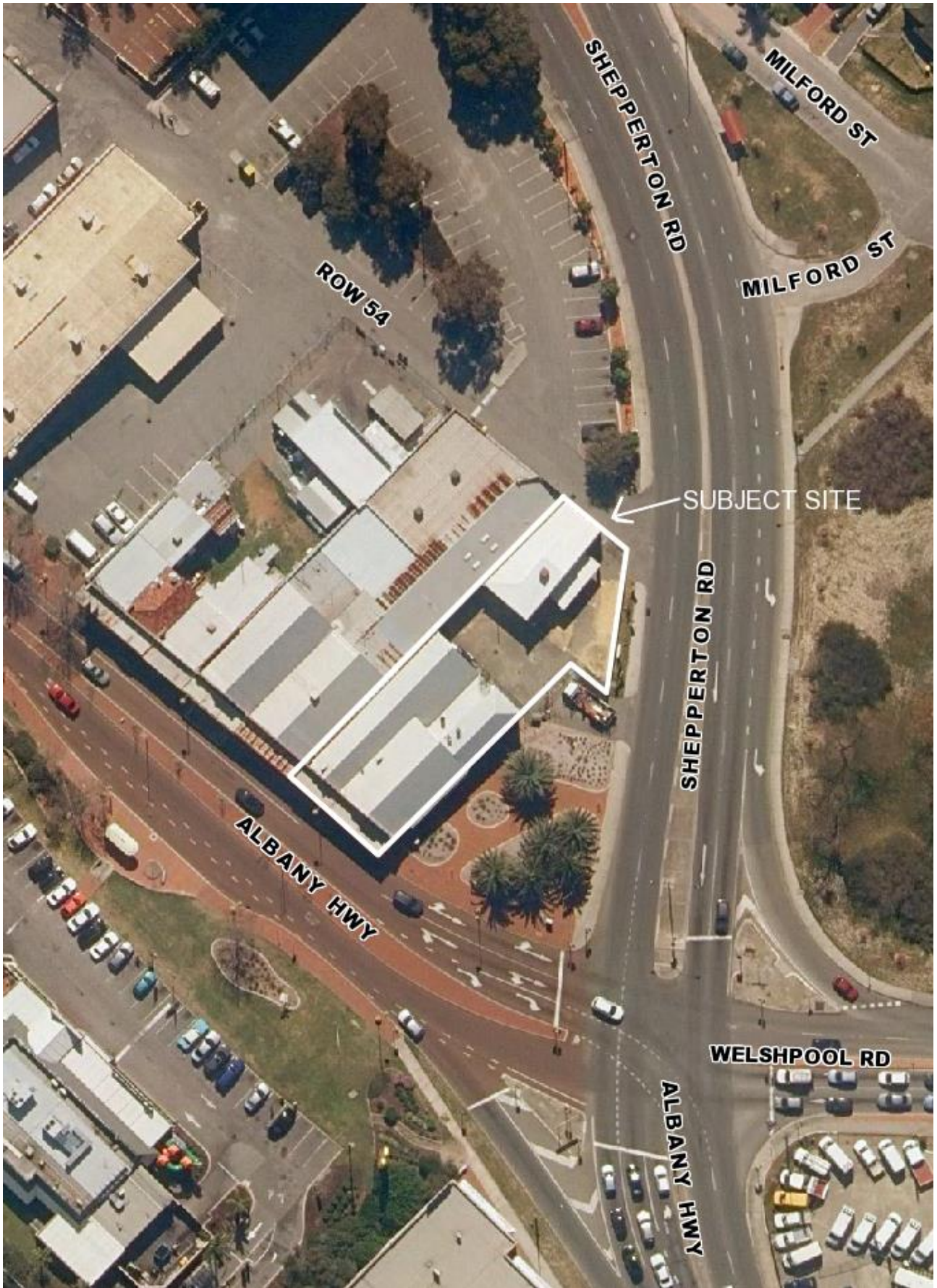
**CARRIED (6-1)**

**In favour of the Motion: Mayor Vaughan; Cr Oliver; Cr Windram; Cr Maxwell; Cr Bissett and Cr Anderson**

**Against the Motion: Cr Hayes**

*Cr Nairn returned to the Council Chamber at 7.02pm.*

(To be confirmed 10 February 2015)



(To be confirmed 10 February 2015)

### 11.3 63 (Lot 8) Ashburton Street, East Victoria Park – Additions and Alterations to an Existing Dwelling

<b>File Reference:</b>	PR320
<b>Appendices:</b>	No.
<b>Landowner:</b>	R Grosse
<b>Applicant:</b>	D Reid
<b>Application Date:</b>	3 October 2014
<b>DA/BA or WAPC Ref:</b>	5.2014.584.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R20
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	Single House
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	19 November 2014
<b>Reporting Officer:</b>	H. Stenning
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:****Recommendation – Refusal**

- Application for additions and alterations to an existing 'original' weatherboard dwelling located within a Weatherboard Precinct and in the Town's Residential Character Study Area.
- Non-compliant with Council's Local Planning Policy – Streetscape and Residential Design Codes with regard to boundary setbacks, visual privacy requirements and overshadowing.
- Discussions were held with the property owner, applicant and Council's Urban Planning Business Unit with regards to amending the design of the proposed additions, to meet the requirements of Council's Local Planning Policy – Streetscape. However, the owner wishes to pursue the proposal in its current form.
- Council's Urban Planning Business Unit considers the proposal to not be in keeping with the scale of development in the street. The bulk and scale of the proposed development is considered to adversely impact the streetscape, and sets a negative precedent for future development of weatherboard dwellings within the Town's Residential Character Study Area.
- The development is recommended for Refusal.

**TABLED ITEMS:**

- Application form and supporting documentation dated received 6 October 2014;
- Plans and Elevations dated received 6 October 2014;
- Correspondence undertaken with the applicant dated 16 October 2014;
- Justification for the proposed development dated received 3 November 2014; and
- Photographs of the subject property and associated streetscape.

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(To be confirmed 10 February 2015)

**DETAILS:**

An application has been received for two-storey additions and alterations to an existing weatherboard dwelling within a Weatherboard Precinct and the Town's Residential Character Study Area, which involves the partial demolition of the rear of the dwelling and side verandah. The subject property is situated to the eastern end of Ashburton Street, between Gascoyne Street and Devenish Street.

The existing weatherboard dwelling is recognised as an 'original place' within the Town of Victoria Park Residential Character Study Area, and is within a Weatherboard Precinct. The subject property is one of five (5) 'original' dwellings located in a continuous row along Ashburton Street. Similarly, the streetscape on the opposite side of the subject property also features six (6) 'original' dwellings in a continuous row.

The existing single-storey dwelling is representative of the era within which it was constructed and is significant given its architectural and design qualities which includes the following features:

- Hipped roof with skillion verandah;
- Weatherboard clad elevations with timber window frames;
- Galvanised iron roof;
- Open eaves with exposed rafter ends; and
- Timber stumps.

Externally, the existing dwelling is visually in good condition considering its age. From the street, the dwelling has retained its original single-storey form and design and makes an important contribution within this intact streetscape of original dwellings.

On 3 November 2014, following a meeting with Council's Urban Planning Business Unit on 21<sup>st</sup> October 2014, the applicant submitted supporting documentation to justify the proposed development (refer to Tabled Items for full document). This justification is summarised as follows:

- The applicant believes that the design meets the clients brief to create an *"architecturally pleasing two storey dwelling to look as though it has always been there"*; as well as *"a solar passive design where within practicality, fits within the existing weatherboard theme"*; and *"to maintain the size of the back yard"*.
- The proposed dwelling has been designed *"in line with solar passive principles with living areas to the north and bedrooms to the south."*
- Relevant to the bulk and scale of the front elevation: *"the upper floor Bedroom 2 and verandah placements were specifically designed...to align with solar passive principles guided by the advice of 3 environmental design professionals"*.
- Relevant to being unable to step the upper floor of the dwelling back to the rear of the property: *"firstly, the whole yard is used frequently by the family who are very active and outdoors oriented. Secondly, to preserve future space for a pool and small shed extension"*.



(To be confirmed 10 February 2015)

The applicant has also outlined a number of points made with regards to ‘design modifications’ by Council’s Urban Planning Unit at the meeting on 21<sup>st</sup> October 2014. It should be noted that whilst ideas for design modifications were discussed, a number of the points outlined in the justification document are not in line with the information that was provided by the Council Officers at this meeting.

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P12 ‘East Victoria Park’.

Compliance with Development Requirements

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

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Boundary Setbacks	Residential Design Codes Clause 5.1.3 – Lot Boundary Setbacks	4.40m minimum from north-eastern and south-western boundary to first floor walls.	4.19m minimum setback proposed to first floor north-eastern wall.  1.74m minimum setback proposed to first floor south-western wall.	Non-compliant (refer to Comments section below)
Solar Access	Residential Design Codes Clause 5.4.2 – Solar access for adjoining sites	No more than 25% of adjoining property to be overshadowed by development.	25.2% of neighbouring property at 65 Ashburton Street to be overshadowed by proposed development.	Non-compliant (refer Comments section below).
Building Design	LPPS Weatherboard Precinct Clause 11 – A2 (d)	Two storey development (new or addition) designed to reduce the scale and bulk of the building on the streetscape and that the visual impact of the development makes a positive contribution to the built form and character of the street.	Proposed upper floor of the development is considered to not be sufficiently setback from the street to reduce the scale and bulk of the development on the streetscape, which is otherwise characterised by single storey dwellings. Additionally, some design elements are not consistent with existing weatherboard dwellings.	Non-compliant (refer Comments section below).

(To be confirmed 10 February 2015)

<p>Visual Privacy</p>	<p>Residential Design Codes Clause 5.4.1 – Visual Privacy</p>	<p>Bedrooms / Studies: 4.5m setback</p> <p>Other habitable rooms: 6.0m setback</p> <p>Balconies, decks etc: 7.5m setback</p>	<p>First floor windows to Bedrooms 3 &amp; 4 (south-western elevation) with major openings setback 1.78m in lieu of 4.5m from the common boundary with 65 Ashburton Street. Overlooking to the outdoor living area of 65 Ashburton Street will occur from Bedroom 4.</p> <p>First floor window to Bedroom 4 (north-western elevation) with major openings setback 2.7m in lieu of 4.5m from the common boundary with 65 Ashburton Street. Overlooking to the outdoor living area of 65 Ashburton Street will occur from Bedroom 4.</p> <p>First floor window to Bedroom 2 (north-eastern elevation) with major opening setback 4.2m in lieu of 4.5m from the common boundary with 61 Ashburton Street. Overlooking will fall over roof area of adjoining property and is considered acceptable.</p> <p>First floor Activity room window (north-eastern elevation) with major opening setback 4.2m in lieu of 6.0m from the common boundary with 61 Ashburton Street. Overlooking will fall directly over roof area of adjoining property and is considered acceptable.</p>	<p>Non-compliant (refer comments section below).</p>
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(To be confirmed 10 February 2015)

			<p>First floor rear Balcony (north-eastern elevation) setback 4.2m in lieu of 7.5m from the common boundary with 61 Ashburton Street. There is potential for the Balcony to overlook a patio area of the adjoining property.</p> <p>First floor rear Balcony (north-western elevation) setback 4.2m in lieu of 7.5m from the common boundary with 61 Ashburton Street. There is potential for the Balcony to overlook the outdoor living area of the adjoining property.</p>	
Open Space	Residential Design Codes Clause 5.1.4 – Open Space	50% of site area	66% of site area	Complies.

**Submissions:**

The applicant has provided signatures of consent from the owners/occupiers of adjoining dwellings at 61, 62 & 65 Ashburton Street with the supporting justification.

**Policy Implications:**

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

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(To be confirmed 10 February 2015)

**COMMENT:**

The application proposes additions and alterations to an 'original' dwelling situated in both the Residential Character Study Area and a Weatherboard Precinct. The development is not considered to be in line with the requirements of Council's Local Planning Policy – Streetscape, as it will result in the creation of undue bulk and scale on the existing streetscape which will diminish the overall character of the surrounding area. This and other relevant issues are considered in further detail below.

Character of the Area

Ashburton Street, particularly the north-eastern end between Nos. 54 – 64, is dominated by early 20<sup>th</sup> Century single-storey character homes. Most weatherboard houses within the Town's Weatherboard Precinct started as a relatively modest worker's cottage and today are highly regarded and much sought after as 'character' houses which represent a valued resource in the Town. Weatherboard houses which are structurally sound have cultural heritage value and Council encourages sympathetic extensions and refurbishments, so long as the essential character of the streetscape is not damaged.

This section of Ashburton Street exhibits weatherboard dwellings which are consistent in form, height, bulk and design; being dwellings of single-storey elevation. 57 Ashburton Street is the sole example of a renovated weatherboard dwelling with an upper floor addition, and presents an excellent case study of an approved development application (DA No. 10/0056) to an original weatherboard dwelling. This dwelling is situated on a lot of identical size and proportion (581m<sup>2</sup>, 14.1m frontage) and has an upper floor addition setback approximately 10 metres from the front elevation of the ground floor, so as to maintain a single storey appearance to Ashburton Street. It is considered that this positively contributes to the existing character of the surrounding area, and was approved in line with Council's Local Planning Policy – Streetscape.

Having regard to the intact nature of the streetscape, any development of the original dwellings on the lots may have a significant impact on the character and appearance of the streetscape. Conversely, a poor standard of development will have a detrimental impact on the surrounding area. The following will discuss the design and associated issues of the proposed development.

Bulk and Scale of Proposed Development

Council's Urban Planning Business Unit considers that in its current form, the proposed development will have an adverse impact on the existing streetscape. The proposed upper floor sits too far forward on the site to the extent that the bulk of the upper floor is visually dominant. The desired outcome would be to have the upper floor well setback from the street so as to maintain a single storey appearance consistent with existing development within the street including that at 57 Ashburton Street.

Given the lot size and situation, being 581m<sup>2</sup> within a Residential R20 zone, no subdivision potential exists for the site. As such, the opportunity exists for the proposed development to adopt similar built form as demonstrated throughout the streetscape and at 57 Ashburton Street, with the dwelling presenting to the street as a single storey development, with the upper floor setback a sufficient distance behind the ridge line to

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(To be confirmed 10 February 2015)

reduce building bulk and scale. Council's Urban Planning Business Unit is of the view that ample space exists to the rear of the site to maintain a large area of active outdoor living, whilst achieving an environmentally sensitive design and positive outcome for the existing streetscape.

The bulk and scale of the proposed development in its current form, as well as having an undesirable effect on the character of the streetscape, also impacts the amenity of neighbouring dwellings in terms of visual privacy. These issues are further discussed below. It is noted that the applicant refers to the current design being based upon sustainable design principles. While this may be the case, this should not be at the expense of the built form being compatible with development in the street.

#### Overshadowing of Adjoining Properties

The development also demonstrates non-compliance with Clause 5.4.2 of the Residential Design Codes, which seeks to ensure the protection of solar access for neighbouring properties by limiting the extent of overshadowing to 25% of the site area. As demonstrated on the overshadowing diagram submitted by the applicant, the overshadowing caused at noon on 21 June exceeds the required 25% on the adjoining site at 65 Ashburton Street. It is acknowledged that the variation is relatively minor in nature and given that the shadow is largely cast over the roof of the existing adjoining dwelling, this variation is supported.

#### Side Boundary Setbacks

The development proposes variations to the side setback requirements of the Residential Design Codes, which seek to reduce the impacts of building bulk on adjoining properties, whilst minimising the extent of overlooking and resultant loss of visual privacy on adjoining properties. Whilst the proposal demonstrates non-compliant side setbacks, it is acknowledged that the variations are minor in nature, and can be addressed through modifying the relevant openings to the side elevations to be minor openings.

#### Visual Privacy

The development also proposes variations to Clause 5.4.1 of the Residential Design Codes, which seeks to ensure minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings. The existence of major openings with reduced privacy setbacks to both the north-east and south-western elevations, as outlined in full in the summary of compliance above, in turn create privacy implications for adjoining properties from the development of the upper storey. Most significantly, to the south-western and north-western elevations, Bedroom 4 proposes major openings setback 1.78 metres and 2.7 metres respectively, in lieu of 4.50 metres. Further, to the north-western and north-eastern elevations, the application proposes a Balcony setback of 4.2 metres in lieu of 7.5 metres. The areas of overlooking will fall directly to the active outdoor living area to the rear of the adjoining properties at 61 and 65 Ashburton Street, resulting in reduced residential amenity as a result of the development. It is acknowledged that issues of visual privacy non-compliance can be addressed through screening of relevant openings.

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(To be confirmed 10 February 2015)

**CONCLUSION:**

Having regard to the intact nature of the streetscape, which is predominantly single storey, the proposed development in its current form will compromise the preservation of the visual character along Ashburton Street, and of the existing original dwelling. The proposed partial demolition of the original verandah to the side and rear of the property, and the negligible stepping of the façade of the upper floor additions will create an impact of bulk and scale on the existing streetscape, and will adversely affect the surrounding adjoining properties.

The additions and alterations to the 'original' weatherboard dwelling will not preserve or enhance the existing character of the streetscape and its construction will set a negative development precedent, particularly for weatherboard dwellings within the Residential Character Study area. The cumulative effect of this will erode the character of the area and is contrary to Council's Town Planning Scheme No. 1 and Local Planning Policy – Streetscape.

In view of the above, the application is recommended for Refusal.

**RECOMMENDATION/S:**

In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by D Reid (DA5.2014.584.1) for Additions and Alterations to an Existing Dwelling at 63 (Lot 8) Ashburton Street, East Victoria Park be Refused for the following reasons:

1. Non-compliance with Clause 11 A2 (d) of Council's Local Planning Policy – Streetscape as it is considered that the siting of the upper floor results in the development being of a scale and bulk that negatively impacts upon the character of the street.
2. Non-compliance with Town Planning Scheme No. 1 Clause 36(5) – 'Determination of Application – General Provisions', with particular reference to the following subclauses:
  - The provisions of this Scheme and of any other written law applying within the Scheme area including the Metropolitan Region Scheme;
  - Any relevant planning policy;
  - Any relevant precinct plan;
  - The orderly and proper planning of the locality;
  - The conservation of the amenities of the locality; and
  - The design, scale and relationship to existing buildings and surroundings of any proposed building or structure.
3. Approval of the proposal will set an undesirable precedent for future development within Ashburton Street, the Residential Character Study Area and the Weatherboard Precincts and Weatherboard Streetscapes, contrary to the Town Planning Scheme No. 1 and Local Planning Policy – Streetscape. The cumulative effect of this will erode the existing character and appearance of the area.

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(To be confirmed 10 February 2015)

4. Non-compliance with Part 5 Clause 5.4.1 of the Residential Design Codes of Western Australia relating to "Visual privacy".
5. Non-compliance with Part 5 Clause 5.1.3 of the Residential Design Codes of Western Australia relating to "Lot boundary setbacks".

Advice to Applicant:

6. Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

**ALTERNATIVE MOTION:**

**Moved: Cr Bissett**

**Seconded: Cr Anderson**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by D Reid (DA Ref: 5.2014.584.1) for Additions and Alterations to an Existing Dwelling at No. 63 (Lot 8) Ashburton Street, East Victoria Park as shown on the plans received on 6 October 2014 be Approved subject to the following conditions :
  - 1.3 Design modifications being made to the front elevation to the satisfaction of the Manager Urban Planning, but not including any changes to the location of the upper floor.
  - 1.4 The upper floor openings in the north-eastern and south-western walls being modified to minor openings so that the setback of these walls complies with the side setback requirements of the Residential Design Codes.
  - 1.3 In order to comply with Clause 5.4.1 of the Residential Design Codes, those openings marked in red on the approved plans being either:
    - i. fixed obscure glazing to a minimum height of 1.65 metres above the finished floor level; or
    - ii. a minimum sill height of 1.65 metres above the finished floor level; or
    - iii. an obscure awning type window; or
    - iv. reduced in size to not exceed 1.0m<sup>2</sup> in aggregate; or
    - v. deleted.
  - 1.4 This approval is valid for a period of twenty four months only. If development is not substantially commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

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(To be confirmed 10 February 2015)

- 1.5 This approval does not include a roller door or similar carport door or enclosure on the carport structure.
- 1.6 External colours, finishes and materials to be used in the construction of the building are to be in accordance with the colour schedule dated 6 October 2014 attached with the approved plans, unless otherwise approved in writing by the Manager Urban Planning.
- 1.7 External fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street, secondary street or right-of-way.
- 1.8 All windows visible from the street to be either of timber frame construction or wide frame powder coated aluminium. Details are to be submitted to the satisfaction of the Manager Urban Planning prior to the submission of an application for building permit.
- 1.9 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

**Advice to Applicant:**

- 1.10 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.11 All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.
- 1.12 All stormwater runoff to be retained on site. Stormwater drainage to comply with the Town's "Stormwater drainage requirements for residential and commercial developments guidelines", which are available from the Town or the Town's website.



(To be confirmed 10 February 2015)

**1.13 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.**

**1.14 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.**

**The Motion was Put and**

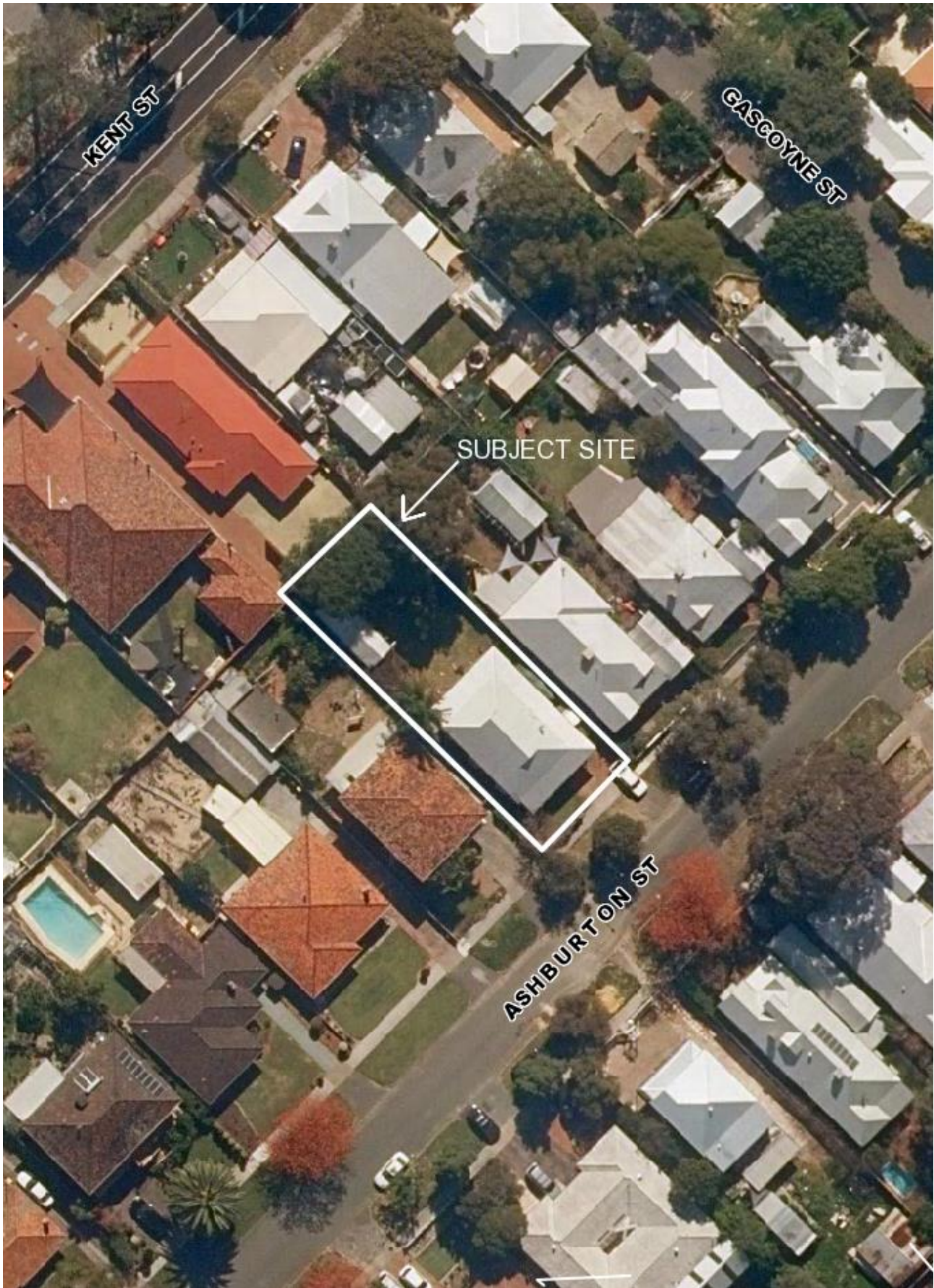
**(4-4)**

**LOST ON MAYOR'S DECIDING VOTE (4-5)**

**In favour of the Motion: Cr Anderson; Cr Bissett; Cr Maxwell; and Cr Nairn**

**Against the Motion: Mayor Vaughan; Cr Hayes; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)



(To be confirmed 10 February 2015)

### 11.4 21 (Lot 44) King George Street, Victoria Park – 15 Multiple Dwellings

<b>File Reference:</b>	PR1562
<b>Appendices:</b>	No
<b>Landowner:</b>	Laudis Developments Pty Ltd
<b>Applicant:</b>	Aztec Architects
<b>Application Date:</b>	4 September 2014
<b>DA:</b>	5.2014.531.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R80
<b>TPS Precinct:</b>	Precinct P5 'Raphael Precinct'
<b>Use Class:</b>	Multiple Dwellings
<b>Use Permissibility:</b>	"P" use

<b>Date:</b>	3 December 2014
<b>Reporting Officer:</b>	J. Gonzalez
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

#### Recommendation – Approval subject to conditions

- Application proposes 15 Multiple Dwellings.
- Proposal is non-compliant with provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Residential Design Codes, in relation to plot ratio, side boundary setback, street setback (right of way), site works (cutting and filling) and visual privacy.
- Consultation undertaken for 14 days in accordance with Council's Policy GEN3 'Community Consultation', with affected property owners and occupiers. One objection letter received, on behalf of five property owners along the right of way.
- The proposed variations are generally accepted other than plot ratio, where Council Officers and the Design Review Committee are of the view that further design improvements can be made to improve the overall quality and appearance of the development.
- It is recommended that the application be Approved subject to the applicant working further with Council Officers and the Design Review Committee to improve the design.

#### TABLED ITEMS:

- Application form dated 4 September 2014;
- Original Plans dated 4 September 2014;
- Amended plans dated 14 October 2014;
- Consultation letters to owner and occupiers dated 21 October 2014; and
- Submission received on 3 November 2014.

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(To be confirmed 10 February 2015)

**BACKGROUND:**

The Council at its Ordinary Meeting on 13 May 2014 granted approval for an application for 14 Multiple Dwellings on the subject site, with a plot ratio of 1.1. The owner has decided to not proceed with this approval.

A new proposal for the site was discussed at the Design Review Committee Meeting held on 14 August 2014. Several comments were made to improve the proposal, such as:

- Street elevation to be parallel to the street.
- 3D views required for clarification of elevations.
- Internal modifications were recommended to improve internal movement and increase apartment size.
- Front elevation windows to be incorporated within some banding to avoid a 'punched out' appearance.
- Review screening of the car parking and the proposed perforated metal screens.
- Relocation of stores and fire pumps and tanks.
- Encouraged to relocate the stairs into the 4.0 metre side boundary setback area.

While the applicant has undertaken these changes, it is considered that the applicant needs to further improve the design and in particular the street elevations to raise the standard of the development to one that would be regarded as high quality. The Design Review Committee considered the application at a formal meeting on 25 November 2014, and resolved to advise the applicant that further improvements would need to be made to the design to warrant support of the proposed additional plot ratio floor area sought. The Design Review Committee were of the view that the necessary design improvements could be made without having to completely redesign the building.

**DETAILS:**

The application proposes a six storey building to accommodate 15 Multiple Dwellings. The site, which is vacant at present has a land area of 874m<sup>2</sup> and abuts an existing 5.0 metre wide right of way at the side and rear of the property. The site slopes down from King George Street to the right of way at the rear with a difference of approximately 7.14 metres.

The proposed 15 Multiple Dwellings comprise: 10 two (2) Bedroom Dwellings and 5 one (1) Bedroom Dwellings. There are 3 Multiple Dwellings per floor from the ground floor to the third floor; 2 Multiple Dwellings on the fourth floor; and 1 Multiple Dwelling on the fifth floor.

A total of 17 car parking bays and 15 bicycles spaces for residents are proposed taking access from the right of way located on the side of the property and four car parking bays and 5 bicycles spaces for visitors are proposed being accessed from the right of way at the rear of the property.

The application proposes a 0.5 metre widening for the existing 5.0 metre wide right of way at the side and rear.

(To be confirmed 10 February 2015)

A communal area is proposed on the fourth floor, with seating area and BBQ facilities for the residents of the proposed building.

The proposal seeks variations to the Deemed-to-Comply provisions of the Residential Design Codes with regard to plot ratio, street setback (right of way), lot boundary setback and height of side boundary wall, site works (cutting and filling) and visual privacy.

**Legal Compliance**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text - Determination of Application – General Provisions; and
- Statement of Intent contained in Precinct Plan P5 ‘Raphael Precinct’.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Policy Manual, Policy 3.1 – Residential Design Guidelines;
- Residential Design Codes (R Codes);
- Policy 4.12 ‘Design Guidelines for Developments With Building Above 3 Storeys’;
- Local Planning Policy – Streetscape (LPPS);
- Local Planning Policy – Boundary Walls; and
- Council Policy PLNG7 ‘Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments’.

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Plot Ratio	Clause 6.1.1 of R Codes	1.0 (874m <sup>2</sup> )	1.17 (1026m <sup>2</sup> )	Non-compliant (refer to Comment section below)
Building Height (measured from the natural ground level)	TPS – Precinct Plan P5	6 storeys (22.5 metres)	6 storeys (21.8 metres)	Compliant
Primary Street Setback	TPS – Precinct Plan P5	4.0 metres	5.1 metres	Compliant

(To be confirmed 10 February 2015)

Street Setback (Right of Way)	Clause 1, A3 of LPPS	Dwelling 5.0 metres to centre line of right of way  Car parking 4.0 metres to centre line of right of way	Dwelling 3.0 metres  Car parking 3.0 metres	Non-compliant (refer to Comment section below)  Non-compliant (refer to Comment section below)
Lot Boundary Setbacks	Clause 6.1.4 of R Codes  Boundary wall	First floor upwards 4.0 metres  Maximum height 7.0 metres  Average height 6.0 metres	1.5 metres  7.3 metres  5.1 metres	Non-compliant (refer to Comment section below)
Open Space	Clause 6.1.5 of R Codes	N/A		
Parking	Clause 6.3.3 of R Codes 0.75 bay/dwelling  0.25 bay/dwelling	Residents 12 bays  Visitors 4 bays  Total 16 bays	Residents 17 bays  Visitors 4 bays  Total 21 bays	Compliant
Bicycle Spaces	Clause 6.3.3 of R Codes 1 space/3 dwellings  1 space / 10 dwellings	Residents 5 spaces  Visitors 2 spaces  Total 7 spaces	Residents 15 spaces  Visitors 5 spaces  Total 20 spaces	Compliant
Site Works (Excavation of Filling)	Clause 6.3.3 of R Codes	Street setback Maximum 500mm  Rear boundary Maximum 500mm	Excavation 990mm  Filling 2.86 metres	Non-compliant (refer to Comment section below)

(To be confirmed 10 February 2015)

Visual Privacy	Clause 6.4.1 of R Codes	Bedrooms 3.0 metres	7.5 metres	Compliant
		Balconies 6.0 metres facing south-western boundary	7.4 metres other than first floor balconies	Non-compliant (refer to Comment section below)
		Balconies 6.0 metres facing north-eastern boundary	3.1 metres	Non-compliant (refer to Comment section below)
Solar Access	Clause 6.4.2 of the R Codes	N/A for coding R80 and above		
Building Design	Policy 4.12	Development to address specified Performance Criteria to achieve the minimum standard design.	Proposal has achieved an acceptable standard design.	Compliant
Building Design	Policy PLNG7	Development to address specified Criteria to achieve superior development standards	Proposal has achieved only an acceptable standard of design.	Non-compliant (refer to Comment section below)

**Submissions:**

Community Consultation:

In accordance with Council’s Policy GEN3 ‘Community Consultation’ the proposal was the subject of community consultation for a period of 14 days, with letters being sent to owners and occupiers of affected properties. During the consultation period, one submission was received on behalf of five property owners.

(To be confirmed 10 February 2015)

<b>CONSULTATION SUBMISSIONS</b>	
<i>Submission from owner/occupants of No. 114, 116, 118, 120 Hordern Street and 23 King George Street</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
Compliance with the R-Codes is mandatory	<p>The R-Codes structure is divided into two main components: 'Deemed-to-Comply' and 'Design Principles'.</p> <p>When a proposed development does not comply with the Deemed-to-Comply requirements which is the case of the subject application, the proposal need to be consulted with the owners and occupiers of the affected properties.</p> <p>If the proposal does not comply with the Deemed-to-Comply requirements then it is assessed on its merits and against the Design Principles.</p>
Context - The R-Codes are to ensure that due regard is paid to both the 'existing development context' and the 'desired future built form'.	<p>The objectors' properties are also zoned Residential R80 similar to the subject property.</p> <p>While it is acknowledged that a 6 storey building may not be consistent with the scale of the existing single residences to the south-west, the proposal is generally consistent with the existing high density, apartment building form and scale that predominates in this part of King George Street and much of the surrounding area. Furthermore the proposed development is consistent with the intended form of development for the locality. The 'desired future built form' is noted within The Town of Victoria Park Town Planning Scheme No 1. Precinct Plan 5 – 'Raphael Precinct', which states "A maximum building height of 6 storeys (22.5m) with a minimum front setback of 4.0m." The objector's properties have the potential to be developed in the future to the same development standards.</p>



(To be confirmed 10 February 2015)

<p>Building size – The existing structures of all objectors are all single storey or double storey single dwellings against the proposed 6 storey building with 15 dwellings, being not comply with the maximum plot ratio of 1.0 but with a proposed plot ratio of 1.17</p>	<p>The Council at its Ordinary Meeting held on 14 October 2014 approved Policy PLNG7 ‘Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments.’ This policy sets parameters to be used by applicants to demonstrate that the proposal meets superior design standards to justify the granting of additional plot ratio.</p>
<p>Building height – The objectors make reference to the Table 4 of the R-Codes which requires a maximum height of 13 metres above natural ground level for an external wall (concealed roof) for a building on an area zoned R80.</p>	<p>The height limit of the R-Codes is not applicable in this instance as the Town of Victoria Park Town Planning Scheme No. 1 – Precinct Plan P5 – ‘Raphael Precinct’ supersedes the R-Codes and therefore 6 storeys (22.5 metres) is applicable.</p>
<p>Street setback – The proposed development does not comply with the minimum setback from the secondary street boundaries in accordance with Table 4. The streetscape requires a minimum setback of 6.0 metres from the centre line of the right-of-way, whereas the development is setback only 3.0 metres, creating a extremely dangerous situation when traffic entering and exiting from the development. Further, from the second floor and upwards the proposal encroaches within 6 metres of the centre line of the right-of-way. This non-compliance further aggravates the breach of the ‘overlooking’ requirements of the R-Codes.</p>	<p>Table 4 of the R-Codes is not applicable as it has been varied by Council’s Local Planning Policy – Streetscape. Council’s Local Planning Policy – Streetscape, Clause 2, A4 requires car parking bays or garages to be a minimum setback of 4.0 metres from the centre line of the right of way.</p> <p>In relation to the dwellings above the ground floor, the Local Planning Policy – Streetscape, Clause 1, A3 (f) requires a setback of 5.0 metres from the centre line of the right of way for dwellings on a corner lot. The overlooking issue will be discussed below.</p>
<p>Lot boundary setback – Encroachment of 1.0 metre into the stipulated lot boundary setback can do little to moderate the visual impact of the building bulk on the objectors’ neighboring properties.</p> <p>The required setback on the north-eastern boundary of the proposed development has been ignored.</p>	<p>Table 5 of the R-Codes requires a minimum setback of 4.0 metres for development on lot with a minimum frontage of 16 metres. The development proposes a reduced setback of 1.5 metres only to the stairs on the opposite side of the building to the objectors property. It should be noted that a 4.0 metre setback is maintained from the second storey upwards for the rest of the building.</p>

(To be confirmed 10 February 2015)

<p>Site planning and design – No vehicular access is provided to the primary street but from the right of way. The number of vehicles generated by the development represents a significant increase in vehicular traffic in the right of way which is very narrow. A high impermeable retaining wall is proposed on the corner of the right-of-way into King George Street which will further increase the danger to pedestrians and vehicular traffic.</p>	<p>The R-Codes, Clause 6.3.5 ‘Vehicular access’ C5.2 requires vehicular access to be taken from a right-of-way where available.</p> <p>In addition the Local Planning Policy – Streetscape Clause 14 – Development Abutting Rights-of-Way, requires dwellings to gain vehicular access from the right of way.</p> <p>The traffic resulting from the proposed development can be accommodated within the existing right-of-way. The proposed retaining/fencing near the corner of the right-of-way and King George Street complies with the relevant visual sightline requirements.</p>
<p>Building design – The proposal has not been designed nor located in a way which minimises the potential impact of the development on adjoining properties, i.e. the impact on the visual impact of the objectors to the south-west. The way of resolving this issue is for the proposal to be constructed as a mirror image of the present plans.</p>	<p>While a mirrored design would have a lesser impact upon the properties to the south-west, the current design is compliant in respect to visual privacy. Visual impact is discussed below.</p>

(To be confirmed 10 February 2015)

<p>Visual privacy – The objectors have made reference to the Table of the R-codes in relation to the minimum setbacks required from 30 major openings and 13 unenclosed outdoor active habitable spaces which will overlook the objectors’ properties, mainly two swimming pools and bedroom windows of several properties.</p>	<p>The R-Codes require that major openings and outdoor active spaces be either setback a prescribed minimum distance from the boundary, or be screened to restrict views. While there a number of windows and openings on the south-western side of the building, intended to capture the city and river views to the west and north-west, all openings are compliant with the visual privacy requirements of the R-Codes. The R-Codes provisions recognise that absolute privacy cannot be expected, and that the privacy provisions intend to maintain a reasonable level of privacy.</p> <p>It needs to be noted that the objectors’ properties are located across a 5.0 metres wide right of way. Bedrooms, living areas and balconies of the proposal are located with a minimum setback of 7.5 from the objectors’ property boundary, which exceed the minimum requirements of the R-Codes given that the line of sight setback distances include the width of any adjoining right-of-way. The only exception is the balconies to Units 2 and 3 on the first floor which are setback only 3.0 metres. A condition of approval is recommended to bring these balconies into compliance.</p>
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**Sustainability Assessment:**

External Economic Implications:

No impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

**COMMENT:**

The application proposes the construction of a six storey building on the site containing 15 Multiple Dwellings. The site is currently vacant, and has a right-of-way along both its south-western side boundary and the rear boundary.

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(To be confirmed 10 February 2015)

The surrounding development onto King George Street primarily comprises 3-4 storey buildings, with the properties to the south-west across the right-of-way (which face Hordern Street) being one or two storey single residences.

The site is zoned Residential R80 under the Town Planning Scheme Precinct Plan P5 – ‘Raphael Precinct’. Amendment 50 to Town Planning Scheme was gazetted on 13 July 2012 and has formalised a 6 storey (22.5m) maximum building height limit for the site.

The Statement of Intent as outlined in the Scheme Precinct Plan outlines that Multiple Dwellings are permitted in the higher density areas of the Precinct, and the Desired Character Statement detailed in the Urban Design Study is *“these areas should continue to be developed as high or medium density residential”* and for a 6 storey height limit to apply to the area within which the subject site is located.

Objections have been received regarding the scale and form of the proposed development and its consistency with the existing and desired built form of the locality. While it is acknowledged that a 6 storey building may not be consistent with the form of the existing single residences to the south-west, the proposal is generally consistent with the existing high density, apartment building form that predominates in this part of King George Street and much of the surrounding area. Furthermore it is noted that the existing single residences to the south-west are also zoned Residential R80 and have an allowable building height of 6 storeys. Clearly the desired built form for the locality is for higher density in taller buildings of up to 6 storeys as outlined in the Precinct Plan (as amended by Amendment 50) and the Urban Design Study.

As outlined above, while concerns have been expressed by the objectors in regard to the building height, street setback and visual privacy, the proposal is in fact compliant with the applicable requirements relating to these matters.

The proposal seeks several variations to the Residential Design Codes and Council’s Town Planning Scheme No. 1 as outlined above. The proposed variations will be considered as follows:

#### Plot ratio

Under the provisions of the R-Codes, a maximum plot ratio of 1.0 (874m<sup>2</sup>) is permitted. The development proposes a plot ratio of 1.17 (1026m<sup>2</sup>), which equates to 152.0m<sup>2</sup> of excess floor area.

For some years, Council’s Urban Planning Business Unit and the Design Review Committee have typically been supportive of plot ratio variations of up to 10% where an application demonstrates a high quality of design and provides a high level of amenity for prospective occupants. A plot ratio bonus is offered as an incentive to achieve better urban design outcomes than would otherwise be the case with a compliant development. The granting of a plot ratio bonus is therefore performance based rather than being an entitlement.

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(To be confirmed 10 February 2015)

The Council at its Ordinary Meeting on 14 October 2014 approved Policy PLNG7 – ‘Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments’. The Policy intent is to allow plot ratio variations, including in excess of 10%, where superior design and streetscape outcomes are achieved.

The proposed building form is largely similar to the existing apartment buildings within the immediate vicinity of the subject property. The six (6) storey component of the building is largely confined to the first 23.0 metres of the King George Street frontage with the building stepping down towards the rear right-of-way to 4 storeys above natural ground level, consistent with the natural ground levels across the site. The building has been designed to maximise balcony spaces to provide articulation to the façade and further incorporates variations of materials to reduce the building bulk on the street to break up both the primary street and the rear and side right-of-way elevations.

Although, the proposed building is compliant with the allowable building envelope defined by items such as setbacks and building height, the Design Review Committee are of the view that further design improvements can be made to increase the design quality, largely being amendments to the external elevations of the building. It is considered that the general design of the building is currently not of a sufficiently high standard to satisfy the criteria of the Council Policy PLNG7 - ‘Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments’. This is particularly the case given that the plot ratio has increased from a 10% variation to a 17% variation as the design has progressed.

The Design Review Committee and Council Officers are of the view that the form and size of the building is generally acceptable as it is largely within the allowable building height and setbacks from boundaries, and therefore the additional plot ratio sought satisfies the relevant Performance Criteria under the R-Codes. However it is considered that the design should be further improved and the visual appearance of the building improved to a higher standard to justify the granting of the plot ratio variation. The Design Review Committee and Council Officers are satisfied that the necessary design improvements can be made without requiring significant changes to the site planning or internal planning of the development.

It should be noted that the Metropolitan Central Joint Development Assessment Panel recently approved an application for 19 Multiple Dwellings on the site at 14 King George Street. This application was approved with a plot ratio of 1.49. The reasons for the granting of this variation was largely the excellent quality of the design, both internally and externally, and the site context located amongst other Multiple Dwellings. It is acknowledged that the site context for the current application is slightly different given the single residential properties to the south-west.

It is therefore recommended that the application be approved with a condition requiring the design and external appearance of the development to be improved to the satisfaction of the Design Review Committee.

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(To be confirmed 10 February 2015)

It is anticipated that amended plans may in fact be prepared and agreed to by the Design Review Committee prior to the Ordinary Council Meeting on 9 December 2014.

#### Street Setback (Right-of-Way)

The Council's Local Planning Policy – Streetscape Clause 2 – Setback of Garages and Carports A4, requires any car parking bay, carport, garage or building structure with access from a right of way to be setback a minimum distance of 4.0 metres from the centre line of the right of way. In this regard the application proposes a 0.5 metre widening to the current 5.0 wide right-of-way. The proposed car parking is to have a setback from the centre line of the right of way of 3.0 metres. The proposed structure is contained within the new proposed boundaries and is supported.

At the first floor level the balconies to Units 2 and 3 are setback only 3.0 metres from the centreline of the right-of-way. These balconies are elevated and do not comply with the visual privacy requirements of the Codes. Accordingly a condition of approval is proposed requiring the balconies to be setback a minimum of 5.0 metres from the centreline of the right-of-way, which not only results in a compliant setback but also satisfies visual privacy requirements. For the upper floors, the proposal shows a minimum setback of 5.0 metres from the centre line of the right of way which is in compliance with the requirements.

#### Lot Boundary Setbacks

The required minimum north-eastern boundary setback is 4.0 metres in accordance with the R-Codes. A minimum 1.5 metre setback is proposed for the first floor and above. This reduced setback is the result of a recommendation from the Design Review Committee to relocate the stairs into the 4.0 metre side boundary setback to improve internal movement within the development. The owners and occupiers of the affected abutting property at 17 – 19 King George Street have not objected to this variation, which is largely located adjacent to a large blank wall of their building. It should be noted that the rest of the building complies with the minimum required setback of 4.0 metres.

At the ground floor level, the proposal shows a boundary wall along the north-eastern boundary with a length of 19.0 metres (29.2 metres permitted) with a maximum height of 7.3 metres (a maximum of 7.0 metres is permitted) and an average height of 5.1 metres (6.0 metres permitted). This boundary wall partially abuts an existing retaining wall/fence of the next door property. No objections were received in relation to this variation also.

It is considered that these proposed variations will not have any adverse impact on the streetscape or the abutting property and are supported.

#### Site Works

Retaining walls with a varying height between 0.63 metres and a maximum height of 1.0 metre below the natural ground level along the street boundary are proposed, in lieu of a maximum of 0.5 metre permitted by the R-Codes. This is due to the site falling from the east corner of the property to the south corner of the property with a difference of 0.7 metres and also falling to the rear of the property with the natural ground level of the building (front unit) being the same as the finished floor level, therefore lower than the street level by approximately 1.0 metre.

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(To be confirmed 10 February 2015)

Due to the significant slope of the site which has a 7.14 metre fall from King George Street down to the rear right-of-way, a significant amount of retaining is required to facilitate the proposed development. The application proposes a variation to the maximum permitted retaining wall height of 500mm with retaining walls being proposed to the north-eastern boundary of a maximum height of 2.86 metre. The additional retaining wall height is required to provide the car parking for visitors at a consistent finished ground level as the rear right-of-way. The retaining walls do not result in any adverse impact on the surrounding properties with the retaining wall on the north-eastern boundary being proposed towards the rear car parking area of the apartment complex on No. 17 – 19 King George Street.

It is considered the development has been designed to respect the natural ground levels of the site and reduce the overall building bulk and scale on the adjoining properties when viewed from the street.

As such, it is considered the proposed variations do not negatively impact the amenity of the surrounding properties and thereby may be supported.

#### Visual Privacy

In relation to the Deemed-to-Comply requirements of the R-Codes, the balcony of Unit 3 on the ground floor and the communal roof terrace on the fourth floor have a line of sight setback of 3.1 metres and 4.0 metres respectively to the common boundary with 17-19 King George Street which is non-compliant. However the required 6.0 metre minimum cone of vision for these openings intersects a car parking area and a clothes drying area of the abutting property at 17 – 19 King George Street therefore not overlooking any sensitive areas. It is considered that these non-compliant openings comply with the Design Principles of the R-Codes as no sensitive areas are overlooked.

On the south-western side of the building, the first floor balconies to Units 2 and 3 are setback 5.5 metres from the boundary of the adjacent residential properties in lieu of a minimum setback of 6.0 metres. This will be brought into compliance through increasing the side setback to a minimum of 5.0 metres from the centreline of the right-of-way (as discussed above).

All other proposed windows and outdoor living areas of the building exceed the visual privacy requirements of the R-Codes.

#### **CONCLUSION:**

It is considered that the proposal is acceptable subject to further design improvements being made to satisfy the requirements of Council Policy PLNG7 'Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments'. The variations proposed satisfy the relevant Performance Criteria, and while the additional plot ratio sought does not negatively impact upon the amenity of the adjoining properties, it is recommended that the design quality be further improved to warrant the granting of this variation.

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(To be confirmed 10 February 2015)

On this basis it is recommended that the application be Approved subject to conditions.

**RESOLVED:**

**Moved: Cr Maxwell**

**Seconded: Cr Anderson**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Aztec Architects on behalf of Laudis Developments Pty Ltd (DA Ref: 5.2014.531.1) for 15 Multiple Dwellings at 21 (Lot 44) King George Street, Victoria Park as indicated on the amended plans dated received 14 October 2014 be Approved subject to:
  - 1.1 The design quality being improved to the satisfaction of the Executive Manager Built Life in consultation with Council's Design Review Committee, to satisfy the requirements of Council Policy PLNG7 'Guide To Concessions on Planning Requirements for Mixed Use, Multiple Dwelling and Non-Residential Developments'.
  - 1.2 The south-western face of the balconies to Units 2 and 3 on the first floor level being modified to have a minimum setback of 5.0 metres from the centreline of the right-of-way.
  - 1.3 In order to confirm compliance with this planning approval and all relevant Council requirements, approval is to be obtained from the following Council Business Units prior to the submission of a certified application for a building permit:
    - Urban Planning;
    - Street Life; and
    - Park Life.Failure to do so may result in refusal of the application for a building permit (refer related Advice Note).
  - 1.4 Prior to the submission of an application for a building permit, full details of all external materials, finishes and colours proposed to all elevations of the development shall be submitted to and approved in writing by the Manager Urban Planning, with the building being finished and thereafter maintained in accordance with the approved details.
  - 1.5 Prior to the submission of an application for a building permit, details being submitted of all proposed ventilation systems, including the location of plant equipment, vents and air conditioning units. All equipment and external fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, must be adequately screened from view from any public place, to the satisfaction of the Town's Manager Urban Planning.



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(To be confirmed 10 February 2015)

- 1.6 Prior to the submission of an application for a building permit, a Drainage Management plan including details of the on-site stormwater disposal including soakwell sizes and locations to be submitted to the satisfaction of Executive Manager Street Life.**
- 1.7 Prior to the submission of an application for a building permit, a Waste Management plan to be submitted to the satisfaction of Executive Manager Street Life.**
- 1.8 Prior to the submission of an application for a building permit a Construction Management Plan shall be submitted to and approved in writing by the Manager Urban Planning which includes the route that construction vehicles will take to and from the site, the temporary realignment of pedestrian access ways (including crossing points and lighting), vehicular access to the site during construction, unloading and loading areas, waste disposal, the location on site of building materials to be stored, safety and security fencing, sanitary facilities, cranes and any other details as required by the Manager Urban Planning. Construction works shall take place in accordance with the approved details at all times.**
- 1.9 Landscaping as detailed on the attached approved plans date stamped on 9 December 2014 being provided and maintained to the satisfaction of the Manager Urban Planning prior to the subject development being first occupied or commencing operation.**
- 1.10 A minimum of 50% of the front setback area of the building is to be vegetation. Landscaping is to be installed prior to occupation of the building(s) or strata titling whichever occurs first and subsequently maintained to the satisfaction of the Manager Urban Planning Program.**
- 1.11 Landscaping is to be completed prior to the occupation or strata titling of the building, whichever occurs first, and thereafter maintained to the satisfaction of the Manager Urban Planning.**
- 1.12 The solid portion of the wall/fence (excluding piers) is to be a maximum height of 600mm above natural ground level.**
- 1.13 Any structure, wall or fence located within a 1.0 metre x 1.0 metre visual truncation at the intersection of any driveway and the property boundary, is not to exceed a height of 750mm.**
- 1.14 All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.**

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(To be confirmed 10 February 2015)

- 1.15 Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge, kerbing and footpath (where relevant) shall be reinstated prior to occupation of the new development or strata-titling of the properties, whichever occurs first, to the satisfaction of the Manager Urban Planning.**
- 1.16 Before the subject development is first occupied or commences operation, all on site car bays being provided in accordance with the approved plans.**
- 1.17 A minimum of 4 car parking bays to be provided on site for the exclusive use of visitors. These bays shall be marked for the exclusive use of visitors prior to the first occupation or commencement of the development.**
- 1.18 Bicycle spaces to be provided in accordance with the approved plans prior to occupation of the development. All bicycle spaces are to remain available for use at all times with the minimum provision of spaces for residents and their visitors.**
- 1.19 All development is to be setback 0.5 metre from the right-of-way for the length of the common boundary with the right-of-way to allow for the future widening of the right-of-way.**
- 1.20 External fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street, secondary street or right-of-way.**
- 1.21 External clothes drying facilities shall be provided for each dwelling and shall be screened from view from the street or any other public place.**
- 1.22 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.**
- 1.23 This approval is valid for a period of twenty four months only. If development is not commenced within this period, a fresh approval must be obtained before commencing or continuing the development.**

**Advice to Applicant**

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

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(To be confirmed 10 February 2015)

- 1.25 All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.
- 1.26 All car parking bays to be lined-marked and designed in accordance with AS2890.1 and AS2890.6.
- 1.27 All stormwater drainage for commercial/industrial and multi residential developments (5 or more units) shall be designed and signed by a practicing Hydraulic Consultant. An overland flow path is to be included in the design to ensure diversion of stormwater from the developments during storm events.
- 1.28 Provision being made for a 1.5 metre by 1.5 metre corner lot truncation at the intersection of King George Street and the right of way. The truncation are should remain free of any obstructing that would inhibit its provision in conjunction with any future subdivision/amalgamation of the lot.
- 1.29 The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.
- 1.30 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
- 1.31 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
2. Those persons who lodged a submission regarding the application be advised of Council's decision.

The Motion was Put and

CARRIED (8-0)

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

(To be confirmed 10 February 2015)



(To be confirmed 10 February 2015)

*Cr Nairn Left the Council Chamber at 7.12.pm*

<b>11.5 1019 (Lot 5) Albany Highway, St James - Retrospective Approval for Modification to Planning Approval (Patron Numbers)</b>
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<b>File Reference:</b>	PR6424
<b>Appendices:</b>	No
<b>Landowner:</b>	Wildnight Pty Ltd
<b>Applicant:</b>	Furqan Islamic Association
<b>Application Date:</b>	13/10/2014
<b>DA/BA or WAPC Ref:</b>	5.2014.608.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	District Centre
<b>TPS Precinct:</b>	Precinct Plan P11 'Albany Highway'
<b>Use Class:</b>	Unlisted Use (Community Use)
<b>Use Permissibility:</b>	Discretionary

<b>Date:</b>	21 November 2014
<b>Reporting Officer:</b>	I. Ahmad
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Absolute Majority

**Executive Summary:****Recommendation – Approval by Absolute Majority**

- Approval is sought to modify a condition of planning approval to increase the number of patrons within the subject tenancy every Friday between 1.00pm and 2.00pm for religious services.
- Community consultation carried out for 14 days, consisting of letters to surrounding owners and occupiers. Over the comment period, seven (7) submissions were received.
- The proposal will not result in an adverse impact on the amenity of the surrounding properties given that the use operates for a limited time period only and that a parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period. It is therefore recommended that the application be Approved subject to conditions.

**TABLED ITEMS:**

- Application form dated received 2 October 2014;
- Applicant's justification letter dated received 2 October 2014;
- Site plan dated received 2 October 2014;
- Community consultation letter dated 7 November 2014;
- Submission from owners and occupiers of surrounding properties dated received 10 November 2014, 17 November 2014, 23 November 2014, 24 November 2014 and 25 November 2014; and
- Minutes of the Ordinary Council Meeting held on 17 March 2009.

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(To be confirmed 10 February 2015)

**BACKGROUND:**

- 17 March 2009 At the Ordinary Council Meeting, Council resolved to grant planning approval (DA Ref: 08/0700) for a Change of Use from 'Shop and Mall' to 'Unlisted Use' (Community Use) on the subject tenancy subject to conditions. In particular, Conditions 1 and 8 of this Approval state as follows:
- "1. There being a maximum of 30 people in attendance within the tenancy at any one time."*
- "8. Operation of the 'Community Use' is to be in accordance with details provided in correspondence from the President of the Furqan Islamic Association dated 16 January 2009. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council."*
- 27 May 2014 Council received a formal complaint from a member of public relating to the use of the subject premises and issues of car parking.
- 22 August 2014 The applicant was requested by the Council to either cease the use of the subject tenancy for religious services or submit a formal application for Modification to Planning Approval for Council's consideration.
- 2 October 2014 Council received an application for Modification to Planning Approval to modify the Planning Approval (DA: 08/0700), which is the subject of this report.

**DETAILS:**

Approval is sought to modify several conditions of an existing planning approval that has been issued for the abovementioned property. The site comprises a lot of 2051m<sup>2</sup> and has frontage to both Albany Highway and a rear right-of-way. The site currently contains a single storey commercial building with 34 on-site car parking bays at the rear of the building with vehicular access provided via the right-of-way. The tenancy in question, which has a floor area of approximately 217m<sup>2</sup>, is one of four tenancies within the building.

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

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(To be confirmed 10 February 2015)

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

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

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

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

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

The applicant submitted a written justification for the use of the premises for religious services which is summarised as follows (also refer Tabled Items):

- Applicant’s commitment to alleviate any impacts of parking and traffic generation on the surrounding properties through a traffic management plan;
- Traffic controllers are scheduled to volunteer every Friday to direct drivers to appropriate parking zones;
- The community has daily memos in the subject tenancy to advise attendees to carpool and promote the use of public transport particularly for the Friday prayers; and
- The Association has amicable relationship with business in the locality which draws prospective customers to the businesses within the immediate vicinity.

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

(To be confirmed 10 February 2015)

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Statement of Intent contained in Precinct Plan P11 ‘Albany Highway’;
- Clause 16 of the Scheme Text – ‘Unlisted Uses’; and
- Clause 36 of the Scheme Text – ‘Determination of Application – General Provisions’; and
- Clause 37 of the Scheme Text – ‘Determination of Application for an Unlisted Use’.

Compliance with Development Requirements

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

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

**Submissions:**

Community Consultation:

In accordance with Council Policy GEN3 ‘Community Consultation’, the application has been advertised for a period of 14 days, including letters to surrounding owners and occupiers. The consultation period commenced on 7 November 2014 and closed on 24 November 2014.

During the consultation period, seven (7) submissions were received as summarised and considered by Council’s Urban Planning Business Unit in the below table.

<b>CONSULTATION SUBMISSIONS</b>	
<i>No objection from owner/occupants of No. 22/20 Alday Street, St James</i>	
<b>Comments Received</b>	<b>Officer’s Comments</b>
<ul style="list-style-type: none"> <li>• No objection to increasing the demand of car parking bays or proposed use of the premises.</li> <li>• However, simply a general concern with high number of traffic accessed from Hill View Terrace to the rear right-of-way not just limited to every Friday between 1.00pm and 2.00pm, but any other times.</li> <li>• Suggest Council to widen and upgrade the rear right-of-way to dual carriageway to facilitate vehicular access.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. Council’s Street Life Business Unit will be asked to review the traffic situation along the rear right-of-way to determine whether any traffic measures need to be implemented.</li> <li>• As part of Council’s Right-of-Way Study, it has been the Council’s intention to widen underwidth existing right-of-ways in the Town to an ultimate width of 6.0 metres in order to facilitate two-way vehicular access where opportunity arises.</li> </ul>



(To be confirmed 10 February 2015)

<b>Objection from owner/occupants of No. 25/20 Alday Street, St James</b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• Query was raised as to whether the subject property has been approved as a place of worship.</li>   <li>• A place of worship is not suitable in a commercial area.</li> </ul>	<ul style="list-style-type: none"> <li>• Under the current approval, the Town accepts that religious services will occur at various times by no more than 30 persons already there for other activities during the hours that the subject centre is open.</li>   <li>• It is considered that the nature of the use and associated increased number of patrons will not result in an adverse impact on the amenity of the surrounding properties given that it operates for a limited time period only.</li>   <li>• It is worth noting that a 'Place of Worship' is classified as a 'P' (permitted) use within the 'District Centre' zone in Precinct Plan P11 – Albany Highway Precinct.</li> </ul>
<b>Objection (property address not indicated as only postal address was given)</b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• If the use of the building has changed from a community centre to a "place of worship" or, in Islamic terms, a <i>musalla</i> meaning a place of prayer, this change is not a mere modification to the building's approved use, but a complete change of use, regardless of how many hours a day it is used for praying.</li>   <li>• Difficulty for Council to monitor compliance on a long term basis, particularly on the extent of use as a place of worship and the parking management during, for example, special religious events on days other than Fridays.</li>   <li>• Instead of the expected 8 car bays allocated to the community centre, the community centre/place of worship can use 48 bays, which is an extra 40 car parking bays for one (1) hour on Friday. It appears that the proposal means that the worshippers can use the extra 40 bays with Council approval rather than without Council approval.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported. Given that the religious services only occur on a limited time period, the use is considered to be an ancillary use rather than being a primary use. As such, this application is not regarded as a change of use.</li>   <li>• Comments noted. While it is the applicant's obligation to comply with all conditions imposed as part of this application, the situation will also be monitored by Council staff. Accordingly, any breach of conditions of this Approval will be dealt by the Council.</li>   <li>• Not supported. Notwithstanding that the use would increase the existing car parking shortfall on the site by 40 bays, the increased shortfall is only confined to once a week, for an hour and will be managed.</li> </ul>

(To be confirmed 10 February 2015)

<ul style="list-style-type: none"> <li>• The Council is aware, and has evidence that on Fridays there are up to 200 cars using the surrounding parking areas and for a period in excess of the one (1) hour time limit proposed. On Fridays, the shared parking area behind the community centre, the private parking to the south-west of the centre, the reserved business parking to the south-east of the centre, on-street parking on Albany Highway and, in particular, Alday Street would be full. This is the current situation, and with the rapid growth of the Islamic community the problem of parking will be exacerbated.</li>   <li>• The proposal that the overflow can be accommodated at the public car park near Shepperton Road is clearly flawed. This car park has a capacity of 80 car bays. However, as of Wednesday and Thursday this week, only 27 bays and 11 bays were vacant respectively at about midday. Further, any worshippers arriving late for prayers may not be bothered to utilise the subject car park and would rely on parking on surrounding streets which could be potentially be hazardous to other road users.</li>   <li>• On another issue of community concern are the sermons provided at Jumma Prayer to the assembly, prior to the actual prayer session. These sermons are given by imams/preachers from the local area and elsewhere, which, in the light of recent newspaper reports, may not be desirable.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported. Council has no evidence that there are 200 cars associated with the use, nor that patrons are there for more than 1 hour. Given that there are other commercial properties in the immediate locality, it is considered inappropriate to assume that all of the car parking bays are occupied by the worshippers as there may be other customers patronising these commercial properties. The comment regarding the growth of the Islamic community adding to the parking problem in the locality is considered to be unwarranted.</li>   <li>• Not supported. Parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period.</li>   <li>• Not supported. Comments provided have no planning relevance.</li> </ul>
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(To be confirmed 10 February 2015)

<b><i>Objection from owner/occupants of No. 119E Beatty Avenue, East Victoria Park</i></b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• Parking in the area should be preserved so that it is available for staff and patrons of present retail businesses and for future viable retail businesses in the area.</li> <li>• The area is subject to further redevelopment for retail purposes over time with an expanding pressure on parking.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. Parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period.</li> </ul>
<b><i>Objection from owner/occupants of No. 8/2 Alday Street, St James</i></b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• An estimate count of the marked parking bays at the rear of No. 1019 comes to 82 of which two are designated parking for disabled patrons. 80 bays seem adequate for most days/nights of any given week however on any given Friday from before 1.00pm until well after 2.00pm it is often a different story with the overflow from the car park occupying any vacant spot within a 100 or so metre walk.</li> <li>• Given the constraints of the existing site and the increasing volumes of traffic in the area, we are of the view that this and future applications must include an impact study particularly in respect to parking focussing on an area within 500 metres or so, hot spots (residences apparently without adequate parking space, street verges and parks) within this distance of 1019 Albany Highway include Swansea Street East, Alday Street including the park, Baillie St &amp; Albany Highway between Baillie and Alday Streets.</li> <li>• The parking area for 1019 Albany Highway and indeed the adjacent businesses, along with Alday St &amp; Edward Millen Park, are something of a rubbish tips at times and while we do not cast aspersions at the Furqan community it seems inevitable that as the area develops the litter problem increases with</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. While it is the applicant's obligation to comply with all conditions imposed as part of this application, the situation will also be monitored by Council staff.</li> <li>• Comments noted. Any future applications for redevelopment in the area are required to comply with the relevant Town's car parking standards. In addition, Council's Street Life Business Unit will be asked to review the traffic situation within the immediate locality to determine whether any traffic measures need to be implemented.</li> <li>• It is the landowners' responsibility to ensure that the site and surrounding areas are clean and managed at all times.</li> </ul>

(To be confirmed 10 February 2015)

no apparent strategy for mitigation.	
<b>Objection from owner/occupants of No. 1035 Albany Highway, St James</b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• It will have a significant negative impact on the business we are currently operating. As patrons of this proposal are already using the car bays that we provide for our customers on our site and that there are no additional car bays provided for this application, this will be detrimental to the operations of our business, increase traffic congestion and as a result endanger our customers in the car park on our site.</li> <li>• When receiving deliveries, some bays are required to be temporarily blocked to allow delivery trucks to access the site. However, non-customers would park on these bays. In turn, the truck has to park alongside the building making it dangerous for our customers to access their cars as a two-way lane is turned into one-way lane.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. Parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period.</li> <li>• Comments noted. While it is the applicant's obligation to comply with all conditions imposed as part of this application, the situation will also be monitored by Council staff.</li> </ul>
<b>Objection from owner/occupier of No. 61 Washington Street, Victoria Park</b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• The parking congestion on Friday afternoons already makes doing business with the retailers in the area impossible.</li> <li>• If the use of the building has changed from a community centre to a "place of worship" or, in Islamic terms, a <i>musalla</i> meaning a place of prayer, this change is not a mere modification to the building's approved use, but a complete change of use, regardless of how many hours a day it is used for praying.</li> <li>• The Council is aware, and has evidence that on Fridays there are up to 200 cars using the surrounding parking areas and for a period in excess of the one (1) hour time limit proposed. On Fridays, the shared parking area behind the community centre, the private parking to</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted. Parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period.</li> <li>• Not supported. Given that the religious services only occur on a limited time period, the use is considered to be an ancillary use rather than being a primary use. As such, this application is not regarded as a change of use.</li> <li>• Not supported. Council has no evidence that there are 200 cars associated with the use, nor that patrons are there for more than 1 hour. Given that there are other commercial properties in the immediate locality, it is considered inappropriate to assume that all of the</li> </ul>

(To be confirmed 10 February 2015)

<p>the south-west of the centre, the reserved business parking to the south-east of the centre, on-street parking on Albany Highway and, in particular, Alday Street would be full. This is the current situation, and with the rapid growth of the Islamic community the problem of parking will be exacerbated.</p> <ul style="list-style-type: none"> <li>• The proposal that the overflow can be accommodated at the public car park near Shepperton Road is clearly flawed. This car park has a capacity of 80 car bays. However, as of Wednesday and Thursday this week, only 27 bays and 11 bays were vacant respectively at about midday. Further, any worshippers arriving late for prayers may not be bothered to utilise the subject car park and would rely on parking on surrounding streets which could be potentially be hazardous to other road users.</li> <li>• On another issue of community concern are the sermons provided at Jumma Prayer to the assembly, prior to the actual prayer session. These sermons are given by imams/preachers from the local area and elsewhere, which, in the light of recent newspaper reports, may not be desirable.</li> </ul>	<p>car parking bays are occupied by the worshippers as there may be other customers patronising these commercial properties. The comment regarding the growth of the Islamic community adding to the parking problem in the locality is considered to be unwarranted.</p> <ul style="list-style-type: none"> <li>• Not supported. Parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period.</li> <li>• Not supported. Comments provided have no planning relevance.</li> </ul>
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**Sustainability Assessment:**

External Economic Implications:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

**COMMENT:**

In determining this application, Council must be satisfied that the proposal meets the requirements listed under Clause 36(5) of the Scheme if approval were to be granted.

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(To be confirmed 10 February 2015)

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

It is worth noting that the subject premises has been conducting religious services during the specified period for more than three (3) years without any formal complaint received until early this year by a member of the public. As such, this demonstrates that the nature and extent of use is deemed to be unobtrusive and operates with minimal risk of adverse impact upon the amenity of the surrounding properties.

In relation to the number of people, it is considered reasonable to permit a maximum of 186 people within the tenancy at any one time only on every Friday between 1.00pm and 2.00pm in order to comply with the relevant Council's Environmental Health regulations. At any other times, the subject tenancy is limited to a maximum of 30 people at any one time, consistent with the current Approval (DA: 08/0700).

In relation to car parking, notwithstanding that the use would increase the existing car parking shortfall on the site by 40 bays, the increased shortfall is only confined to a one hour period once a week. As such, it is considered that the use would not cause any undue interference or conflict with the surrounding properties by way of traffic and parking generation during the short period of time. In addition, the applicant has provided a written commitment to implement parking management measures to alleviate any impacts of traffic and parking on the site and surrounding properties during the prayer session.

#### **CONCLUSION:**

Based on the site context, the use of the subject premises for religious services such as prayers for a limited time period is considered to be reasonable and consistent with the proper and orderly planning of the locality. The increased shortfall of on-site car parking is only confined to a short period of time and therefore would not have significant impact on the amenity of the surrounding properties. In addition, a parking management measures will be implemented by the applicant to mitigate any impacts of traffic and parking generation during the stated period. It is therefore recommended that the application be Approved by Absolute Majority subject to conditions.

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(To be confirmed 10 February 2015)

**RESOLVED:****Moved: Cr Maxwell****Seconded: Cr Oliver**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Furqan Islamic Association on behalf of Wildnight Pty Ltd (DA Ref: 5.2014.608.1) for Retrospective Approval for Modification to Planning Approval at 1019 (Lot 5) Albany Highway, St James be Approved by Absolute Majority subject to the following conditions:
  - 1.1 Condition No. 1 of Planning Approval 08/0700 dated 7 April 2009 being modified to read as follows:

*“There being a maximum of 186 people in attendance within the tenancy every Friday between 1.00pm and 2.00pm only. At any other times, a maximum of 30 people is permitted within the tenancy at any one time.”*
  - 1.2 Condition No. 8 of Planning Approval 08/0700 dated 7 April 2009 being modified to read as follows:

*“Operation of the ‘Community Use’ and incidental religious services on the subject tenancy including the implementation of parking management measures is to be in accordance with details provided in correspondence from the President of the Furqan Islamic Association dated 16 January 2009 and 2 October 2014. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.”*
  - 1.3 Remainder of development complying with development application 08/0700 approved on 7 April 2009.

**Advice to Applicant:**

- 1.4 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
- 1.5 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.

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(To be confirmed 10 February 2015)

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

**The Motion was Put and**

**LOST (3-4)**

**ABSOLUTE MAJORITY REQUIRED**

**In favour of the Motion: Cr Anderson; Cr Bissett; Cr Maxwell; and Cr Windram**

**Against the Motion: Cr Oliver; Cr Hayes and Mayor Vaughan;**

*Cr Nairn returned to the Council Chamber at 7.25.pm*



(To be confirmed 10 February 2015)



**11.6 396 (Lot 53) Mill Point Road, Victoria Park – Change of Use to Unlisted Use (Gymnasium)**

<b>File Reference:</b>	PR2080
<b>Appendices:</b>	No
<b>Landowner:</b>	Ms J Leatt-Hayter
<b>Applicant:</b>	Mr G Ryan
<b>Application Date:</b>	22/10/2014
<b>DA/BA or WAPC Ref:</b>	5.2014.631.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Commercial
<b>TPS Precinct:</b>	Precinct P4 'McCallum'
<b>Use Class:</b>	Unlisted Use (Gymnasium)
<b>Use Permissibility:</b>	'Unlisted Use'

<b>Date:</b>	21 November 2014
<b>Reporting Officer:</b>	T. Barry
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Absolute Majority

**Executive Summary:**  
**Recommendation – Approval by Absolute Majority, subject to conditions**

- Application seeks to change the use of an existing premises from 'Warehouse' to 'Gymnasium'.
- The proposed use on the site is classified as an 'Unlisted Use'.
- Community consultation carried out for 21 days, consisting of letters to surroundings owners and occupiers, two signs installed on the site, and advertisements in two local newspapers. No submissions were received.
- The proposed use of the existing building for a gymnasium is not considered to have any adverse impacts to the surroundings areas given its location on a main road (Canning Highway) and the extended trading hours of other businesses in the locality.

**TABLED ITEMS:**

- Development application form dated 20 October 2014;
- Plans dated received 20 October 2014;
- Applicant's 'Details of Business' letter dated received 20 October 2014;
- Correspondence to applicant (Advertising Process Letter) sent 23 October 2014;
- Consultation correspondence to adjoining owners and occupiers dated 31 October 2014; and
- Aerial Photograph of the Locality.

**BACKGROUND:**

The existing building on the subject site of No. 396 Mill Point Road, Victoria Park is currently approved for use as a 'Warehouse' with a 'Showroom' component also. The building was recently occupied by 'Westbooks - Specialist Book Warehouse' but is currently vacant.

(To be confirmed 10 February 2015)

**DETAILS:**

An application has been received seeking approval to change the use of the existing building from a 'Warehouse' to a 'Gymnasium'. The application has been received from a prospective tenant wanting to operate a 24 hour gymnasium from the premises.

Site Context

The subject building is located within the Commercial zone of the McCallum Precinct. Vehicular access is provided off Ellam Street with pedestrian access being from Mill Point Road. The subject property is located on the boundary of the Town of Victoria Park, with the majority of the adjoining impacted properties being located within the City of South Perth.

Proposed Development

The application proposes to change the approved use of the existing building from 'Warehouse' to 'Gymnasium'. The applicant has submitted details that the proposed gymnasium is to run 24 hours a day, 7 days a week with pedestrian access being gained from the existing access point on Mill Point Road.

The total floor area of the building will be occupied by the proposed gymnasium as well as other uses incidental to this such as an office, storage area and change room facilities. It is noted that the gymnasium will be operating outside of normal business hours, but this site is within close proximity to a number of extended trading hour businesses such as fast food outlets and a petrol station.

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 16 of the Scheme Text;
- Clause 36 of the Scheme Text;
- Clause 37 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P4 'McCallum Precinct'

Compliance with Development Requirements

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

Under the provisions of Policy 5.1 'Parking Policy' there is no parking ratio prescribed for a 'Gymnasium' and therefore the number of bays required is to be determined by Council. Given the nature of the operation of the business, the parking requirement for a 'Health Studio' is considered to be similar and has been applied in this case.

Activity / Use	Parking Requirement
Health Studio	1 bay for every 30 square metres of net floor area

The following car parking requirement is what is required for the existing use in accordance with Policy 5.1 'Parking Policy':

(To be confirmed 10 February 2015)

Activity / Use	Parking Requirement	Bays
Warehouse (252m <sup>2</sup> )	3 bays for the first 150 square metres of net floor area and thereafter 1 bay for every 75 square metres of net floor area	4
Showroom (154m <sup>2</sup> )	3 bays for the first 150 square metres of net floor area and thereafter 1 bay for every 75 square metres of net floor area	3
	<b>Total Required Bays</b>	<b>7</b>
	<b>Total Provided Bays</b>	<b>7</b>

The following car parking requirement is based on the proposed use of the building as a Gymnasium in accordance with Policy 5.1 'Parking Policy':

Activity / Use	Parking Requirement	Bays
Health Studio (268m <sup>2</sup> )	1 bay for every 30 square metres of net floor area	9
	<b>Total Required Bays</b>	<b>9</b>
	<b>Total Provided Bays</b>	<b>8</b>

The current application proposes two additional on-site car bays within a double garage. Whilst this would generally cater for the increased parking requirement (being 9 bays provided), the application will also trigger Disabled Access requirements, which will result in the loss of one car bay to provide for a Disabled Access Car Bay. The one (1) car bay parking shortfall is discussed in the Comments section.

**Submissions:**Community Consultation:

In accordance with Clauses 16 and 35 of Town Planning Scheme No. 1 and Council Policy GEN3 'Community Consultation', the proposed Change of Use to Unlisted Use (Gymnasium) has been advertised for a period of 21 days, including letters to the surroundings owners and occupiers, two signs on site and advertisements in two local newspapers. The consultation period commenced on 31 October 2014 and concluded on 21 November 2014. No submissions were received.

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

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(To be confirmed 10 February 2015)

Environmental Issues:

Nil

**COMMENT:**

The area in which the gymnasium is proposed is zoned Commercial and has been developed as such. It is located on Mill Point Road but is also abutting Canning Highway, a major transport route. The addition of a 24 hour gymnasium to the mix of uses in this area, both residential and commercial in nature, will not cause any significant amenity impacts. The area is already occupied by a number of extended trading businesses such as fast food outlets and a petrol service station. The addition of a 24 hour gymnasium will not largely impact on traffic from that which is already experienced in the area.

Car Parking

The proposal requires an additional two (2) car parking bays to be provided on the site to have a total number of nine (9) car parking bays. Due to the change of use triggering Disabled Access Requirements, the need for a Disabled Access car bay to be provided has resulted in the loss of one of the car parking bays due to the need to provide a shared area alongside the Disabled Access car bay. This loss of a car bay has resulted in a one (1) car parking bay shortfall being proposed.

The car parking shortfall of one (1) bay has been assessed and given the proposed use is a 24 hour gymnasium, it is considered that peak hours of use will be outside of those main business hours of the surrounding commercial properties. The large public car parking area that is located approximately 100 metres away on Ellam Street will act to provide parking to cover the proposed minor shortfall, as well as any other parking demands that may be experienced. Given the nearby location of the public parking area the proposed parking shortfall is considered acceptable.

Given the above, and in accordance with Clauses 36 and 37 of Town Planning Scheme No. 1, it is considered that the proposed change of use from a 'Warehouse' to a 'Gymnasium' is consistent with the intent of the relevant Precinct Plan and is consistent with the orderly and proper planning of the area. The proposal will not have any adverse impacts on the area.

**CONCLUSION:**

The change of use of the existing building at 396 Mill Point Road, Victoria Park from a 'Warehouse' to a 'Gymnasium' is acceptable given the use is largely compatible with those surrounding and will not cause any significant amenity impacts in the area. The proposed car parking shortfall of one (1) bay will be compensated for by the large public parking area located within 100 metres of the proposed gymnasium and as such the site is considered a suitable location for a 24 hour gymnasium.

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(To be confirmed 10 February 2015)

**RESOLVED:****Moved: Cr Anderson****Seconded: Cr Maxwell**

In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Greg Ryan (DA Ref: 5.2014.631.1) for Change of Use to Unlisted Use (Gymnasium) at 396 (Lot 53) Mill Point Road, Victoria Park as indicated on the plans dated received 20 October 2014 be Approved by an Absolute Majority subject to the following conditions:

1. Operation of the approved Unlisted Use (Gymnasium) to be in accordance with details provided in correspondence from the applicant dated 17 October 2014. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.

**Advice to Applicant**

2. The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
3. This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law. Please also note that should any signage not comply with the Signs Local Law further Planning Approval will need to be obtained prior to a sign licence application being submitted to the Council.
4. Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
5. 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.
6. A building permit is required to be obtained from the Town prior to commencement of any work in relation to this Planning Approval.
7. Your attention is drawn to the need to comply with the requirements of Part D3 of the Building Code of Australia - Access for People with Disabilities, including parking, sanitary facilities and tactile indicators in accordance with AS 1428.1, AS 1428.4, AS 1428.5 and AS/NZS 2890.6.

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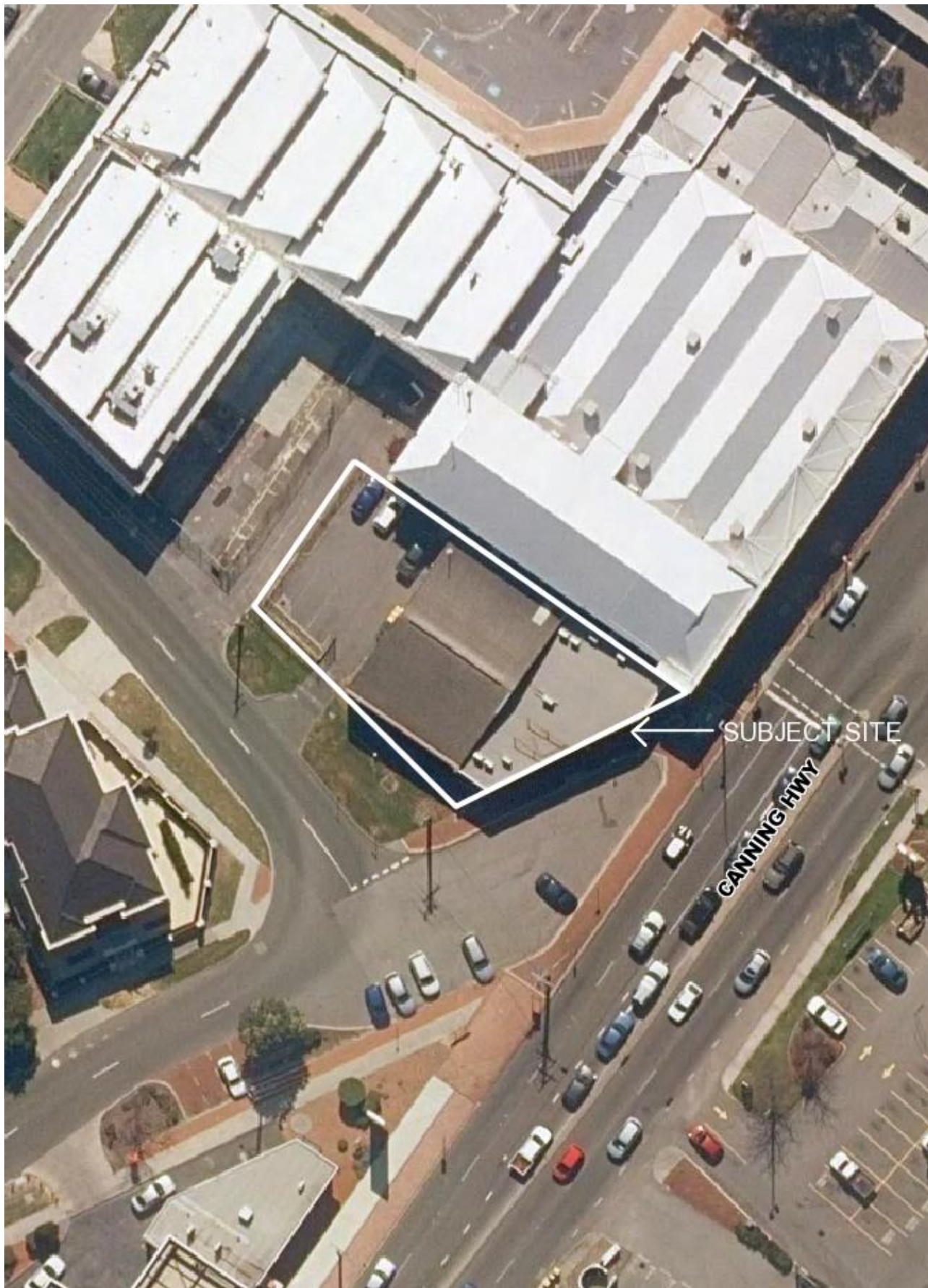
(To be confirmed 10 February 2015)

8. **Plans are to be assessed by a suitably qualified person to confirm compliance with the Disability (Access to Premises – Building) Standards, Building Code of Australia and relevant Australian Standards. A Copy of the certified plans is to be provided as part of the building permit application.**
9. **In addition to the disabled access and facility requirements of the Building Code of Australia, it is the responsibility of the building owner/developer to ensure the development complies with the Disability Discrimination Act 1992. Further information may be obtained from the Disability Services Commission.**
10. **Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.**

**The Motion was Put and CARRIED BY AN ABSOLUTE MAJORITY (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)





(To be confirmed 10 February 2015)

<b>11.7 47 (Lot 174) Cookham Road, Lathlain – Application for Retrospective Approval Of Sea Containers</b>
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<b>File Reference:</b>	PR5928
<b>Appendices:</b>	No
<b>Landowner:</b>	S Lozyk
<b>Applicant:</b>	S Lozyk
<b>Application Date:</b>	07/07/2014
<b>DA/BA or WAPC Ref:</b>	5.2014.401.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R20
<b>TPS Precinct:</b>	Precinct Plan P7 'Lathlain Precinct'
<b>Use Class:</b>	Single House
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	24 November 2014
<b>Reporting Officer:</b>	I. Ahmad
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority
<b>Executive Summary:</b>	
<b>Recommendation – Refusal</b>	
<ul style="list-style-type: none"> <li>• Application for retrospective approval of two (2) sea containers.</li> <li>• The application is contrary to the intent of the relevant Precinct Plan and provisions of Council's Policy PLNG8 'Sea Containers'. The sea containers are considered to have a negative visual impact upon the streetscape and general amenity of the locality, and is therefore recommended for Refusal.</li> </ul>	

**TABLED ITEMS:**

- Development application form dated received 7 July 2014;
- Plans and elevations dated 7 July 2014;
- Correspondence from applicant dated 7 July 2014; and
- Photographs of existing sea containers.

**BACKGROUND:**

February 2013	Following a site inspection on the above property to investigate the alleged unauthorised use of the dwelling as a 'Residential Building', it was identified that there were sea containers installed on the site without any approval from Council.
13 May 2013	The applicant was requested by the Council to submit an application for retrospective approval of the sea containers.

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(To be confirmed 10 February 2015)

- 23 June 2014 Council approved an application for demolition and construction of a two storey dwelling on the abovementioned property, subject to conditions. Relevantly the approval did not include the approval of two (2) sea containers present on the site and included an Advice Note requiring the applicant to submit a separate application for retrospective planning approval for the subject sea containers.
- 7 July 2014 Council received an application for retrospective approval of the sea containers on the abovementioned property which is the subject of this report.
- 14 October 2014 The Council at its Ordinary Meeting resolved to defer consideration of the application to the December 2014 meeting.
- 11 November 2014 The Council at its Ordinary Meeting resolved to adopt Policy PLNG8 'Sea Containers'.

**DETAILS:**

Council has received a planning application for retrospective approval for two (2) existing sea containers on the subject lot. The subject lot which has a land size of 1012m<sup>2</sup> currently contains a single storey fibro dwelling with vehicular access which runs along the south-eastern property boundary.

The sea containers are located at the southern rear portion of the lot, approximately 43 metres from the Cookham Street property boundary and setback at least 1.0 metre from the south-eastern (side) and south-western (rear) common property boundaries respectively. The sea containers are highly visible from Cookham Street via the side vehicular access as well as adjoining residential properties. Each sea container measures 6.0 metres long, 2.4 metres wide and 2.4 metres high. Based on aerial photo records, it appears that the sea containers have been on the site since February 2013.

As per the applicant's correspondence and verbal advice, it is the applicant's intention to demolish the existing dwelling and construct the approved two storey dwelling on the north-western half of the subject lot, leaving the containers in their current location. The siting of the new dwelling will facilitate possible future subdivision of the block into two, side-by-side narrow lots. The sea containers, which are used to store vintage goods, are intended to be on the site for the long term and will only be removed upon any future subdivision of the lot.

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

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

- Clause 36 'Determination of Application – General Provisions'; and
- Statement of Intent contained in Precinct Plan P7 'Lathlain Precinct'.

(To be confirmed 10 February 2015)

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Residential Design Codes (R-Codes);
- Local Planning Policy – Streetscape (LPPS); and
- Policy PLNG8 – Sea Containers.

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

Item	Requirement	Proposed	Compliance
Outbuildings- Clause 3 of LPPS (A1) (c)	Where an outbuilding is located at the rear of the dwelling (whether or not visible from the street) the outbuilding may vary in materials, colours and roof pitch and roof form to the existing dwelling.	Sea container	Refer Comment section below
Outbuildings- Clause 5.4.3 of R-Codes	i. are not attached to a dwelling;	Not attached to the dwelling	Compliant
	ii. are non-habitable	Non-habitable	Compliant
	iii. collectively do not exceed 60m <sup>2</sup> in area or 10 per cent in aggregate of the site area whichever is the lesser; i.e 60m <sup>2</sup>	Aggregate floor area of 28.8m <sup>2</sup>	Compliant
	iv. do not exceed wall height of 2.4 metres;	Maximum wall height of 2.4 metres	Compliant
	v. do not exceed ridge height of 4.2 metres;	Maximum ridge height of 4.2 metres	Compliant
	vi. are not within primary street setback area;	Located at the rear of the property	Compliant
	vii. do not reduce the open space required in Table 1 of R-Codes;  i.e 50% minimum (506m <sup>2</sup> )	857.20m <sup>2</sup> (84.7%)	Compliant

(To be confirmed 10 February 2015)

	viii. comply with the setback requirements of Table 1 of R-Codes.  i.e 1.0 metre to south-eastern property boundary  1.0 metre to south-western property boundary	1.0 metre to south-eastern property boundary  1.0 metre to south-western property boundary	Compliant
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**Sustainability Assessment:**

External Economic Implications:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

**COMMENT:**

In determining this application, Council must be satisfied that the proposal meets the requirements listed under Clause 36(5) of the Scheme and Policy PLNG8 ‘Sea Containers’ if approval were to be granted.

The stated objective for the ‘Residential Zone’ in Precinct Plan P7 ‘Lathlain Precinct’ is to ensure that development shall be *‘in line with the existing style, scale and character of the area.’* Council’s Urban Planning Business Unit recognises the need to ensure that any development within the Precinct shall be unobtrusive and compatible with surrounding properties and streetscape. This application however is contrary to the intent of Precinct Plan owing to the scale and appearance of the sea containers.

Sea containers are storage facilities which are meant for shipping goods. However, in most cases, they are seen as a cheap, convenient and secure method of storing goods. In general, sea containers have an inferior appearance, are prone to rust and neglect and are not associated with residential use. As a result, they have a detrimental impact on the visual amenity of the area, in that they are more in character of an industrial area than a residential area.

The intended use for general storage could be easily achieved by a more appropriate, permanent shed structure. Sheds could be made up of light-weight and durable materials such as colorbond metal sheeting which is a superior alternative and more commonly used in the construction of rear outbuildings in residential areas.

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(To be confirmed 10 February 2015)

The applicant contends that by proposing a solid fence behind the building line of the dwelling, the sea containers will not be visible from the street. Notwithstanding that screening could minimise the visual impact of the containers, given their height and length, it is likely that the containers would still be visible from streets and adjoining properties.

Council's Policy PLNG8 'Sea Containers' states that sea containers are not permitted in Residential areas other than for temporary periods in connection with approved construction works or for a short-term in association with moving personal goods to/from a property. In this instance, however, the sea containers are intended to be on the site for the long term and will only be removed upon any future subdivision of the lot. As such, the placement of sea containers on the subject lot have a negative impact upon the general amenity and character of the locality, and sets a poor standard for development in residential areas.

#### **CONCLUSION:**

The primary objective of the 'Residential' zone that is relevant to this proposal is to maintain a predominantly residential character and high standard of amenity. It is considered that a sea container on a residential lot does not meet this due to its built form and appearance which is not compatible with the residential character or streetscape. Approval of this application would set an undesirable precedent for similar development on other residential land. On this basis, the application for retrospective approval for outbuildings (sea containers) on the subject lot is recommended for Refusal.

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

**Moved: Cr Bissett**

**Seconded: Cr Nairn**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by S Lozyk (DA Ref: 5.2014.401.1) for Retrospective Approval Of Sea Container at 47 (Lot 174) Cookham Road, Lathlain as indicated on the plans dated received 7 July 2014 be Refused for the following reasons:
  - 1.1 Non-compliance with Town Planning Scheme No.1 Clause 36(5) – 'Determination of Application – General Provisions', with particular reference to the following:
    - Any relevant precinct plan;
    - The orderly and proper planning of the locality and the conservation of the amenities of the locality; and
    - The design, scale and relationship to existing buildings and surroundings of any proposed building or structure
  - 1.2 Non-compliance with Clauses 1, 2 and 3 of Council Policy PLNG8 'Sea Containers', which generally prohibits sea containers in Residential areas.

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(To be confirmed 10 February 2015)

- 1.3 The sea containers, if approved, will set an undesirable precedent for similar applications for Sea Containers within the residential areas of the Town.

Advice to Applicant

- 1.4 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
2. The sea containers are to be removed from the subject site within 30 days of the date of this refusal.

**AMENDMENT:**

**Moved: Cr Bissett**

**Seconded: Cr Nairn**

**That clause 2 should be amended by deleting the words 30 days and replaced with the words twelve months.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Bissett; Cr Oliver; and Cr Windram**

**SUBSTANTIVE MOTION AS AMENDED:**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by S Lozyk (DA Ref: 5.2014.401.1) for Retrospective Approval Of Sea Container at 47 (Lot 174) Cookham Road, Lathlain as indicated on the plans dated received 7 July 2014 be Refused for the following reasons:
- 1.1 Non-compliance with Town Planning Scheme No.1 Clause 36(5) – ‘Determination of Application – General Provisions’, with particular reference to the following:
- Any relevant precinct plan;
  - The orderly and proper planning of the locality and the conservation of the amenities of the locality; and
  - The design, scale and relationship to existing buildings and surroundings of any proposed building or structure
- 1.2 Non-compliance with Clauses 1, 2 and 3 of Council Policy PLNG8 ‘Sea Containers’, which generally prohibits sea containers in Residential areas.

(To be confirmed 10 February 2015)

- 1.3 The sea containers, if approved, will set an undesirable precedent for similar applications for Sea Containers within the residential areas of the Town.**

**Advice to Applicant**

- 1.4 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.**
- 2. The sea containers are to be removed from the subject site within twelve (12) months of the date of this refusal.**

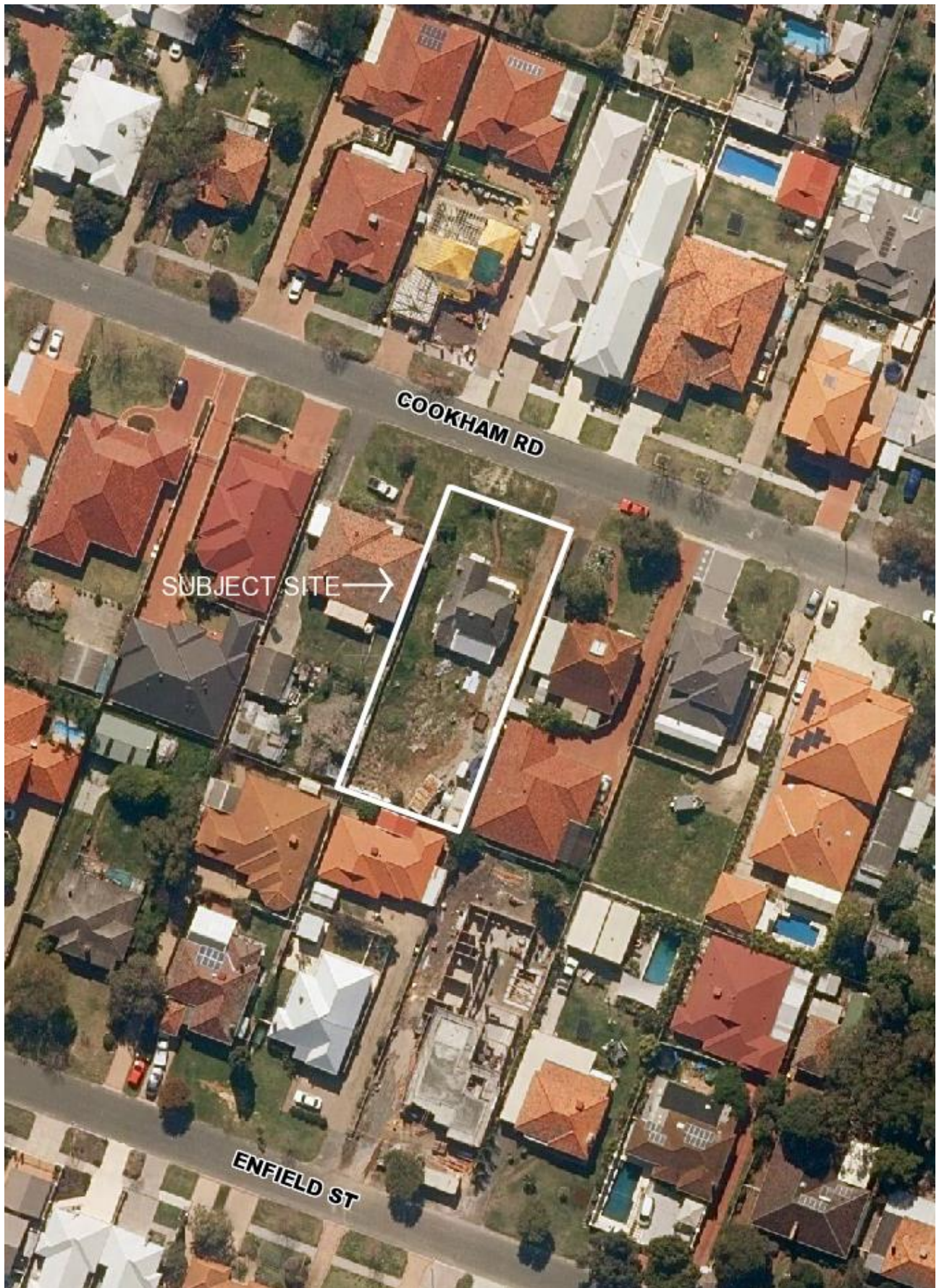
**The Motion was Put and**

**CARRIED (7-1)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

**Against the Motion: Cr Bissett;**

(To be confirmed 10 February 2015)





(To be confirmed 10 February 2015)

<b>11.8 441 (Lot 793) Berwick Street, St James – Application for Retrospective Approval of Sea Container</b>
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<b>File Reference:</b>	PR12177
<b>Appendices:</b>	No
<b>Landowner:</b>	Ms R M Browne
<b>Applicant:</b>	Ms R M Browne
<b>Application Date:</b>	17/07/2014
<b>DA Ref:</b>	5.2014.430.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R20
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	Single House
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	24 November 2014
<b>Reporting Officer:</b>	J. Gonzalez
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:****Recommendation – Refusal**

- Application seeks retrospective approval for a Sea Container.
- The Sea Container is located at the rear of the property approximately 4.0 metres from the rear boundary and along the common boundary with 439 Berwick Street.
- The Sea Container is highly visible from the street.
- The Sea Container is not in keeping with the character of the residential area and does not comply with Council Policy PLNG8 - 'Sea Containers'.

**TABLED ITEMS:**

- Application form dated 17 July 2014;
- Plans dated 17 July 2014;
- Photos of the Sea Container; and
- Aerial photos of the subject property.

**BACKGROUND:**

This application for retrospective planning approval was submitted to the Council as a result of a complaint received on 23 June 2014. The complaint was related mainly to a sea container located in front of the existing dwelling which has now been removed. However a second sea container is located at the rear of the existing dwelling, which is the subject of this application.

The proposed sea container was referred to the Ordinary Council Meeting held on 14 October 2014 with a recommendation for refusal, however the Council determined that the application be deferred to the Ordinary Council Meeting to be held on 9 December 2014.

(To be confirmed 10 February 2015)

The Council at its Ordinary Meeting held on 11 November adopted Policy PLNG8 - Sea Containers' with the purpose to guide and control the use of sea containers throughout the Town.

**DETAILS:**

The Sea Container is located at the rear of the property, along the common boundary with the property at 439 Berwick Street, which is under the same ownership, and shares the access driveway with the subject property.

The Sea container is 6.0 metres long, 2.4 metres wide and 2.45 metres high and is located approximately 4.0 metres from the rear boundary. It is painted a light blue colour and is visible from Berwick Street. It appears that the Sea Container has been located on the property since approximately November 2006, according to the Council's Geographic Information System (Intramaps).

**Legal Compliance**

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text - Determination of Application – General Provisions; and
- Statement of Intent contained in Precinct Plan P12 - 'Victoria Park Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Residential Design Codes (R Codes);
- Local Planning Policy – Streetscape (LPPS); and
- Council Policy PLNG8 – 'Sea Containers'

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

Item	Requirement	Proposed	Compliance
Outbuildings Clause 3 of LPPS (A1) (c)	Where an outbuilding is located at the rear of the dwelling (whether or not visible from the street) the outbuilding may vary in materials, colours and roof pitch and roof form to the existing dwelling.	Sea container	Refer to Comment section below

(To be confirmed 10 February 2015)

Outbuildings Clause 5.4.3 of R-Codes	ix. are not attached to a dwelling;	Not attached to the dwelling	Compliant
	x. are non-habitable	Non-habitable	Compliant
	xi. collectively do not exceed 60m <sup>2</sup> in area or 10 per cent in aggregate of the site area whichever is the lesser; i.e 60m <sup>2</sup>	Aggregate floor area of 14.4m <sup>2</sup>	Compliant
	xii. do not exceed wall height of 2.4 metres;	Maximum wall height of 2.45 metres	Non-Compliant (Refer to Comment section below)
	xiii. do not exceed ridge height of 4.2 metres;	Maximum ridge height of 2.45 metres	Compliant
	xiv. are not within primary street setback area;	Located at the rear of the property	Compliant
	xv. do not reduce the open space required in Table 1 of R-Codes;  i.e 50% minimum (409.5m <sup>2</sup> )	  654.44m <sup>2</sup> (79.9%)	  Compliant
	xvi. comply with the setback requirements of Table 1 of R-Codes.  i.e Nil to north-western property boundary  1.0 metre to south-western property boundary	  Nil to north-western property boundary  4.0 metres to south-western property boundary	  Compliant

**Sustainability Assessment:**

External Economic Implications:

No impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

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(To be confirmed 10 February 2015)

**COMMENT:**

In determining this application, Council must be satisfied that the proposal meets the requirements listed under Clause 36(5) of the Scheme if approval were to be granted.

The stated objective for the 'Residential Zone' in Precinct Plan P12 'East Victoria Park Precinct' is to ensure that development "*will be enhanced and consolidated as a residential neighbourhood in which a range of housing types of low scale is predominant.*" Council's Urban Planning Business Unit recognises the need to ensure that any development within the Precinct shall be unobtrusive and compatible with surrounding properties and streetscape. This application however is contrary to the intent of Precinct Plan owing to the scale and appearance of the sea container.

Sea containers are storage facilities which are meant for shipping goods. However, in most cases, they are seen as a cheap, convenient and secure method of storing goods. In general, sea containers have an inferior appearance, are prone to rust and neglect and are not associated with residential use. As a result, they have a detrimental impact on the visual amenity of the area, in that they are more in character of an industrial area than a residential area.

The intended use for general storage could be easily achieved by a more appropriate, permanent shed structure. Sheds could be made up of light-weight and durable materials such as colorbond metal sheeting which is a superior alternative and more commonly used in the construction of rear outbuildings in residential areas.

It is considered that if a solid fence was proposed behind the building line of the dwelling, the sea container will not be visible from the street. Notwithstanding that it could be visually screened from the street, the placement of the sea container on the subject lot have a negative impact upon the general amenity and character of the locality, and sets a poor standard for development in residential areas.

Council Policy PLNG8 – 'Sea Containers', prohibits Sea Containers in residential areas except where: a) they are used for the storage of building materials and equipment in connection with a dwelling under construction; or b) the sea container will be on-site for a maximum period of 7 days for the purpose of relocating personal goods to/from the property. The proposed sea container does not comply with Policy PLNG8 as it has been on-site for approximately eight years and is not being used for the temporary purposes mentioned.

**CONCLUSION:**

The primary objective of the 'Residential' zone that is relevant to this proposal is to maintain a predominantly residential character and high standard of amenity. It is considered that a sea container on a residential lot does not meet this due to its built form and appearance which is not compatible with the residential character or streetscape. Approval of this application would set an undesirable precedent for similar development on other residential land. On this basis, the application for retrospective approval of a sea container on the subject lot is recommended for Refusal.

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(To be confirmed 10 February 2015)

**RECOMMENDATION/S:****Moved: Cr Nairn****Seconded: Cr Oliver**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Regina Browne (DA Ref: 5.2014.430.1) for Retrospective Approval for Sea Container at 441 (Lot 793) Berwick Street, St James as indicated on the plans dated received 17 July 2014 be Refused for the following reasons:
  - 1.1 Non-compliance with Town Planning Scheme No. 1 Clause 36(5) – ‘Determination of Application – General Provisions’ with particular reference to the following:
    - The Statement of Intent set out in the relevant Precinct Plan;
    - The orderly and proper planning of the locality;
    - The conservation of the amenities of the locality; and
    - The design, scale and relationship to existing buildings and surroundings of any proposed building or structure.
  - 1.2. Non-compliance with Clauses 1, 2 and 3 of Council Policy PLNG8 – ‘Sea Containers’ which generally prohibits sea containers in Residential areas.
  - 1.3. The Sea Container, if approved, will set an undesirable precedent for similar applications for Sea Containers within the residential areas of the Town.

Advice to Applicant

- 1.3 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
2. The sea container is to be removed from the subject site within 30 days of the date of this refusal.

**AMENDMENT:****Moved: Cr Nairn****Seconded: Cr Oliver**

**That clause 2 should be amended by deleting the words 30 days and replaced with the words twelve months.**

**The Motion was Put and****CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Bissett; Cr Oliver; and Cr Windram**

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(To be confirmed 10 February 2015)

**SUBSTANTIVE MOTION AS AMENDED:**

1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Regina Browne (DA Ref: 5.2014.430.1) for Retrospective Approval for Sea Container at 441 (Lot 793) Berwick Street, St James as indicated on the plans dated received 17 July 2014 be Refused for the following reasons:
    - 1.1 Non-compliance with Town Planning Scheme No. 1 Clause 36(5) – ‘Determination of Application – General Provisions’ with particular reference to the following:
      - The Statement of Intent set out in the relevant Precinct Plan;
      - The orderly and proper planning of the locality;
      - The conservation of the amenities of the locality; and
      - The design, scale and relationship to existing buildings and surroundings of any proposed building or structure.
    - 1.2. Non-compliance with Clauses 1, 2 and 3 of Council Policy PLNG8 – ‘Sea Containers’ which generally prohibits sea containers in Residential areas.
    - 1.3. The Sea Container, if approved, will set an undesirable precedent for similar applications for Sea Containers within the residential areas of the Town.
- Advice to Applicant**
- 1.3 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
2. The sea container is to be removed from the subject site within twelve (12) months of the date of this refusal.

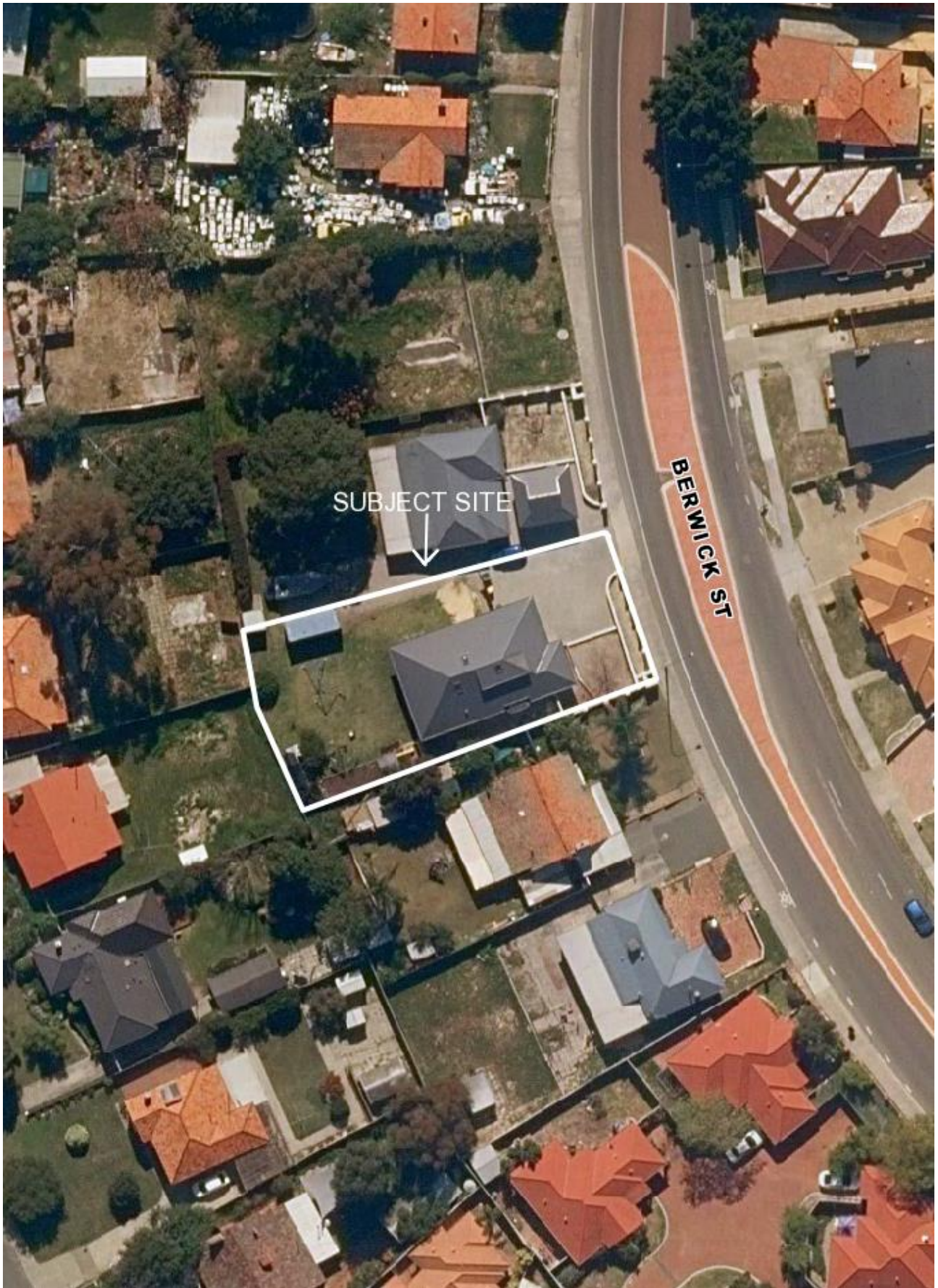
The Motion was Put and

CARRIED (7-1)

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

Against the Motion: Cr Bissett;

(To be confirmed 10 February 2015)



**11.9 1022-1024 (Lot 1) Albany Highway, East Victoria Park – Mixed Use Development (Shops, Fast Food Outlet and 40 Multiple Dwellings) – Section 31 Reconsideration – *Confidential Item***

This matter was dealt with at Item 21.1.1.



(To be confirmed 10 February 2015)

**11.10 Request for Amendment to Town Planning Scheme No. 1 –  
Additional Use of ‘Multiple Dwellings’ on 2, 4, 6-8 & 8A (Lots 1, 2,  
137 – 141) Basinghall Street, East Victoria Park**

<b>File Reference:</b>	
<b>Appendices:</b>	No
<b>Landowner: Applicant:</b>	S Kargotich, GJ Holohan & RJ Aikins Landvision
<b>Application Date: DA/BA or WAPC Ref: MRS Zoning: TPS Zoning: TPS Precinct: Use Class: Use Permissibility:</b>	17/11/2014 N/A Urban Residential R30 Precinct P12 'East Victoria Park' N/A N/A

<b>Date:</b>	21 November 2014
<b>Reporting Officer:</b>	T. Barry
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:****Recommendation – Council initiate an Amendment to Town Planning Scheme No. 1**

- The request is for Council to amend the Town Planning Scheme to allow ‘Multiple Dwellings’ to be developed on the subject lots.
- The site is adjoined by District Centre zoned land to the north and east and is located opposite the Park Centre Shopping Centre.
- A Detailed Area Plan is proposed to be included to guide future development on the site.

**TABLED ITEMS:**

- Correspondence received from the applicant dated received 17 November 2014;
- Plans and information dated received 17 November 2014; and
- Minutes of the Design Review Committee meeting dated 9 October 2014.

**BACKGROUND:**

On 17 November 2014, Council received a formal request from the applicant to initiate an Amendment to Town Planning Scheme No. 1 to allow the use of ‘Multiple Dwellings’ on the above mentioned Residential properties. Currently ‘Multiple Dwellings’ are not permitted as the site is coded R30 and Town Planning Scheme No. 1 currently only permits ‘Multiple Dwellings’ on sites coded R40 and above.

Prior to submission of the formal request, the applicant has submitted preliminary Detailed Area Plans to outline the development standards that would apply to any future development of the site. These preliminary concepts were discussed at the Design Review Committee meeting held on 9 October 2014 and the following points were raised by the DRC Members and Council Officers:

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(To be confirmed 10 February 2015)

- Initial thoughts were that the intended development would cover the whole site and an amalgamation of the subject lots would occur. This is the preferred approach to development on the site.
- A maximum development height of five (5) storeys can be supported given the surrounding developments at the Park Centre and the future development potential along Albany Highway.
- The applicant / owners were to undertake further consultation with Council Officers regarding the wording of the Detailed Area Plan, particularly in relation to access being provided over Lot 1.

Following the DRC Meeting, Council Officers met with the applicant and further discussed the wording of the Detailed Area Plan provisions, as well as other aspects such as the need for agreement from all landowners to proceed and the need for amalgamation of the lots.

**DETAILS:**

The subject site consists of seven (7) lots, with Lots 138 – 141 containing a medical consultancy rooms and residence, and Lots 137, 1 and 2 containing dwellings which have been identified as 'Original Dwellings' within the Town's Residential Character Study Area.

The site is located near the corner of Basinghall Street and Albany Highway. The existing properties which immediately abut the subject properties to the north- east and on the opposite side of Basinghall Street to the north-west are zoned 'District Centre' under Precinct Plan P11 'Albany Highway Precinct'. The other adjoining properties to the south-east and south-west are zoned 'Residential R30' under Precinct Plan P12 'East Victoria Park Precinct'.

The applicant has undertaken a site and context analysis to identify and evaluate the design constraints and opportunities presented by the subject site and its environs. The applicant considers the proposed additional use of 'Multiple Dwellings' to be justifiable as it will allow the site to be developed to its full potential in terms of built form and site planning whilst achieving an acceptable form of development that responds to the intended development along Albany Highway and opposite at the Park Centre Shopping Centre.

The proposed Amendment to the Town Planning Scheme will include the provision for a Detailed Area Plan to be prepared to guide development. A draft Detailed Area Plan is tabled.

**Legal Compliance:**

In accordance with the provisions of the *Planning and Development Act 2005*, an amendment to Council's Town Planning Scheme No. 1 is required to permit Multiple Dwellings on the site. Should Council resolve to initiate an Amendment, the statutory processes for a Scheme Amendment would need to be followed including advertising of the proposal for public comments for a period of 42 days. The Hon. Minister for Planning will ultimately be responsible for determining the Scheme Amendment.

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(To be confirmed 10 February 2015)

**Sustainability Assessment:**External Economic Implications:

The proposed additional use of 'Multiple Dwellings' on the subject site will potentially result in an increase in the residential population and will add activity to this area, consistent with the intent for development along Albany Highway. Higher density development abutting the Albany Highway Precinct will also have positive external economic benefits to surrounding commercial properties.

Social Issues:

The development of the site with a Multiple Dwelling form is likely to result in a mix of single and two bedroom units which are designed to cater for the increasing trend in smaller household sizes namely, for singles and couples who wish to live in close proximity to the city.

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Council has received a formal request from the applicant to initiate an Amendment to Town Planning Scheme No. 1. The Amendment proposes to allow an additional use of 'Multiple Dwellings' on the subject lots.

Site Context and Analysis

The subject site is located within the 'East Victoria Park Precinct'. The north-western and north-eastern properties adjoining the site are zoned 'District Centre' and are used for commercial purposes. The properties to the south west and south east are zoned 'Residential R30' and used accordingly. The subject site is unique in that its main interface is with the Park Centre Shopping Centre on the opposite side of Basinghall Street. The subject sites directly face a 12 metre high blank wall of the rear of the Park Centre Shopping Centre. Additionally it is noted that as part of any future redevelopment of the shopping centre it would be reasonably expected that there would be buildings of comparable height.

Given the substantial size of the subject lots and the location of the site being in close proximity to Albany Highway and having an interface to a blank wall of the Park Centre Shopping Centre it is recognised that 'Multiple Dwellings' in this location will allow for a mix of housing types in a location that is earmarked to become a key centre in the Town of Victoria Park.

While the properties are located within the Town's Residential Character Study Area, there is not an identifiable residential character in the section of Basinghall Street between Albany Highway and Moorgate Street. This section of street is located between commercial properties on Albany Highway and a large Grouped Dwelling site at No. 12 Basinghall Street. The relevant section of street contains a medical consulting building with some residential buildings, none of which are considered to make a significant contribution to the character of the street. Therefore it is considered that redevelopment of these

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(To be confirmed 10 February 2015)

properties with Multiple Dwellings would not negatively impact upon the Residential Character Study Area, and given the interface to the Shopping Centre across the road and the proximity to Albany Highway, would result in positive outcomes.

The location of the site to the rear of the properties facing Albany Highway is also a key element to the proposal, with the opportunity for development of the subject sites to provide joint access to the rear of those properties fronting Albany Highway. This will allow for future development of those sites to be undertaken without the need to provide vehicular access to Albany Highway and creating a more activated and pedestrian friendly environment.

In addition, the use of the site as 'Multiple Dwellings' will help to achieve the objectives stated in the State strategic framework, 'Directions 2031 and Beyond' and State Planning Policy 4.2 'Activity Centres for Perth and Peel' which recognise the merits of a compact and high density residential development located within close proximity to commercial or activity centres.

#### Detailed Area Plan

Whilst the additional use of 'Multiple Dwellings' can be supported in this locality and will provide for higher density development in an area in close proximity to an activity centre, Council's Urban Planning Business Unit recognises the need to ensure that the amenity of the adjoining properties is protected. As such, the requirement for a Detailed Area Plan to be approved by Council is to be noted in any Amendment to Schedule 2 of Town Planning Scheme No. 1.

The proposed Detailed Area Plan provides for development to be in accordance with R60 development standards under the Residential Design Codes, with variations to development requirements, including maximum plot ratio, to be considered where the development is considered to achieve design excellence and meet the criteria outlined in Council Policy PLNG7 'Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwellings and Non-Residential Developments'.

The proposed Detailed Area Plan includes height controls, allowing for a five (5) storey development. This has been identified as a suitable height limit given the limits identified for the surrounding properties on Albany Highway. The proposal currently identifies 17 metres as the height limit for five (5) storeys, however this is considered excessive and a limit of 15 metres is to be applied, with Council still having the discretion to vary this requirement as part of any future planning application.

The setbacks and height controls provided for by the Detailed Area Plan have been determined through an assessment of overshadowing of the adjoining residential properties and ensuring that any impacts on the amenity of the adjoining properties will be minimised.

The requirement for a joint benefit access way to be provided over Lot 1 is also outlined in the Detailed Area Plan, ensuring that any development on the site will make provision for rear access to the commercial lots along Albany Highway, resulting in a reduced need for vehicular access directly on to Albany Highway as is the preferred outcome for increased street activation.

(To be confirmed 10 February 2015)

**CONCLUSION:**

The applicants request for Council to initiate an Amendment to Town Planning Scheme No. 1 to allow an additional use of ‘Multiple Dwellings’ on the subject site is considered acceptable for the reasons outlined in this report. The site is located in close proximity to Albany Highway and has a unique interface with the Park Centre Shopping Centre site making it suitable for development to a higher density than the current R30 zoning that only allows for Single House or Grouped Dwelling development.

The adoption of a Detailed Area Plan that provides for a form of development that is suitable to the site and its surroundings will form a key part of the proposed Amendment and will allow for a scale and form of development that is suitable in this location with both Commercial and Residential interfaces.

The provision for a joint benefit access way along the rear of the adjoining lots that front Albany Highway will also see a significant benefit to the surrounding properties and enable to Town to better achieve the intended form of development without requiring access directly on to Albany Highway.

In view of the above it is recommended that Council resolve to initiate the Amendment to Town Planning Scheme No. 1 to allow ‘Multiple Dwellings’ on the subject lots.

**RESOLVED:**

**Moved: Cr Hayes**

**Seconded: Cr Windram**

- Council resolve pursuant to Section 75 of the *Planning and Development Act 2005* to initiate an Amendment (Amendment No. 67) to the Town of Victoria Park Town Planning Scheme No. 1 by amending the Town Planning Scheme Text Schedule 2 as follows:**

	<b>Ref. No.</b>	<b>Land Particulars</b>	<b>Permitted Uses</b>	<b>Development Standards/Conditions</b>
<b>A54</b>	<b>54</b>	<b>2 – 8A (Lots 1, 2, 137, 138, 139, 140 and 141) Basinghall Street, East Victoria Park</b>	<b>Multiple Dwellings</b>	<b>Development to be generally in accordance with an approved Detailed Area Plan addressing building and design matters including (but not limited to) building envelopes, building height, setbacks, vehicular access and relationship with adjoining properties.</b>

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(To be confirmed 10 February 2015)

2. **The Chief Executive Officer and Mayor be authorised to execute the Town Planning Scheme No. 1 Amendment No. 67 documents.**
3. **Amendment No. 67 be referred to the Department of Environment and Conservation prior to the commencement of advertising of the Amendment.**
4. **On receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act indicating that the Amendment need not be subject to an environmental assessment, the Amendment be advertised in accordance with the Town Planning Regulations for 42 days.**
5. **The Detailed Area Plan be modified to have a maximum height of 15.0 metres.**
6. **The Detailed Area Plan be advertised for 42 days in conjunction with the Amendment No. 67.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)



## 11.11 Review of Signs Local Law

<b>File Reference:</b>	LEG0020
<b>Appendices:</b>	No

<b>Date:</b>	24 November 2014
<b>Reporting Officer:</b>	R. Cruickshank
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – Statewide and local notice be given that the Council intends to review the Signs Local Law.**

- Local Laws need to be reviewed within an 8 year period.
- The Signs Local Law is now required to be reviewed.

### TABLED ITEMS:

Nil

### BACKGROUND:

The schedule of the Town's Local Laws reveals that the Town's Signs Local Law requires review to comply with Section 3.16 of the *Local Government Act 1995*. It is proposed to commence the advertising process of the review of the Signs Local Law.

Section 3.16 of the *Local Government Act 1995* requires that all of the local laws of a local government must be reviewed within an eight year period of their gazettal to determine if they should remain unchanged or be repealed or amended.

### DETAILS:

The Town's Signs Local Law was gazetted on 22 January 2007. The Signs Local Law provides for the regulation, control and management of signs within the Town. The Signs Local Law outlines the need for signs to obtain a sign licence from Council, the need for planning approval to be obtained in some circumstances, and then prescribes the allowable sizes, heights etc. for each sign type.

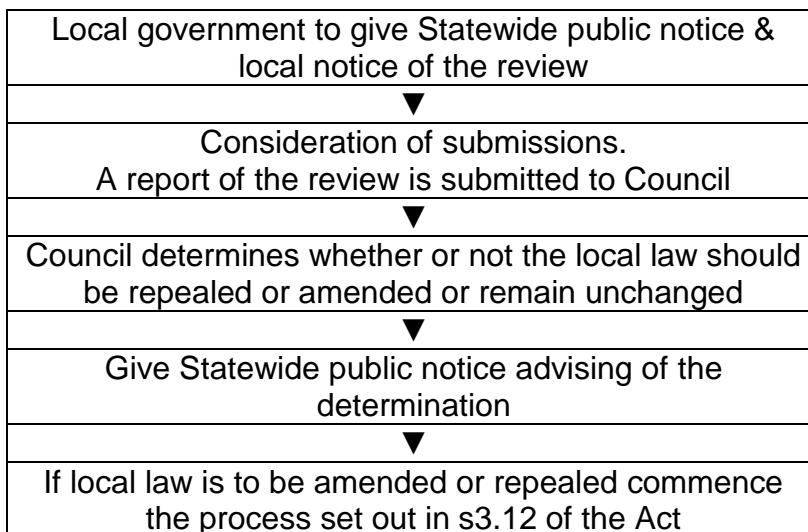
### Legal Compliance:

The review of the Signs Local Law will comply with Section 3.16 of the *Local Government Act, 1995*.



(To be confirmed 10 February 2015)

The process under s.3.16 for reviewing a local law is:



**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**

Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Ni

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The Town is required pursuant to s.3.16 of the *Local Government Act 1995* to review its Local Laws within an eight (8) year period.

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(To be confirmed 10 February 2015)

**CONCLUSION:**

It is therefore required that the Council gives Statewide and local notice of its intention to review the Signs Local Law to comply with the legislation.

**RESOLVED:**

**Moved: Cr Bissett**

**Seconded: Cr Windram**

**In accordance with Section 3.16 of the *Local Government Act, 1995*, Council gives Statewide and local public notice of its intention to review the Signs Local Law, advising that a copy of the Local Laws may be inspected or obtained at the Town's Administration Centre, Library and Website and submissions about the Local Law may be made to the Town of Victoria Park within 6 weeks of the date of publication.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)

**12 RENEW LIFE PROGRAM REPORTS****12.1 Proposed Lease of Premises at 18 Kent Street, East Victoria Park, to Victoria Park Carlisle Bowling Club Inc.**

<b>File Reference:</b>	PR3318
<b>Appendices:</b>	No.

<b>Date:</b>	23 October 2014
<b>Reporting Officer:</b>	T. McCarthy
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, currently occupied by Victoria Park Carlisle Bowling Club Inc. be leased to Victoria Park Carlisle Bowling Club Inc. for a term of two (2) years with two by one year options for further terms.**

- The Victoria Park Carlisle Bowling Club Inc has occupied the property at 18 Kent Street for many years and wishes to secure a new lease of the property.
- A new draft lease has been prepared and is tabled.

**TABLED ITEMS:**

- Draft lease document for the lease of Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, to Victoria Park Carlisle Bowling Club Inc. (the Club).
- Valuation dated 18 September 2014 of Bowling Club lease area premises at 18 Kent Street, East Victoria Park.
- Letter dated 29 September 2014 from the Club.

**BACKGROUND:**

The former Victoria Park Bowling Club was originally located in Rushton Street, at the site currently occupied by the Victoria Park Croquet Club. Between 1953 and 1960 the bowling club relocated to Kent Street facilities that were newly constructed at that time. In 2009-2010 the Victoria Park Bowling Club Inc merged with the Carlisle Lathlain Bowling Club Inc to form a new club, the Victoria Park Carlisle Bowling Club Inc. A new constitution for the Victoria Park Carlisle Bowling Club Inc. was drawn up and endorsed in 2011.

The Club's lease of the premises expired on 30 June 2006 and it remains in occupation under the "holding over" clause of the expired lease. The Club has indicated that it desires to have a new lease over the premises.

**DETAILS:**

The Club occupies an area of approximately 11,500m<sup>2</sup> at Kent Street, East Victoria Park, as depicted in the tabled draft lease document.

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(To be confirmed 10 February 2015)

**Legal Compliance:**

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

**Policy Implications:**

Nil

**Strategic Plan Implications:**

At its Ordinary Meeting held 9 September 2014, Council resolved to endorse the project directions of a report on the Town Centre Redevelopment Project to enable the Chief Executive Officer to progress preparation of a Town Centre Redevelopment Business Case for Council's consideration. The Club premises are located within the Town Centre Redevelopment Project area and the site occupied by the Club may be impacted by any future outcome of the Town Centre Redevelopment Project.

The draft lease document contains a redevelopment clause which would allow the Town to cancel the lease and issue 6 months' notice to the Club to vacate the premises should it be necessary for the Town to have possession of the premises in order to facilitate implementation of the Town Centre project.

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

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

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

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

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

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(To be confirmed 10 February 2015)

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

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

The Department of Sport and Recreation letter dated 15 September 2014 will be presented to the next scheduled meeting of the Healthy Life Working Group, due to be held 12 November 2014.

#### **Financial Implications:**

##### Internal Budget:

Revenue of \$6,000.00 plus GST (less expenses incurred) for a full financial year and increasing by 3% annually is anticipated to be generated by the proposed lease being implemented. It is recommended that the lease income be placed in the Future Projects Reserve.

##### Total Asset Management:

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

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

#### **Sustainability Assessment:**

##### External Economic Implications:

Nil

##### Social Issues:

The Club is now the only bowling club within the Town and provides a valuable sporting and social function for the community to participate in.

##### Cultural Issues:

Nil

##### Environmental Issues:

Nil

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(To be confirmed 10 February 2015)

**COMMENT:**

The proposed lease is for 4.5 years from 1 January 2015 to 30 June 2019. Under the provisions of the holding over clause of the expired lease, the Club has already been invoiced for rent payable for the period 1 September 2014 to 31 December 2014. The terms of the proposed lease have been determined after consideration of:

- The rent that the Club has been hitherto paying.
- The term of the lease.
- The financial position of the Club.
- The aging facilities of the premises.
- The uncertainty of the long-term future of the site given the potential implications of the Town Centre Redevelopment Project.
- The relevant recommendations made in the Sport and Recreation Facilities Strategy.
- The value of the premises as a facility for the community.
- The rental valuation of the premises as determined by a licensed valuer.

The recommended rent is \$1,500.00 (excluding GST) per quarter payable in advance. The rental is to be increased on 1 July each year by 3%, compounding.

The Club was sent a copy of the draft lease document on 8 August 2014, and was requested to provide confirmation that the draft document was acceptable. At the time of sending the draft lease to the Club, the rent valuation by a licensed valuer had not been determined. The Club, on 29 September 2014, provided a response to the draft lease and indicated that the draft lease is acceptable *“on the proviso that current rent value remaining status quo for the first year. Thereafter, the proposed annual increase of 3% noted in the said agreement will be accepted.”*

A valuation carried out in September 2014 of the premises by a licensed valuer determined that the current market rental, excluding outgoings and GST, for the premises as \$60,000 per annum. In arriving at the rental valuation, the licensed valuer stated in the valuation report that in concluding his assessment he recognised:

- *“The quality and standard of amenity provided by the premises.*
- *The use of the premises.*
- *The bowling greens adjacent which are exclusively used.”*

Whilst the factors listed above as having been taken into consideration in determining a recommendation on the amount of rent to be paid are valid, and the current financial position of the Club is especially recognised, it also needs to be recognised that the Club for a number of years has been paying rent significantly below the current market rental valuation as determined by a licensed valuer.

The Club currently pays rent of \$3,907.44 (excluding GST) per annum. It is considered appropriate to recommend to Council that the rent for a new lease be set at \$6,000.00 (excluding GST) with an annual increase of 3% to be applied on 1 July each year. The Club may consider the recommended rent to be an unreasonable increase in the amount that is currently paid, but all relevant factors need to be considered when arriving at a reasonable amount to be paid. Contained within the draft lease document is reference to

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(To be confirmed 10 February 2015)

the rental valuation carried out by the licensed valuer, wherein it is to be acknowledged by the Club that by setting the rent at an amount less than the rental valuation carried out by the licensed valuer, the Club acknowledges that the Town is, in effect, making an in-kind donation to the Club. The relevant Clause (4.1) of the draft Lease, states:

*“The Lessor has obtained a rental valuation of the Premises from a licensed valuer. The rental valuation has been assessed by the licensed valuer as \$60,000.00 (excluding GST) per annum as at 18 September 2014. In being a party to this agreement, the Lessee acknowledges that the Lessor is, at the commencement of the lease, foregoing a potential rental income of \$54,000.00 (excluding GST) per annum and is, in effect, making an in-kind donation to the Lessee of \$54,000.00 (excluding GST) per annum by way of foregone rent.”*

Council, should it wish, can determine an amount of rent to be paid by the Club which may be at variance to the amount recommended. Whatever the amount of rent endorsed by Council, should it be lower than the rental valuation carried out by the licensed valuer, should not be considered as a precedent to be followed when leasing of other Council facilities comes under consideration. The current circumstances of the Club are unique and deserve consideration beyond usual parameters.

Council’s attention is drawn to the recommendations contained in the Sport and Recreation Facilities Strategy which it received at the Ordinary Meeting held 13 December 2013, as referred to in the Strategic Plan Implications section of this report. It is considered appropriate that Council recognise those recommendations in determining the terms of the proposed lease to the Club.

#### **ADDITIONAL OFFICER’S COMMENT**

At the Elected Members Briefing Session on Tuesday 4 November 2014 there was a question and discussion regarding the recommended lease term. Subsequent to the suggestion, the Officer’s Recommendation has been altered to reflect an initial term of two (2) years, with two x one year options as the duration of the lease.

Furthermore, the inclusion of the six month redevelopment clause into the lease document has also been included into the Officer’s Recommendation.

#### **CONCLUSION:**

It is recommended that Council enter into a new lease agreement with the Club.

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(To be confirmed 10 February 2015)

**RESOLVED:****Moved: Cr Windram****Seconded: Cr Nairn****That:**

1. **The Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, currently occupied by Victoria Park Carlisle Bowling Club Inc. be leased to Victoria Park Carlisle Bowling Club Inc. for a term of two (2) years commencing 1 January 2015 and concluding 31 December 2017, with two x one year options in favour of the lessee. The rent is to be \$1,500.00 (excluding GST) per quarter payable in advance. The rent is to be increased on 1 July each year by an amount of 3%.**
2. **The lease document is to contain a redevelopment clause which would allow the Town to cancel the lease and issue six (6) months' notice to the Club to vacate the premises should it be necessary for the Town to have possession of the premises.**
3. **The Mayor and the Chief Executive Officer be authorised to execute the lease document for the lease of the Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, to the Victoria Park Carlisle Bowling Club Inc.**
4. **Any income derived from the lease of the Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, to the Victoria Park Carlisle Bowling Club Inc be placed in the Future Projects Reserve.**

**The Motion was Put and****CARRIED (7-1)****In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram****Against the Motion: Cr Bissett;**



(To be confirmed 10 February 2015)



## 12.2 Proposed Disposal by Sale of 90 (Lot 444) Rutland Avenue, Lathlain

<b>File Reference:</b>	PR5336
<b>Appendices:</b>	No

<b>Date:</b>	17 November 2014
<b>Reporting Officer:</b>	T. McCarthy
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation – That Council endorses the advertisement of the disposal of 90 (Lot 444) Rutland Avenue, Lathlain, for sale by private treaty to the owner of adjoining property 1 (Lot 1) Bishopsgate Street, in accordance with *the Local Government Act 1995* and if no submissions are received by closure of the submission period, the disposition is to proceed as detailed in this report.**

- 90 (Lot 444) Rutland Avenue, Lathlain, has been identified as property that can be disposed of.
- Valuation of Lot 444 for sale purposes has been carried out.
- Owner of an adjoining property has expressed interest in purchasing Lot 444.

### TABLED ITEMS:

- Valuation of 90 (Lot 444) Rutland Avenue, Lathlain, dated 6 November 2014.
- Letter dated 14 November 2014 from Ventura Home Group.

### BACKGROUND:

Between approximately 1975 and 1985 the City of Perth acquired several properties along Rutland Avenue in order to facilitate a project to widen the existing road reserve and allow for eventual widening of the Rutland Avenue road pavement. All properties acquired were as a result of negotiation with the owners of the properties.

Portions of some properties were excised and dedicated as road reserve to facilitate the project to widen the road reserve. Lot 444 is a remnant portion that remains in the Town's ownership as it is not of sufficient size and shape to be suitable for development as a standalone parcel of land. It is most suited to being sold to an owner of adjoining property and there has not been previous opportunity to sell it to an owner of adjacent property.

In 2013 Lot 444 was identified in the Land Asset Optimisation Strategy, adopted by Council, as a property that should be considered for immediate disposal.

### DETAILS:

Lot 444 is owned in fee simple by the Town of Victoria Park on Certificate of Title Volume 1457 Folio 507 and is Lot 444 on Plan 1030. Lot 444 is 154m<sup>2</sup> in area.

Lot 444 and all abutting parcels of land are currently zoned "Residential R40/60" under the Town of Victoria Park Town Planning Scheme No. 1.

(To be confirmed 10 February 2015)

### **Legal Compliance:**

Any disposition of Council owned land, either by lease or sale, has to be carried out in accordance with Section 3.58 of the *Local Government Act 1995*, which states:

#### *“3.58. Disposing of property*

*(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

*(a) it gives local public notice of the proposed disposition —*

*(i) describing the property concerned;*

*(ii) giving details of the proposed disposition; and*

*(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

*and*

*(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

*(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include:*

*(a) the names of all other parties concerned;*

*(b) the consideration to be received by the local government for the disposition; and*

*(c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.”*

The requirements for Local Public Notice are contained in Section 1.7 Of the *Local Government Act 1995* as follows:

#### *“1.7. Local public notice*

*(1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*

*(a) published in a newspaper circulating generally throughout the district;*

*(b) exhibited to the public on a notice board at the local government’s offices; and*

*(c) exhibited to the public on a notice board at every local government library in the district.*

*(2) Unless expressly stated otherwise it is sufficient if the notice is —*

*(a) published under subsection (1)(a) on at least one occasion; and*

*(b) exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —*

*(i) the time prescribed for the purposes of this paragraph; or*

*(ii) if no time is prescribed, 7 days.”*

In this instance it is recommended that Lot 444 be sold by private treaty to the owner of abutting property 1 (Lot 1) Bishopsgate Street. Section 3.58 of the *Local Government Act 1995* requires that a proposal to sell property by private treaty must be advertised for no less than two weeks before a local government agrees to sell the property. The local public notice of the proposed disposition must contain a description of the property, the details (consideration) of the proposed disposition and an invitation for submissions to be made to the local government before a date specified in the notice.

**Policy Implications:**

At its Ordinary Meeting held 8 October 2013, Council resolved:

1. *The Land Asset Optimisation Strategy dated September 2013 prepared on behalf of the Town of Victoria Park by Hester Property Solutions Pty Ltd be acknowledged; and*
2. *Any proposal in respect to Council owned or controlled property will be considered by Council on a case by case basis, with reference to the Land Asset Optimisation Strategy September 2013, Council's Strategic Community Plan and Long Term Financial Plan*

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Sale of Lot 444 will provide revenue of \$85,000, which is the valuation determined by the licensed valuer, to the Town. It is recommended that income derived from the sale of the subject land be placed in the Future Projects Reserve.

Total Asset Management:

The subject site will no longer require maintenance by the Town if sold.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Lot 444 is an unutilised asset of the Town. It contains no playground or other equipment and is not used for recreation or any other worthwhile purpose by the surrounding community.

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Lot 444 has been assessed in the Land Asset Optimisation Strategy (LAOS) considered by Council at its meeting held 8 October 2013. The assessment provided in LAOS considered that Lot 444 did not have any obvious opportunity for development or transfer of freehold title and as such was recommended for immediate disposal.

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(To be confirmed 10 February 2015)

Approaches have been made on two occasions to the owner of an adjoining property at 92 Rutland Avenue, but there was no interest shown by that owner in acquiring Lot 444. An approach has been made to the Town by the owner of an abutting lot, 1 (Lot 1) Bishopsgate Street, requesting that the Town sell Lot 444 to the owner of Lot 1. The request has been considered and subsequently a valuation has been obtained for Lot 444. The licensed valuer engaged to carry out the valuation has determined the value of Lot 444 to be \$85,000.00 exclusive of GST.

The current owner of Lot 1 has entered into a contract to sell Lot 1. The property is being purchased by Ventura Homes Group, and settlement is due to occur 10 December 2014. Ventura Homes Group has expressed their interest and intention to purchase Lot 444 and has offered to purchase Lot 444 for \$85,000.00 with settlement to occur at the earliest opportunity.

It is proposed that Lot 444 be sold to the owner of Lot 1 subject to conditions indicated to the owner of Lot 1, which were:

- Lot 444 will be sold only on the condition that it is amalgamated with the adjoining Lot 1.
- The purchaser will be responsible for all costs involved in amalgamation of Lot 444 with Lot 1.
- Any proposed redevelopment of the new lot created by the amalgamation of Lots 444 and 1 to its maximum potential will be subject to normal planning conditions, including setback requirements.
- The purchase price of Lot 444 will be \$85,000 exclusive of GST.

**CONCLUSION:**

As the Town has no further use for Lot 444, it is recommended that the property be sold to owner of 1 (Lot 1) Bishopsgate Street for the amount of the valuation as assessed by the licensed valuer, being \$85,000.00 exclusive of GST.

**RESOLVED:**

**Moved: Cr Anderson**

**Seconded: Cr Windram**

1. **Local Public Notice** be given advertising Council's intention to dispose of portions of 90 (Lot 444) Rutland Avenue, Lathlain, for sale by private treaty to owners of 1 (Lot 1) Bishopsgate Street, Lathlain, Ventura Homes Group, in accordance with s.3.58 of the *Local Government Act 1995* subject to Ventura Homes Group entering into a contract of sale and deed of agreement to amalgamate at their own cost Lot 444 with Lot 1.

(To be confirmed 10 February 2015)

2. **The disposition of the property detailed in the report above to:**
  - 2.1. **Proceed if no submissions are received by the specified date in the Local Public Notice being not less than two (2) weeks after the notice was first given;**
  - 2.2. **Be presented back to Council if any submissions are received by the specified date in the Local Public Notice for consideration and that the reason behind any decision the Council makes after considering the submission/s be recorded.**
3. **The Mayor and the Acting Chief Executive Officer be authorised to execute any documentation necessary to effect the sale of Lot 444.**
4. **Any income derived from the sale of Lot 444 be placed in the Future Projects Reserve.**

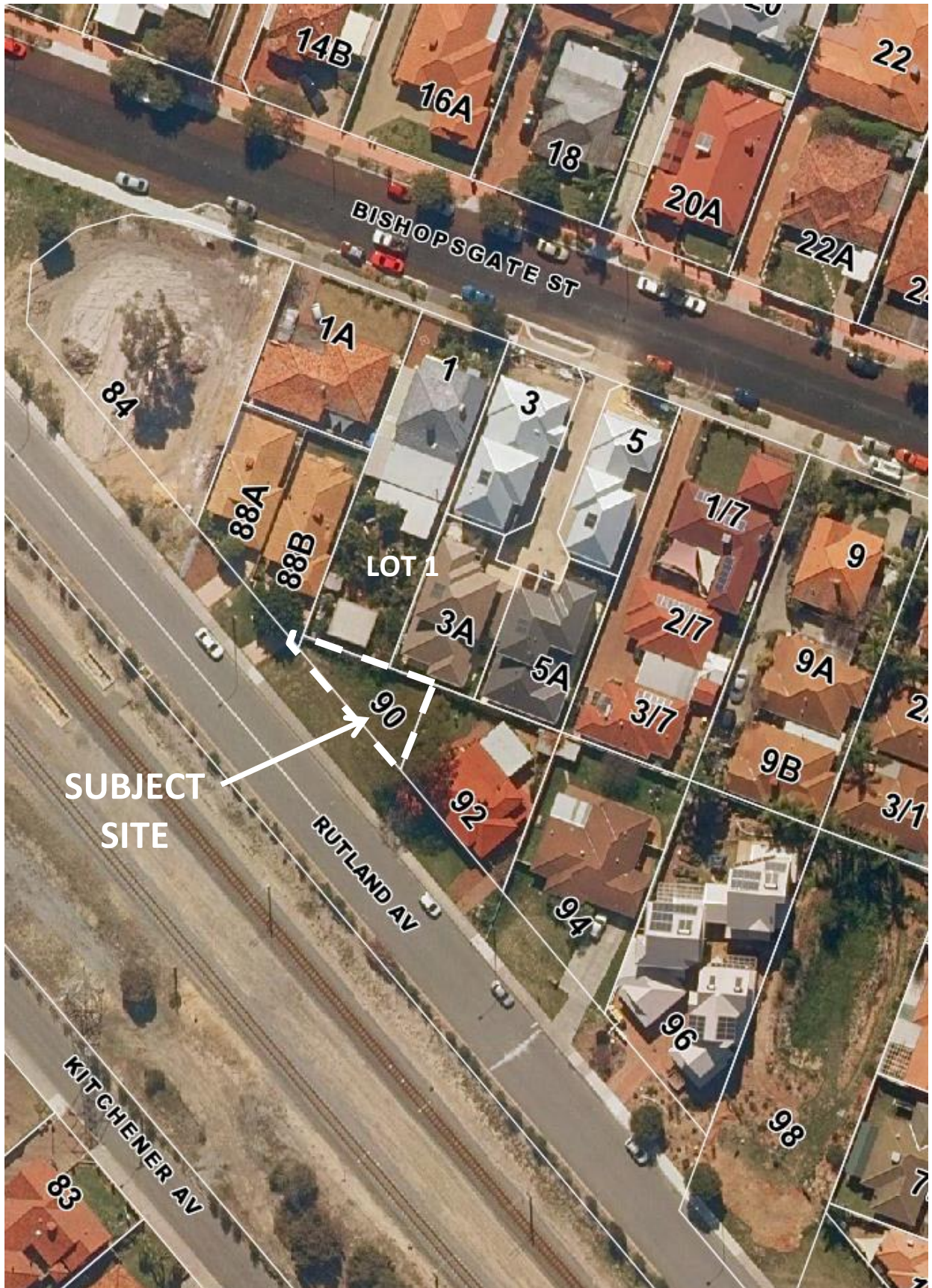
**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

*The Executive Manager Built Life, Mr Robert Cruikshank left the Council Chamber at 7.44pm and returned and 7.46pm.*

(To be confirmed 10 February 2015)



### 12.3 Construction of a Memorial Wall at the Victoria Park Returned and Services League of Australia (RSL) Property, 1 Fred Bell Parade, East Victoria Park

<b>File Reference:</b>	PR11207
<b>Appendices:</b>	No

<b>Date:</b>	3 December 2014
<b>Reporting Officer:</b>	G. Wilson
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple majority

#### Executive Summary:

**Recommendation – That Tender TVP/14/09 for the Construction of a Memorial Wall at the Victoria Park Returned and Services League of Australia (RSL) property, by BOS Civil at a cost of \$121,599.15 excluding GST, be commenced as soon as possible at the Towns expense.**

- A Memorial Wall is proposed to be constructed at 1 Fred Bell Parade with a plaque dedicated to each person from the Town of Victoria Park who served in the First World War. The Wall is to be completed in conjunction with the Centenary anniversary of ANZAC Day in 2015.
- A Tender was called for construction of the Memorial Wall and an evaluation of tender submissions against prescribed criteria has been completed, and awarded to BOS Civil.
- Recommended construction on the Memorial Wall Project start forthwith.
- Construction of the Wall to be funded by the Town in the interim, with further discussions and a financial agreement to be reached with the RSL post construction.

#### TABLED ITEMS:

- Elected Members Memo 28 November 2014.

#### BACKGROUND:

The Town has been working with the Victoria Park RSL Sub-branch (RSL) in relation to the ANZAC Centenary commemorations for 2015. A key project of the commemorations is the construction of a Memorial Wall, the purpose of which proposed by the RSL is –

*“undertaking the memorable task of remembering and honouring those citizens from the Town of Victoria Park who volunteered/enlisted to “Save The Empire”. To this end after enlistment members were moved to Albany, Western Australia where we know they departed for the Middle East and subsequently on to Turkey and the Dardanelles.*

*The Sub Branch Commitment is to erect a memorial wall at the Sub Branch and list all of those who served (from the Victoria Park locality only) by placing a bronze plaque on the wall citing their name, some service details, etc.”*



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(To be confirmed 10 February 2015)

The RSL has previously engaged an architect and builder to undertake preliminary works relating to the construction of a Memorial Wall at 1 Fred Bell Parade with a plaque dedicated to each person from Town of Victoria Park who served in the First World War. In the future, individual name plaques will be added to honour those local individuals who served in the Second World War, Vietnam and Korea.

Whilst this project was initially proposed to be administered by the RSL, the Town's statutory obligations render it ultimately responsible for the project.

After extensive discussions with the RSL, the Town had received plans for the Wall, and agreed in principle to the project, including support from Renew Life to build the Wall on the Town's land. The RSL is aware of the requirement for building and planning approvals as part of the project and that a formal tender process is required. The Town organised to purchase the architects drawings and plans, and to ensure they were certified compliant and ready for construction.

The Memorial Wall is proposed to be constructed on Playfield Reserve outside the leased area of the RSL at a cost of approximately \$150,000.

#### **DETAILS:**

The Tender was advertised on Saturday 16 August 2014 in The West Australian newspaper, with tenders closing on 2pm on Tuesday 2 September 2014.

Three (3) submissions were received for TVP/14/09 from the following companies -

- Boss Civil;
- Connolly Building Company; and
- Glencrest Holdings Pty Ltd.

The assessment of the three compliant submissions, was undertaken by an Assessment Panel of three, comprising the A/Executive Manager Park Life, Business Unit Manager – Assets, and Victoria Park RSL Sub-Branch President.

The Council at its Ordinary Meeting held on the 14 October 2014 resolved –

1. *That Tender TVP/14/09 for the Construction of a Memorial Wall, at the Victoria Park RSL property, 1 Fred Bell Parade, East Victoria Park be awarded to BOS Civil at a cost of \$121,599.15 excluding GST.*
2. *That Council, prior to the engagement of BOS Civil, enters into a legally binding agreement with the Victoria Park RSL confirming the funding requirements of both parties for the Memorial Wall design and construction, specifically that the Victoria Park RSL will repay the cost of design and construction of the Memorial Wall, less Councils' \$50,000 contribution.*
3. *The Mayor and the Acting Chief Executive Officer be authorised to execute any documentation necessary to effect the legal agreement mentioned in Clause 2 above.*

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(To be confirmed 10 February 2015)

Consistent with Council's resolution above, the Town's legal representatives, Jackson McDonald drafted up an agreement for the State Branch of the RSL (as the Lessees of the Gurney VC building) to sign as a binding agreement regarding funding requirements for the Memorial Wall. The agreement was sent to State Branch of the RSL on the 23 October 2014, seeking their urgent signature as soon as possible so construction can get under way. The Town was then informed, that due to the State Branch of the RSL being in the middle of changing committees, they would not be able to sign the legal agreement prior to the first meeting of the new committee in the last week of November 2014.

On the 27 November 2014, the Acting Executive Manager Park Life sent an e-mail to the RSL for an update. In a return e-mail the RSL has now confirmed that the State Branch of the RSL is not willing to sign the funding agreement at this time, as they do not have enough guaranteed funding to cover their part of the project.

The timeline for completing this project prior to ANZAC Day 2015 is rapidly diminishing. It has been reported not only in the press, but additionally there have been segments on current affairs and news services discussing the Memorial Wall Project.

### **Legal Compliance**

Given the location, nature and value of the infrastructure item being constructed, it is a requirement for the Town to administer the project under the provisions of the *Local Government Act 1995*. This advice was confirmed by WALGA's procurement section.

The Town has complied with Section 3.57 of the *Local Government Act 1995* relating to tenders.

### **Policy Implications:**

Nil

### **Strategic Plan Implications:**

The Memorial Wall is consistent with the following action in the Town's Strategic Community Plan –

*“Including interactive strategies that encourage participation, promotion and preservation of local history.”*

### **Financial Implications:**

#### Internal Budget:

The total budget of \$150,000 for the construction of the Memorial Wall has been included in the 2014/2015 Assets Capital Works budget, and will be allocated to Work Order 1334 (General Ledger 37771.3085).

Overall the cost of the contract will be in the order of \$121,600 excluding GST which will be allocated to the capital work order for this project. Approximately \$10,000 in design and other consultant's fees will also be incurred over the project. Staff time will be in-kind cost to the project.

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(To be confirmed 10 February 2015)

It was recommended that the Town enters into a legally binding agreement with the RSL that requires the RSL to repay Council the cost of the "RSL Memorial Wall" less Council's \$50,000 contribution, prior to commencement of the contract with the successful tenderer. This now looks unlikely to occur, prior to project commencement.

Ultimately it was intended that Council's maximum net financial contribution will be \$50,000. Ongoing funding will be added to subsequent Assets Business Unit's annual maintenance budgets to maintain the structure, which will be added to the Town's asset register.

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Recognition of citizens from the Town of Victoria Park who volunteered or enlisted in various conflicts, highlights the contributions and sacrifices they made, promoting respect and understanding.

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The construction of this project is within a very tight timeframe. To have the Memorial Wall completed prior to ANZAC Day 2015, construction must be started forthwith.

In order to do so, the Town would be required to revoke clauses 2 and 3 from the resolution made at the 14 October 2014 Ordinary Council Meeting.

**ADDITIONAL OFFICER'S COMMENT:**

Subsequent to the December 2014 Elected Members Briefing Session a meeting was held on Friday 5 December 2014 with representatives from the Victoria Park RSL (Kelvin and Jacque Liddiard), Acting Director Renew Life, Director Business Life and Acting Executive Manager Park Life in order to –

- advise of the referral of this matter to Council's December 2014 Ordinary Council Meeting;
- determine the current status of RSL fund raising initiatives; and
- discuss possible future funding arrangements with the RSL.

Various options were discussed and the Victoria Park RSL confirmed the following points via return e-mail:

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(To be confirmed 10 February 2015)

- The RSL currently has funds amounting to \$30,000 in Term Deposit (3 month) and Community Funding Account at the P & N Bank. The RSL committee would be required to meet and pass a motion for the expenditure of these funds for the Memorial Wall project should it be required. The RSL indicated in the meeting that their Committee has discussed this possibility already.
- The RSL would be willing to enter into a debt funding agreement with the Town of Victoria Park to repay the shortfall in funds between the Town's approved contribution and the cost of the Memorial Wall project. It is anticipated that a term of up to 5 years maximum and in a low interest or no interest scenario would likely be proposed if this course of action were taken. The RSL Committee would need to meet and pass a motion for a low/no interest loan from the Town of Victoria, to repay any shortfall in funds for the cost of the Memorial Wall project should this situation arise.
- The RSL Victoria Park sub branch is in talks (and has agreement) from both "Top of the Park" and "Vic Park Centro" shopping centres to hold fundraising activities exclusively for the Memorial Wall project, along with other fundraising activities planned for early in 2015. The RSL also have professional fundraisers on board for further fundraising from local businesses starting January 2015. Currently they are also looking at the new Lotterywest supported [www.chuffed.com](http://www.chuffed.com) website for not-for-profit organisations, for funding for the plaques.
- They have applied for \$125,000 from DVA Saluting Their Service (Major Commemorative Grant) (signed and supported by the Town's A/CEO Anthony Vuleta). They have received advice via email, of \$50,000 funding likely, with a request to provide further documentation for additional funds.
- Applied for a Lotterywest (Community Spaces Outdoor) grant for \$25,000.
- Applied for Australia Post Community Grants \$10,000, plus public subscription for \$10,000 to \$20,000.

It is anticipated, that information on the outcome of some of these grants should be known by the end of December 2014.

A further meeting was held on Monday 8 December 2015 with representatives from the State Branch of the RSL (Phil Orchard) and the A/Director Renew Life and A/Executive Manager Park Life to clarify some issues in relation to the project. It is clear from this meeting that the State Branch supports the project however it cannot underwrite funding for the project until the Victoria Park RSL can demonstrate they have secured external funding. For their part, the State Branch representative conveyed his gratitude to Council for their support and apologised for the delay caused due to the recent State Branch Board elections.

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(To be confirmed 10 February 2015)

**CONCLUSION:**

It is concluded that the Town should fund the construction of the Memorial Wall by BOS Civil with funds set aside for the project in the 2014/15 budget, in Work Order 1334 (General Ledger 37771.3085).

Construction is required to start as soon as possible to meet the timeframe of April 2015 completion.

The Town continues to engage with the RSL regarding a financial agreement to be reached for reimbursement of costs, post construction.

The following procedure will need to be followed in order for the Council to revoke part of its previous decision made at its Ordinary Council Meeting held on 14 October 2014.

**Call for One-Third Support**

The *Local Government Act 1995*, under regulations prescribed to deal with Section 5.25(e), lays down the following procedure for dealing with revoking or changing decisions made at Council or Committee meetings:

*“If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of offices (whether vacant or not) of members of the Council.*

*If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority.”*

***Prior to giving consideration to the following recommendation, Elected Members are required to give the support of one-third of their members, and such support is to be recorded in the Minutes of this meeting.***

The Presiding Member is therefore requested to call for support from at least one-third of the members of Council.

Support to revoke part of the Council’s resolution in relation to Item “12.5” entitled “*Tender TVP/14/09 – Construction of a Memorial Wall at the Victoria Park Returned and Services League of Australia (RSL) Property, 1 Fred Bell Parade, East Victoria Park*” was given by:

1. Cr V Maxwell
2. Cr B Oliver
3. Cr M Windram

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(To be confirmed 10 February 2015)

**RESOLVED:****Moved: Cr Hayes****Seconded: Cr Oliver****That Council:**

1. **BY AN ABSOLUTE MAJORITY REVOKES** clauses 2 and 3 of the following decision made on 14 October 2014 (Item Number 12.5) as follows:

**“Moved: Cr Anderson****Seconded: Cr Windram**

2. *That Council, prior to the engagement of BOS Civil, enters into a legally binding agreement with the Victoria Park RSL confirming the funding requirements of both parties for the Memorial Wall design and construction, specifically that the Victoria Park RSL will repay the cost of design and construction of the Memorial Wall, less Councils' \$50,000 contribution.*
  3. *The Mayor and the Acting Chief Executive Officer be authorised to execute any documentation necessary to effect the legal agreement mentioned in Clause 2 above.*
2. Subject to Clause 1. above being adopted, the building project the subject of Tender TVP/14/09 for the Construction of a Memorial Wall at the Victoria Park Returned and Services League of Australia (RSL) property, be commenced as soon as possible at the Town's expense, by BOS Civil at a cost of \$121,599.15 excluding GST.
  3. Staff continue negotiations with the RSL to solicit their agreement, and require they enter into a legally binding agreement, that they will fund the cost of the construction of the Memorial Wall, less Council's \$50,000 contribution.

**The Motion was Put and****CARRIED BY AN ABSOLUTE MAJORITY (7-1)****In favour of the Motion: Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram****Against the Motion: Mayor Vaughan;**

*A/Director Renew Life Mr Warren Bow left the Council Chamber at 7.58pm and returned at 8.00pm.*

### 13 COMMUNITY LIFE PROGRAM REPORTS

#### 13.1 Recommendation from Culture and Local History Working Group - Application for Commemorative Recognition of Mr John Cumbers

<b>File Reference:</b>	CMR/3/8
<b>Appendices:</b>	No

<b>Date:</b>	25/11/ 2014
<b>Reporting Officer:</b>	D. Wilson
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – That the application for Commemorative Recognition of Mr John Cumbers be approved. That Mr John Cumbers be recognised by way of a plaque installed near the corner of Miller Street and Beatty Avenue, East Victoria Park.**

- In light of extra information provided at the Ordinary Council Meeting on 8 July 2014, the application for the posthumous Commemorative Recognition of Mr John Cumbers was reassessed by the Culture and Local History Working Group against the criteria set out in the Town’s Commemorative Recognition Guidelines.
- The Culture and Local History Working Group recommend that the commemorative recognition of Mr John Cumbers be approved.
- The Working Group was not in favour of the applicant’s proposal for the recognition to be located at the Read Park Community Garden, recommending that Administration explore options for the Commemorative Recognition of Mr Cumbers and recommend a preferred option to Council directly.
- The corner of Miller Street and Beatty Avenue, East Victoria Park is recommended by the Administration as the location for placement of the recognition as documentation on record indicates that this was the site for the Miller Street Community Food Garden Incorporated, that was the result of Mr Cumbers’ community vision.

**TABLED ITEMS:**

- Town of Victoria Park Commemorative Recognition Guidelines;
- Action Notes – 18 June 2014 - Culture and Local History Working Group Meeting;
- Action Notes – 5 November 2014 – Culture and Local History Working Group Meeting;
- Application for Commemorative Recognition of Mr John Cumbers; and
- Additional information supplied in support of Application for Mr John Cumbers – letter from Eileen Simms dated 30 June 2014; and letter from City of Perth dated 30 July 2014.

**BACKGROUND:**

In May 2014, the Town received an application seeking the posthumous Commemorative Recognition for Mr John Cumbers, a former resident of the Town of Victoria Park.

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(To be confirmed 10 February 2015)

The application was assessed by the Culture and Local History Working Group at its meeting on 18 June 2014 against the criteria set out in the Town's Commemorative Recognition Guidelines.

The Working Group recommended not to approve the application for Mr Cumbers, as it was considered that insufficient information was provided against the selection criteria. A recommendation was presented at the Ordinary Council Meeting 8 July 2014 reflecting this outcome. During Public Statement Time at this Council Meeting, the person that submitted the application for Mr Cumbers to be recognised provided additional information in the form of a letter from the wife of the late Mr Cumbers, in support of the application. As a result, the Elected Members supported an alternative recommendation that the Working Group reconsider the application in light of the additional information received:

*“Recommend that considering the information received from Mrs Cumbers that Commemorative Recognition to be reconsidered by the Working Group”*

Consistent with the above resolution, the Culture and Local History Working Group reconsidered the application for commemorative recognition of Mr John Cumbers at its next meeting, which was held on 5 November 2014.

#### **DETAILS:**

In May 2014, an application was received for Commemorative Recognition of Mr John Cumbers, former resident of the Town of Victoria Park. The application proposed a name plaque be placed in the current community garden in Read Park, Albany Highway as a way to publicly recognise this effort.

In the application, the type of commemorative work was described as:

*“honouring Mr Cumbers who founded the first Community Garden in Miller Rd/Beattie St [sic] – his name on the current Read Park Community Garden”*

In describing why the Commemorative Recognition of Mr Cumbers should take place, the application stated:

*“John dedicated 20 years of committed service to the community of Victoria Park through representation on 16 committees and advisory panels, his work to promote recycling in the Town, his success in winning the competition for the Town logo, being president of the ratepayer association for many years and many hours voluntary work in local primary schools.”*

The application also notes Mr Cumbers' contribution to community service from 1980 to 2000. The application was supported by a number of residents and ratepayers, and the next of kin of the individual.

Based on the brief information provided in the application, members of the Culture and Local History Working Group were unable to conclude that Mr Cumbers met sufficiently any of the following criteria required for successful application for commemorative recognition, as contained within the procedure:



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(To be confirmed 10 February 2015)

- make a significant contribution to the development of the area; and/or
- make an outstanding contribution to the local community; and/or
- make a significant achievement at a national level or through national service.

The application was deemed unsuccessful; however in light of additional information provided during Public Statement Time at the Ordinary Council Meeting 8 July 2014, it was reconsidered by the Culture and Local History Working Group at their November meeting. The information, a letter provided by Ms Eileen Simms (wife of the late Mr John Cumbers) included the following "Summary of Community Projects" whereby Mr John Cumbers was reported to be involved:

- *Victoria Park Traffic Action Group*  
*Founding Secretary 1996, 1997*
- *Carlisle Ward Residents and Ratepayers Association*  
*Secretary 1996, 1997*  
*Executive Committee Member 1995*  
*Member 1992, 1993, 1994*
- *Town of Victoria Park House Energy Rating Scheme*  
*Initial proposal and submission 1996*
- *Town of Victoria Park Recycling Advisory Taskforce*  
*Initiating proposal and draft Terms of Reference*  
*Founding Member, 1995, 1996, 1997*
- *Town of Victoria Park Logo Competition*  
*Designed and drew the winning entry*  
[\*Note from Administration: the letter by Ms Eileen Simms (tabled) advises that the logo entry by Mr Cumbers was submitted in his wife's name]
- *Town of Victoria Park 1995 Council Elections*  
*40 page Submission to all candidates*  
*Initiated, organised and chaired "greening the Park" public forums*
- *Shepperton Municipal Advisory Committee*  
*WA Government appointed Member 1994*
- *Town of Shepperton Town Planning Scheme review*  
*Submission 1994*
- *Miller Street Community Food Garden Inc.*  
*Founding convener 1993, 1994, 1995, 1996, 1997*
- *Victoria Park Centenary Celebration Committee*  
*Founding Secretary 1993, 1994*

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(To be confirmed 10 February 2015)

- *Victoria Park Residents and Ratepayers Association*  
*Correspondence Secretary, Executive Committee 1993*  
*Minutes Secretary, Executive Committee 1992*  
*Environment Committee Member 1991, 1992, 1993*
- *Beatty Ave/Miller St Reserve Redevelopment Group*  
*Founding Convenor 1993*
- *East Victoria Park Family and Community Centre Inc.*  
*Founding Chairperson, Management Committee 1992, 1993*  
*Member, Management Committee 1994*
- *East Victoria Park Primary School Parents & Citizens Association Inc.*  
*President 1989, 1990, 1991*  
*Vice President, Acting Treasure 1992*  
*Chair, student exclusion panel (1993, 1994)*
- *Vic Park Earth Team (environment action group)*  
*Founding convenor 1991*
- *WAKEUP Inc. (environment action group)*  
*Founding secretary 1989, 1990*
- *1<sup>st</sup> Carlisle Scout Group*  
*Committee Member 1986*
- *Montessori Children's Centre Inc. (Egham Rd)*  
*Founding Vice-President 1982, 1983*

In correspondence received from the City of Perth in July 2014, it is stated that:

*“Perth History Centre staff searched the City of Perth’s corporate records and can verify John Cumbers’ involvement in two community groups associated with the Victoria Park area.”*

In summary, the two community groups outlined in the letter from City of Perth were:

Shepperton Municipal Advisory Committee

Council Minutes, 10 May 1004, indicate Mr John Cumbers was to be appointed as a member until 31 March 1995.

Miller Street Community Food Garden

Two pieces of correspondence from Mr Cumbers to the Town Clerk regarding establishment of a Community Garden on Miller Street.

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(To be confirmed 10 February 2015)

Records from the Town of Victoria Park concur that Mr John Cumbers was involved in the establishment of a Community Food Garden on the corner of Miller Street and Beatty Avenue, East Victoria Park. Correspondence demonstrates there was significant effort placed into this project by Mr Cumbers over a long period of time.

Given the breadth of community involvement, the recommendation of the Culture and Local History Working Group was to approve the application for Commemorative Recognition based on the key criteria that Mr Cumbers made an outstanding contribution to the local community (voting in favour 3-1) as follows:

*The application for Commemorative Recognition of Mr John Cumbers be approved.*

By way of the following recommendation, the Working Group was not in favour of naming the existing Community Garden in Read Park in honour of Mr John Cumbers as it was considered he did not have a direct stakeholder-ship in this specific Community Garden. The Working Group recommended (voting in favour 4-0) that:

*The proposal by the applicant to name the Community Garden at Read Park in honour of Mr Cumbers not be supported and that Administration explore options for Commemorative Recognition of Mr John Cumbers and recommend a preferred option to Council directly.*

Consistent with the recommendation of the Working Group, Administration explored options to locate the commemorative recognition of Mr John Cumbers. Given that extensive information could be found linking Mr John Cumbers to the establishment of a Community Food Garden on the Corner of Miller Street and Beatty Avenue East Victoria Park, it is proposed to place a plaque near this corner in honour of Mr Cumbers.

**Legal Compliance:**

Nil

**Policy Implications:**

Policy and Procedure *GEN 4: Commemorative Recognition*

**Strategic Plan Implications:**

Commemorative recognition is consistent with the Town's Strategic direction, specifically within the Community Life Program:

*A vibrant Town is created where social interaction, creativity, vitality, cultural diversity and healthy lifestyles intersect and are celebrated.*

**Financial Implications:**

Internal Budget:

Approximately \$1,000 for the development and placement of a plaque. Funds are available in the current 2014-2015 Operational Budget allocated for Local History projects.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Commemorative recognition of people who have a strong connection to the Town and have made significant contributions to the local community fosters the cultural identity of the neighbourhood.

Environmental Issues:

Nil

**COMMENT:**

Members of the Culture and Local History Working Group assessed the nomination for commemorative recognition of Mr John Cumbers consistent with the Policy and Procedure *GEN4: Commemorative Recognition*. Based on the information provided in the original application, as well as further information supplied at a later date the Working Group members agreed to support the application for the commemorative recognition of Mr John Cumbers. Ultimately, it was thought that the application was compliant with Council Policy in that it demonstrated significant community contributions, confirmed a 'long-standing' link to the community, included six referees and included permission of next of kin.

Should Council favourably resolve to honour Mr Cumbers, it is considered reasonable to decline the applicant's request that a plaque be placed in the current Community Garden situated in Read Park, as there is not a known direct link between Mr Cumbers and the current Community Garden on this site. Documentation on record at the Town indicates that Mr Cumbers was instrumental in establishing a community garden, the Miller Street Community Food Garden Incorporated, at the corner of Miller Street and Beatty Avenue in East Victoria Park and as such this is considered an appropriate location to commemorate Mr Cumbers through the placement of a plaque.

**CONCLUSION:**

The application for the Commemorative Recognition of Mr John Cumbers was recommended for approval by the Culture and Local History Working Group at its meeting on 5 November 2014. Following is an extract from the Action Notes from the meeting:

- “1. *The application for Commemorative Recognition of Mr John Cumbers be approved.*
2. *The proposal by the applicant to name the Community Garden at Read Park in honour of Mr Cumbers not be supported and that Administration explore options for Commemorative Recognition of Mr John Cumbers and recommend a preferred option to Council directly.”*

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(To be confirmed 10 February 2015)

In accordance with the Working Group's recommendation the Administration has considered potential locations for commemorative recognition of Mr Cumbers and recommends that a plaque be installed near the corner of Miller Street and Beatty Avenue, East Victoria Park, which is where the Miller Street Community Food Garden Incorporated was located.

**Additional Information following the 2 December 2014 EMBS**

At the Elected Members Briefing Session on 2 December 2014, additional information was sought from Administration to substantiate the level of community involvement by Mr Cumbers in the committees and organisations where he was reported to have had involvement. Although contact has been made with several of the groups, at present there is no additional information sourced that validates the contributions by Mr Cumbers listed in the details of this report. This is not a reflection on the application for Mr Cumbers to be recognised, more a note to advise that; the community groups involved have not kept accurate records of committee members; community groups have disbanded; or a change in members over time has resulted in a loss of information to verify the involvement of Mr Cumbers.

There is substantial written communication in the Town's records between Mr Cumbers and the Town regarding establishment of the Miller Street Food Garden over the period 1993 to 1997. The City of Perth verified that Mr Cumbers was on the Shepperton Municipal Advisory Committee and the Miller Street Community Food Garden.

The Town's Administration will continue to investigate further through its own records and advise at the Ordinary Council Meeting if any further information is sourced regarding the contributions of Mr John Cumbers.

**RESOLVED:**

**Moved: Cr Maxwell**

**Seconded: Cr Nairn**

- 1. The application for Commemorative Recognition of Mr John Cumbers be approved.**
- 2. Subject to clause (1) above, Mr John Cumbers be recognised by way of a plaque installed near the corner of Miller Street and Beatty Avenue, East Victoria Park.**

**The Motion was Put and**

**LOST (3-5)**

**In favour of the Motion: Cr Maxwell; Cr Nairn; and Cr Windram**

**Against the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; and Cr Oliver**

**13.2 Review of Policy GEN4: ‘Commemorative Recognition’**

<b>File Reference:</b>	CMR/3/8
<b>Appendices:</b>	Yes

<b>Date:</b>	21 November 2014
<b>Reporting Officer:</b>	D. Wilson
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**  
**Recommendation – The draft of revised Council policy *GEN 4: Commemorative Recognition* be endorsed.**

- A review of Council Policy and Procedure *GEN4: Commemorative Recognition* has been undertaken, taking in to account feedback from members of the Culture and Local History Working Group, as well as members of two cross-functional teams within the Town’s Administration.
- The reviewed policy reflects the Town’s intention for meaningful recognition of worthy applicants, who have given outstanding service to the community over an extended period of time.

**TABLED ITEMS:**

- Action Notes – 18 June 2014 – Culture and Local History Working Group Meeting; and
- Action Notes – 5 November 2014 – Culture and Local History Working Group Meeting.

**BACKGROUND:**

Council Policy and Procedure *GEN4: Commemorative Recognition* reflects Council’s commitment to provide formal recognition of people and groups that have made a significant and outstanding contribution to the community over an extended period of time.

The policy and procedure were first developed and adopted in 2005, with minor changes made in reviews undertaken in August 2006 and July 2013. A more thorough review has recently been undertaken by the Culture and Local History Working Group, as well as two cross-functional teams from the Administration. The outcome of the reviews was several improvements to provide a clearer framework for guiding applications for formal commemorative recognition by Council.

**DETAILS:**

Council Policy and Procedure *GEN4: Commemorative Recognition* was recently reviewed by a cross-functional team from the Administration, as well as members of the Culture and Local History Working Group.

Improvements were identified to support clearer guidelines for the Administration and for those nominating individuals and groups for formal recognition by Council. The proposed

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(To be confirmed 10 February 2015)

draft Commemorative Recognition Policy endeavours to provide a consistent, transparent and accountable process for the Administration, the Culture and Local History Working Group (who assess submissions, making a recommendation to Council) and the community. The revised procedure describes more accurately how to interpret the Policy.

The updated Council Policy and Procedure *GEN4: Commemorative Recognition* reflects the Town's intention for meaningful recognition of worthy applicants, who have given outstanding service to the community over an extended period of time.

The new draft policy states:

*“The purpose of Council Policy and Procedure Gen 4: Commemorative Recognition is to provide a framework to guide recognition of an individual or group that has made a significant contribution to the Town of Victoria Park or made a significant achievement at a state or national level. It intends to honour and acknowledge those who have demonstrated an outstanding effort or connection in the community. The parameters and procedure set out in this policy reflect the intention for appropriate commemoration in an endeavour to enrich the Town's cultural heritage.”*

The associated procedures detail the criteria to be addressed by the applicant for Council to consider the application. It is the intention of this policy to only accept posthumous applications for recognition, unless extenuating and justifying circumstances can be demonstrated; that the individual or group was a long-standing member of the Town (generally not less than 20 years), and meets one or more of the following:

- Made a significant contribution to the development of the local area;
- Made an outstanding contribution to the local community or civic life within the Town;
- Made a significant achievement at a state or national level;
- National Service to Country; and/or
- Was a widely recognised leader.

This proposed Policy does not apply to signage, banners or public artworks, nor does it apply to private memorials for individuals or families.

The applicant will be required to provide support letters from referees, as well as other appropriate evidence such as newspaper articles, minutes of meetings, certificates and medals.

The procedure describes the ways Council may recognise the contribution, including (but not limited to) the presentation of a Certificate of Appreciation; hosting a celebratory event; the naming of any item (or part) of infrastructure owned or managed by the Town, such as a road, path, park or facility on a park, tree and building.

The reviewed Council Policy and Procedure *GEN4: Commemorative Recognition* was presented at the meeting of the Culture and Local History Working Group on 18 June 2014. The Group's feedback has been taken into account while finalising the review.

In light of Local Government Reform, the Policy and Procedure were further reviewed taking into consideration the equivalent City of South Perth Policy. Minor wording changes and formatting have been made, although it is not considered these modifications have

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(To be confirmed 10 February 2015)

altered the intent of the original Policy and Procedure.

**Legal Compliance:**

Nil

**Policy Implications:**

Council Policy and Procedure *GEN4: Commemorative Recognition*

**Strategic Plan Implications:**

We will promote and celebrate the rich history and heritage of the Town.

**Financial Implications:**

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**

Nil

Social Issues:

To ensure fair and equitable processes for the application for commemorative recognition.

Cultural Issues:

Commemorative recognition of people who have a strong connection to the Town, and have made significant contributions to the local community, fosters the cultural identity of the Town

Environmental Issues:

Nil

**COMMENT:**

The Council Policy and Procedure *GEN4: Commemorative Recognition* was recently reviewed by two cross-functional teams from the Administration, as well as the Culture and Local History Working Group.

It is considered that the revised draft Policy and Procedures provide clearer guidelines to applicants when making a submission. Consequently, this provides improved guidelines for the Administration and the Culture and Local History Working Group when assessing nominations for individuals and groups for formal commemorative recognition by Council.

The parameters and procedure set out in this policy reflect the intention for appropriate commemoration in an endeavour to enrich the Town's cultural heritage.

**CONCLUSION:**

The draft Policy and Procedure provides a robust framework to guide applications for Commemorative Recognition and are recommended to be endorsed by Council. They



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(To be confirmed 10 February 2015)

reflect Council's commitment to provide formal recognition of people and groups with a significant and outstanding service to the community.

**RESOLVED:**

**Moved: Cr Hayes**

**Seconded: Cr Anderson**

**It is recommended that the revised Council Policy and Procedure *GEN4: Commemorative Recognition*, as contained within the appendices, be endorsed.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

**13.3 Proposed Delivery of Mural Artwork in the Town to be Co-ordinated by ‘FORM’**

<b>File Reference:</b>	CUP/18/39
<b>Appendices:</b>	No

<b>Date:</b>	25 November 2014
<b>Reporting Officer:</b>	J. Thomas
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Absolute Majority

**Executive Summary:**  
**Recommendation – Subject to the concurrence of the Arts Working Group, that \$30,000 allocated in the Public Art Masterplan 2013-2015 for a sculpture on Etwell Street, East Victoria Park be endorsed for delivery of a mural artwork on Etwell Street and additional murals in other locations within the Town to be coordinated by FORM.**

- Community Organisation FORM recently approached the Town with invitation to be part of their PUBLIC initiative in 2015.
- FORM would coordinate up to five murals in the Town (at least one on Etwell Street), to be created by local, national and international artists.
- The murals concept has merit, and to fund the idea it is suggested to utilise the \$30,000 listed in the Public Art Masterplan for Etwell Street, East Victoria Park.

**TABLED ITEMS:**

- ‘FORM’ Publication
- Notes, Arts Working Group, 27 November 2014

**BACKGROUND:**

The Town’s Public Art Masterpan was endorsed by Council in 2013. It includes a list of public art projects for delivery between 2013 and 2015.

An opportunity has arisen to expand the scope of the Etwell Street project listed, both in terms of artwork ‘type’ and ‘location’ as prescribed in the Public Art Masterplan.

**DETAILS:**

The Public Art Masterplan is the foundation for the Town’s commitment to enhance the built and natural environment to reflect a Vibrant Lifestyle through the placement of meaningful and relevant public artworks.

Section B of the Masterplan includes an Implementation Plan, listing fourteen different artworks and outlining: a project value/budget; year for installation; theme; type; and rationale.

(To be confirmed 10 February 2015)

This report seeks approval to amend the following listing in the Implementation Plan:

Location	Project Value	Year to be installed	Theme	Type	Rationale
Etwell Street, East Victoria Park	\$30,000	2014/2015	Quirky	Sculpture	Matches Community consultation and Feedback

The Town’s Masterpan states:

*“It should be noted that a ‘best fit’ approach will be undertaken to ensure public art continues to be progressed in the Town. Priorities have been listed in the table below however it is acknowledged that there should be a level of flexibility incorporated into the Plan. Other opportunities that may arise will be considered including different locations, commission value (staying within the Reserve Fund limitations) or the year of implementation.”*

It is intended to enact the ‘flexibility’ aspect of the Public Art Masterplan, by proposing that the scope of the Etwell Street Artwork be changed from ‘sculpture’ to ‘murals’; and that the location be modified from ‘Etwell Street, East Victoria Park’ to ‘Etwell Street, East Victoria Park and other locations within the Town’.

An opportunity has arisen for the Town to work with ‘FORM’ which has proposed to coordinate up to five murals in the Town by emerging and renowned mural artists. One mural would be on Etwell Street, as per the location in the Masterplan, although it is most likely the majority of the artwork would be located along Albany Highway (or other suitable sites in the Town chosen by artists in conjunction with the Town).

FORM approached the Town in September 2014 with a proposal for a street art project for inclusion in their ‘PUBLIC’ art initiative for April 2015. FORM is a professional, independent, not-for-profit cultural organisation that develops and advocates for excellence in creativity and artistic practice in Western Australia.

The aim of the PUBLIC initiative is to explore creativity in how it benefits the shaping of public places, in order to connect and create vibrant communities. PUBLIC was launched earlier this year in the City of Perth and was reported to receive great success. In 2015, the program is aimed at key suburban activity centres, of which the Town has been selected to participate.

The benefits of the mural project from the Town’s perspective are:

- Improved built environment through the placement of creative mural artworks;
- Inspiration to the community through original, exciting visually imaginative pieces;
- Improved existing relationships between the Town, FORM, Vic Park Collective, Victoria Park Chamber of Commerce and local businesses;

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(To be confirmed 10 February 2015)

- Enhanced community engagement with local community groups such as schools;
- Continued place activation strategies as an important part of the Town to build its vibrancy and publicity; and
- Contribution to the economic development of the Town.

FORM is requesting sponsorship from the Town to create a series of murals by emerging local or national artists plus recognised national and international artists. It is proposed that the \$30,000 from the Etwell Street budget in the Public Art Master Plan be allocated to FORM for this purpose.

A key focus of this project centres around place activation and community engagement in the Etwell Street activity centre. The project also focuses on place activation of Albany Highway.

Five spaces are anticipated to be delivered as part of this project:

- A minimum of one mural is to be created by an artist in the Etwell Street activity centre;
- A minimum of four spaces (most likely walls) to be painted by recognised artists, centred around Albany Highway for maximum exposure and publicity of the Town.

The Etwell Street mural is proposed to be undertaken in February to act as a 'teaser' for the April PUBLIC launch in the Town.

It is anticipated that by starting the process of place activation in the Etwell Street activity centre, further projects in this area will be delivered in order to achieve a sense of community and vibrancy in the area.

Included in the project will be community engagement initiatives, with ideas such as:

- facilitated artist interaction during installation;
- 'pop-up' mural launches;
- artist workshops with the local community and school groups; and
- digital interaction through QR codes attached to the pieces.

Additionally, FORM is holding an international Symposium from 15-18 April 2015 to explore creative place-making in establishing vibrant and connected communities. It is anticipated the FORM Symposium may be included as part of the Town's commitments to local business (through Business Life Program), proposed to be held around the same time. The Symposium aligns with the Town's focus to strengthen economic development in the Town through engagement of local businesses and the Victoria Park Chamber of commerce. Key leadership staff will participate and FORM have been invited to speak at the Town's business festival luncheon.

It is proposed the Vic Park Collective play a key role in facilitating this mural art project which allows the Collective to build their relationship with FORM and link in with local businesses and other community groups in Perth. This in turn will strengthen the Town's links with the Collective and consequently, the local community.

FORM have been requested by the Town to engage local schools and the community through workshops and artist interaction during mural creation.

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(To be confirmed 10 February 2015)

This project meets the strategic vision of the Town's 'Vibrant Lifestyle'. It also achieves the Town's mission to embrace creativity, be unique, quirky and identifiable and attract people and businesses to the Town.

PUBLIC is a highly publicised program which involves emerging local artists and nationally and internationally recognised artists. This proposal represents a significant opportunity for the Town. It is recommended that the Arts Working Group adopts a flexible approach to the above parameters for this proposal.

**Legal Compliance:**

Nil

**Policy Implications:**

Nil

**Strategic Plan Implications:**

This mural project meets the strategic vision of the Town's 'Vibrant Lifestyle'. It also achieves the Town's mission to embrace creativity, be unique, quirky and identifiable and attract people and businesses to the Town.

**Financial Implications:**

Internal Budget:

Sufficient funds are allocated in the 2014-2015 Capital budget, consistent with allocations of the endorsed Public Art Masterplan.

Total Asset Management:

Nil

**Sustainability Assessment:**

External Economic Implications:

Mural artwork can improve relationships with local businesses, and improve streetscapes (both residential and commercial).

Social Issues:

Nil

Cultural Issues:

Objective 1 of the Public Art Masterplan is:

*"To install public art in the Town of Victoria Park to create interest and a sense of place.*

*Priorities:*

- *To provide a strategic approach to providing art in public places*
- *Enhance public engagement, enjoyment and understanding of the continuous integration of public art throughout the Town*
- *Foster and support artistic excellence*
- *Build private and business partnerships in the arts"*

Environmental Issues:

Nil

**COMMENT:**

The Town's Project Management Office has nurtured closely a strategic relationship with FORM, resulting in an exciting opportunity for the local community to benefit from creative mural artworks in its streetscapes.

It is considered advantageous to use the \$30,000 funds allocated in the Public Art Masterplan for Etwell Street to accommodate the current opportunity for five mural artworks to be coordinated by FORM.

The recommendation to place a mural in Etwell Street (rather than a sculpture as proposed in the Masterplan) continues to meet the rationale of the Public Art Masterplan, being to enliven this location with artwork. The offer by FORM to place four additional murals in other prominent places in the Town (such as along Albany Highway) provides even greater value for money, creative expression and drives the Town's vision of a Vibrant Lifestyle.

As part of its PUBLIC project, FORM has the capacity to commission internationally renowned artists to due its large scale and access to global artists. It is unlikely the Town could fund artists of this calibre itself, and therefore the unique opportunity to get involved is strongly supported.

PUBLIC is a highly publicised program which involves emerging local artists and nationally and internationally recognised artists. This proposal represents a significant opportunity for the Town. It is recommended that the Arts Working Group adopts a flexible approach to the above parameters for this proposal.

It is acknowledged that by providing the \$30,000 to FORM, the Town may lose some creative control in terms of artist selection or concept, however, FORM have a proven track record of working with artists to deliver extraordinary artworks and this has given Administration ample confidence for a successful outcome for the business and residential communities.

The mural artwork project aligns with the Town's vision of a vibrant lifestyle, as well as with economic tourism and growth opportunities. The arts and community workshops align with a sound community development approach.

The mural project does not require additional funds to be listed in the budget, only a change in scope to the existing parameters of funds in the Public Art Masterplan listing.

The project is destined to have a positive impact locally, and make a valuable contribution to the community.

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(To be confirmed 10 February 2015)

**CONCLUSION:**

Utilising the funds in the Public Art Masterplan to support delivery of mural artwork on Etwell Street and in other places in the Town is considered advantageous, and is recommended for approval.

**RESOLVED:**

**Moved: Cr Anderson**

**Seconded: Cr Oliver**

**Subject to the concurrence of the Arts Working Group, that \$30,000 allocated in the Public Art Masterplan 2013-2015 for a sculpture on Etwell Street, East Victoria Park be endorsed for delivery of a mural artwork on Etwell Street and additional murals in other locations within the Town to be coordinated by FORM.**

**The Motion was Put and**

**CARRIED BY AN ABSOLUTE MAJORITY (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

*Cr Nairn left the Council Chamber at 8.14pm and returned at 8.15pm.*

### 13.4 Proposal for Continuation of the Victoria Park Digital Hub - Staffing and Services

<b>File Reference:</b>	GAS/9/0004
<b>Appendices:</b>	Yes

<b>Date:</b>	20 November 2014
<b>Reporting Officer:</b>	I. Abuleela
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Absolute Majority

#### **Executive Summary:**

**Recommendation – The Victoria Park Digital Hub be continued as a permanent community facility for the delivery of digital community services beyond 30 June 2015.**

- The Digital Hub is currently funded only until June 2015. Due to its proven success and demonstrated on-going expressed need by the community, it is proposed to retain the Hub as a permanent community facility into the future.
- Approval is sought to list funds in the operational budget to continue services at the Hub, and amend the Long Term Financial Plan accordingly.
- It is recommend to make permanent the position of Digital Hub Manager and amend the Long Term Workforce Plan to accommodate this change.

#### **TABLED ITEMS:**

- Digital Hub Business Case

#### **BACKGROUND:**

The Victoria Park Digital Hub is currently funded largely by the Department of Broadband, Communications and the Digital Economy. The funding which supports the Hub operations commenced in January 2013 and will cease in February 2015. The Town has budgeted to fund the Hub to the end of the current financial year on the 30 June 2015.

A draft Business Case to retain the Digital Hub was presented to Elected Members at a Workshop on 21 October 2014. A positive response was received, and an agreed next step was a report to Council seeking retention of the Victoria Park Digital Hub into the future.

#### **DETAILS:**

The digital literacy provision at the Digital Hub is unique and does not correlate to any other service currently on offer across the Town.

Since opening its doors in January 2013 the demand for services generated from the Victoria Park Digital Hub is evidenced clearly, with over 6,000 sessions, over 50 residents now in employment due to skills learned at the Hub and a growing number of residents migrating from client to volunteer mentor.



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(To be confirmed 10 February 2015)

Key achievements of the Victoria Park Digital Hub to date include:

- **Keeping it local:**  
The Hub has successfully attracted large numbers of local residents, both as patrons and as volunteers. The individual sessions, group sessions and community group partnerships are mainly from the local Victoria Park community.
- **Reaching populations of disadvantage:**  
The Hub has proven successful in accessing traditionally hard to reach target groups and populations of disadvantage residents. The Hub made a demonstrable impact in attracting clients from the low socio-economic demographics, unemployed, Aboriginal populations, people with disabilities, seniors, home-schooled children, isolated people who all received digital literacy training.

Digital literacy skills acquired at the Hub have resulted in 51 successful job applications to date. The Hub has worked closely with retirement homes, at risk youth, PVS Workfind (PVS Workfind is a leading employment services and training provider based in Victoria Park), and even populations in the wheat belt.

- **Participant Numbers:**  
The total number of participants serviced through the Hub over its 2 ½ years in operation will be in excess of 6,000. The target for the entire project was 2,880 patrons and therefore the Hub has truly exceeded all expectations of delivery.
- **Participant Satisfaction:**  
A written feedback survey is given to every participant of the Hub, indicating a satisfaction rate over 95%, with many return visits. Several participants have become volunteers or mentors after having such a positive experience as a client.
- **Volunteers:**  
The Hub has obtained great success in recruiting and retaining volunteers to assist with digital literacy training. The band of dedicated volunteers delivers a wide range of training with quality and excellence. Their involvement and support has enabled the Hub to grow and enhance its curriculum offer and are integral to the breadth of the Hub's achievements.

The Digital Hub is developing a learning plan to enable its volunteers to support residents and builders in utilising the Town of Victoria Park's online application lodgement service. This provision of support of online services and facilities is an important aspect in helping residents transition to newer methods of communication.

- **Building relationships:**  
The Hub has established excellent relationships with PVS Workfind, Disabilities Services Commission, Red Cross, Centrelink, Options Employment, Curtin University, Victoria Park Youth Accommodation, Victoria Park Rotary Club, Kent Street School and Victoria Park Centre for the Arts.

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(To be confirmed 10 February 2015)

- **Putting Vic Park on the Map as a Digital Leader:**

The Digital Hub was selected as a finalist in the Economic Development Australia 2014 National Awards for Economic Development Excellence.

Additionally, the Digital Hub Manager has been approached by a large number of organisations, that are interested in the services delivered by the Hub, with the Manager over the past 21 months giving presentations to WALGA, Australian Computer Society, Disability Services Commission, Economic Development Practitioners, Rowethorpe Retirement Village Managers, Narelle Cameron Federal Government National Manager Assessment Services Branch, Director of Industry, Science and Innovation (Department of Commerce), Association of Independent Retirees Ltd (AIR), the Principles Group, CEO Shire of Katanning, Red Cross, Intelligent Homes, Occupational Health Organization, Senior Citizens Welfare Association, Victoria Park Community Garden Association, APEA (Alliance for the Prevention of Elder Abuse), International Men's Day, Independent Living Centre and Perth Bookkeepers Association.

The proposal to continue to support the Victoria Park Digital Hub would allow key services to be maintained, including digital literacy sessions for: Cyber Security; Resume workshops; Social Media; Job application and interview skills; e-Gov initiatives; Microsoft Office; Migrating from XP; Viruses and malware; Windows 8 (beginners and advanced); 3D design (innovation); iPads (beginners and advanced); Data backup and restore; iPhone migration; Photography workshops (uploading and editing); e-Commerce (Gumtree/eBay); and Open source software.

There are two distinct levels of support and training identified as a need within the Town. They are casual learning (where residents patronise the Hub on an ad-hoc basis in response to a single or collection of a small number of identified skills gaps) and targeted learning (where the resident has little to no digital literacy skills and needs an individual learning plan spanning several months).

Independence of living and the ability to engage and communicate socially, professionally and in a business environment is a basic human right and one that should be available to all individuals. The Hub is currently working with over a dozen clients who have higher support needs. These patrons were mainly introduced to the Hub through the Disability Services Commission. Support varies from low level facilitation (basic digital literacy training) to higher levels of support (home visits and/or consultation on appropriate technology).

There is a marked growth in referrals from local employment agencies and Centrelink. It is anticipated that this will increase based upon ABS Census information, and demographic forecast information. The Town of Victoria Park is expected to increase by over 11,700 people to 46,185 by 2026, at an average annual growth rate of 1.97%. This is based on an increase of over 5,500 households during the period. By far the greatest increase will be those residents between the ages of 22 and 60. Recent legislation regarding entitlement to benefits has also led to a rise in residents seeking help from the Hub in online job application skills and maintenance of resumes.

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(To be confirmed 10 February 2015)

Into the future, the Digital Hub would continue assistance for local businesses in need of digital support, mainly for:

- Cyber Security and data protection;
- Using planning tools to use to create a business plan;
- Defining the ideal customer;
- Use of social and digital media in promoting their business;
- Smart technologies and business integration; and
- Creating a paperless office.

There is opportunity to take even further advantage of the Digital Hub as a learning facility by maximising its use 'in-house' for Town of Victoria Park organisational learning and growth. In discussion within the Administration several areas were identified where the provision at the Hub could aid the Town of Victoria Park in enhancing provision to its employees:

- **Application of learning**

The Town of Victoria Park presents many training and development opportunities to staff, and delivering more of these through the Hub would allow the application of learning to be followed up in the workplace. Increased one on one sessions at the Hub with staff could reduce the Town's reliance on expensive third party training contractors. This collaboration with Human Resources could prove more beneficial for staff learning, and potentially reduce direct costs for the Town.

- **Internal certification**

Innovative companies, such as Blackboard and Pearson, have become leading adopters of digital badge systems for workforce development and learning recognition as the professional development environment evolves to an individualised model. The Performance Development Review (PDR) environment presents a challenge for motivating and recognizing staff achievement. By developing innovative uses of in-house digital badging, the Town could aim to meet this challenge and evidence true learning and development at all stages of training. This creates a level of expertise staff can aspire and attain and allows the Administration to monitor the levels and standards of that achievement.

**Legal Compliance:**

Nil

**Policy Implications:**

Nil

**Strategic Plan Implications:**

An objective of the Strategic Community Plan is to *"Provide opportunities for lifelong learning for all sectors of the community"*. An action to deliver upon this objective is:

*"Digital Hub – Including free e-learning training to improve digital literacy and promote the advantages of connecting to NBN"*

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(To be confirmed 10 February 2015)

**Financial Implications:**Internal Budget:

Retention of the Hub comes with a direct financial cost to the Town of \$156,800, incurred through the Salary of the Digital Hub Manager, operations of the iVan, and general continued operations of the Hub Facility (for more details, refer tabled item and Appendix 'Victoria Park Digital Hub – Business Case').

It has been identified that direct costs can be reduced significantly through corporate sponsorships and potential revenue generated through some aspects of service provision. (\$8,400 from Telstra, \$69,000 capacity within Long Term Financial Plan, leaving \$79,400 as actual cost in real terms). The Town is currently investigating additional funding streams (State and Federal) as well as full cost recovery courses to the WA region.

Total Asset Management:

The premises at 1 Harper Street Victoria Park, currently utilised for the Victoria Park Digital Hub, had not been earmarked for any other function beyond 2015. It has been fitted out to cater for full functionality of digital literacy training.

**Sustainability Assessment:**External Economic Implications:

The services at the Hub have a direct impact on both the community and local business. Continued partnerships with PVS Workfind, Disabilities Services Commission, Red Cross, Centrelink, Options Employment, Curtin University and Victoria Park Youth Association has enhanced and promoted digital safety and enabled business to thrive in a digital environment.

Social Issues:

The Hub has proven successful in accessing traditionally hard to reach target groups and populations of disadvantage. It has become a community 'hub' in the true sense of the word, and attracts people from all walks of life in a supportive learning environment.

Cultural Issues:

The Digital Hub provides a unique working space for many business units, organisations and initiatives across the Town of Victoria Park. The Hub gives advice and practical assistance on a wide range of creative projects and events that are Council led and community led.

Environmental Issues:

Nil

**COMMENT:**

The Digital Hub has proven to be a valuable asset to the Town of Victoria Park's residents and local businesses which have come to rely on the support and technical expertise of the practitioners at the Hub.

The role of the Digital Hub Manager has grown and is now embedded across business units supplying advice and practical services in support of the Town's strategic objectives.

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(To be confirmed 10 February 2015)

The community benefits received are considered too far outweigh the direct costs incurred in keeping the Digital Hub open into the future.

Furthermore, it is anticipated that the Digital Hub can grow even more rapidly once the confines of the prescriptive grant agreement with the Federal Government are lifted in February 2015, allowing for a much more flexible approach by the Hub to meet community needs.

The Victoria Park Digital Hub is expected to become even more of a critical service into the future, as certain populations within the community risk further segregation through the digital divide.

**CONCLUSION:**

Based upon expressed community need and demand and the unique services provided at the Hub it is recommended that the Digital Hub is made a permanent community facility of the Town of Victoria Park.

**RESOLVED:**

**Moved: Cr Bissett**

**Seconded: Cr Windram**

1. **The Victoria Park Digital Hub be continued as a permanent community facility for the delivery of digital literacy services beyond 20 June 2015;**
2. **The budget for staffing and continuance of the Victoria Park Hub estimated to be \$156,800 be listed in the Draft 2015-2016 Operational Budget and included within the Long Term Financial Plan;**
3. **The position of Digital Hub Manager be listed on the Long Term Workforce Plan; and**
4. **The Administration continues to seek avenues for revenue diversification to support operations at the Hub with external funds where possible.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

**13.5 Proposed New Approach to Delivery of the Causeway Public Artwork**

<b>File Reference:</b>	CUP/18/30
<b>Appendices:</b>	No

<b>Date:</b>	28 November 2014
<b>Reporting Officer:</b>	H. Mathie
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**  
**Recommendation – That up to \$80,000 of the \$150,000 amount listed in the Town’s *Public Art Masterplan 2013-2015* to deliver the Causeway Public Artwork be utilised to fund the conceptual stage of an aspirational artwork, with submissions sought internationally, and the actual project delivery reliant upon securing external funds.**

- A two-stage process is proposed to deliver the Causeway public artwork listed in the Town’s *Public Art Masterplan 2013-2015* in an effort to achieve the most exciting artwork possible.
- The process involves \$80,000 direct expenditure to coordinate an international competition that seeks aspirational concepts with an unfixed budget (ie, no lower or upper project value limit set in the Expression of Interest call out).
- All concepts would be displayed in an online, digital gallery seeking public comment.
- Up to five artists would be shortlisted and one ultimately selected as successful.
- The Town would seek external funds to bring the successful concept to fruition.

**TABLED ITEMS:**

- Unconfirmed Action Notes - Arts Working Group Meeting - 27 November 2014; and
- Town of Victoria Park *Public Art Masterplan 2013-2015*

**BACKGROUND:**

The Town’s *Public Art Masterplan 2013-2015* (‘the Masterplan’) was endorsed by Council in 2013. It includes a list of public art projects for delivery between 2013 and 2015.

An opportunity has arisen to expand the scope of the Causeway project listed, in terms of artwork ‘project value’ as prescribed in the Masterplan, as well as general approach.

The proposed new approach to the Causeway artwork was presented to Elected Members by the Town’s Creative Arts Officer Helen Mathie at the Elected Members’ Workshop on Tuesday 21 October 2014, where it received positive feedback and indicative support.

At the Arts Working Group meeting held on Thursday 27 November 2014, Members requested that the change in scope and approach to the Causeway Public Artwork be presented to Council for endorsement without delay to support the progress of the project in a timely manner.

(To be confirmed 10 February 2015)

**DETAILS:**

The *Public Art Masterplan 2013-2015* is the foundation for the Town’s commitment to enhance the built and natural environment to reflect the Town’s strategic vision - Vibrant Lifestyle - through the placement of meaningful and relevant public artworks.

Section B of the Masterplan includes an Implementation Plan, listing 14 different artworks and outlining a project value/budget; year for installation; theme; type and rationale.

In recognition of the prescriptive nature of the Implementation Plan, the Town’s Masterplan states:

*“It should be noted that a ‘best fit’ approach will be undertaken to ensure public art continues to be progressed in the Town. Priorities have been listed in the table below however it is acknowledged that there should be a level of flexibility incorporated into the Plan. Other opportunities that may arise will be considered including different locations, commission value (staying within the Reserve Fund limitations) or the year of implementation.”*

This report seeks approval to amend the following listing in the Implementation Plan:

Location	Project Value	Year to be installed	Theme	Type	Rationale
Within the Town, in close proximity to the City of Perth boundary, upon approach from the Causeway Bridge, Victoria Park	\$150,000 <i>(Propose change to ‘unlimited’ with funds sourced externally)</i>	2014/2015 <i>(Propose Change to 2015/2016)</i>	Quirky	Any / Flexible	Waymarker, Entry statement, Showpiece

Two different sites on McCallum Park were identified by Administration for the Causeway Public Artwork, both of which have received indicative support by the Swan River Trust and Main Roads Department.

To advance the Causeway artwork, usual practice would require the Town’s Creative Arts Officer to begin a standard ‘Expression of Interest’ process to commission an artist to deliver the project to a value of up to \$150,000. In this instance, however, it is proposed to take a broader approach. Rather than utilise the budget allocated in the Masterplan for the development and installation of the artwork, it is suggested the budget be deployed to deliver an international competition seeking innovative and aspirational concepts, and a community engagement strategy to help inform the selection of a shortlist.

At its meeting on 27 November 2014, the Arts Working Group discussed the different approach to the Causeway artwork that Elected Members had been briefed on at a Workshop in October, and were highly supportive. Members endorsed a recommendation to Council, requesting that it be considered at the December 2014 Ordinary Council Meeting in order that the project can be progressed in a timely manner. As the Working Group meeting was held after the Agenda for the Elected Members Briefing Session had

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(To be confirmed 10 February 2015)

been finalised the report has been circulated under separate cover.

#### Proposed Stage 1: Causeway Public Artwork

An Expression of Interest (EOI) would be developed and promoted widely, encouraging submissions from suitably experienced local, national and international artists. Interested artists would be invited to submit concepts that are aspirational, with an unfixed budget (the final artist would be required to provide an indicative budget as part of hir/her submission in stage 1). The responses would be curated in an anonymous digital gallery and posted online for public comment. This conversation with the public during the concept phase is intended to capture community interest and 'buy-in' early.

A panel would select up to 5 submissions, taking into consideration public feedback, and invite these artists to present a formal concept to the panel for a \$10,000 fee that is drawn from the \$150,000 project budget listed in the Masterplan. One artist would be selected as the successful submission to progress to Stage Two of the Causeway project.

#### Proposed Stage 2: Causeway Public Artwork

An aspirational, public fund would be established to support the successful concept selected in Stage One to become a reality. Using a variety of crowd funding opportunities and stakeholder engagement, the funds would be sourced externally. This could include funds from corporate sponsors, government grants, private investors and the general public. It is possible that the artwork may not come to fruition if securing external funds is unsuccessful.

The remains of the original \$150,000 listed in the Masterplan would be used to launch and promote the work.

The proposal to provide an alternative option for commissioning the Causeway public artwork is considered to bring the following benefits:

- Place the Town as an international leader in public art practice.
- Provide a landmark, permanent artwork to enrich the foreshore.
- Encourage an artwork of a grander scale that matches the importance of the location.
- Strive for quality, innovation and engagement during the commissioning phase in an endeavour to receive the best possible concepts for the site.
- Encourage new partnerships between artists and other design professionals.
- Explore new models for the design and commissioning of art in public spaces, including philanthropic investment by stakeholders.
- Contribute to public awareness of art practice of an international standard.
- Allow Western Australian artists and design professionals to compete in an international context.

Current thinking regarding the theme of the Causeway artwork is to focus on the digital capability of the Town, encouraging a digital or lit work through the Expression of Interest. In using the river and the 'point of crossing' as a starting metaphor for the work, artists would be encouraged to draw from the community our collective history, with stories that engage and educate the audience. There are significant and rich research documents that support this approach. Indicative interest from funding bodies supports this theme.



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(To be confirmed 10 February 2015)

This report seeks endorsement to utilise the funds listed in the Masterplan to fund Stage One of the Causeway project including designing, delivering and promoting the concept through an international Expression of Interest.

**Legal Compliance:**

Nil

**Policy Implications:**

Nil

**Strategic Plan Implications:**

The approach to this project meets the strategic vision of the Town's 'Vibrant Lifestyle'. It also achieves the Town's mission to embrace creativity, be unique, quirky and identifiable and attract people and businesses to the Town.

**Financial Implications:**Internal Budget:

Funds of \$150,000 are listed in the 2014-2015 Budget, consistent with allocations endorsed in the *Public Art Masterplan 2013-2015*.

The design and delivery of Stage One is anticipated to cost \$80,000. This includes paying up to five shortlisted artists \$10,000 each to deliver their concept design; research indicates that this fee is comparable within the industry.

Stage One will also incur other direct costs, such as legal fees, developing the Expression of Interest document, publicising the international competition, establishing the digital online gallery, administrative costs and professional fees.

The Expression of Interest in Stage One will have an unfixed budget (ie, no lower or upper project value limit set in the Expression of Interest call out). This allows artists to pitch their best concept possible, free from any financial constraint.

For Stage Two, actual delivery of the artwork in-situ is reliant upon the securing of external funds to match the budget of the selected artwork (currently an unknown amount).

The amount of \$70,000 remaining in the Causeway Artwork budget (from the original \$150,000 less stage one costs) will be used to launch the artwork and develop promotional collateral to support ongoing education and interest in the artwork.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

This broader approach to the commissioning of an ambitious artwork can improve relationships with local business, and foster philanthropy in support of the arts. In principle, this artwork could become a cornerstone of cultural tourism within the metropolitan area.

Social Issues:

Nil

Cultural Issues:

Objective 1 of the *Public Art Masterplan 2013-2014* is:

*“To install public art in the Town of Victoria Park to create interest and a sense of place.*

*Priorities:*

- *To provide a strategic approach to providing art in public places.*
- *Enhance public engagement, enjoyment and understanding of the continuous integration of public art throughout the Town.*
- *Foster and support artistic excellence.*
- *Build private and business partnerships in the arts.”*

Environmental Issues:

Nil

**COMMENT:**

The proposed two-stage approach for the Causeway Artwork is ambitious. It has received indicative support from Elected Members at the October 2014 Elected Members' Workshop, and was enthusiastically supported by members of the Arts Working Group at their 27 November 2014 meeting.

The Town and community has matured in its approach and understanding of public art over the past few years. The Causeway artwork proposal would push a new boundary in artwork excellence in local government and the arts industry generally.

The project utilises the Town's funds to source a bold, exciting and stimulating concept, then relies on external funds to actually deliver the work. The opportunity to engage the public with the concept submissions via a digital online gallery is leading-edge, and creates a sense of ownership and intrigue early.

It is acknowledged that inherent to the proposal is the possibility that the Town's funds could be spent on a concept that may not come to fruition if sufficient funds cannot be secured. Administration has commenced conversations with key potential funding bodies and has received positive responses. The artwork theme around 'digital' and 'telling stories' was partly borne from discussions around themes likely to align with external funding partners. This has provided adequate feedback to continue on the basis that the idea has merit and is generating interest.

It is considered that a project value of \$150,000 alone may not bring the scale, innovation or impact necessitated by the significant Causeway site. The opportunity to leverage the Town's existing funds in the *Public Art Masterplan 2013-2015* for an iconic artwork that aligns with the Town's vision of a Vibrant Lifestyle is considered most advantageous.

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(To be confirmed 10 February 2015)

**CONCLUSION:**

Utilising the funds in the *Public Art Masterplan 2013-2015* to support delivery of the Causeway artwork concepts in Stage One is considered highly valuable, and is recommended for approval.

At its meeting on 29 November, the Arts Working Group agreed the following recommendation:

*“That up to \$80,000 of the \$150,000 amount listed in the Town’s Public Art Masterplan 2013-2015 Work Order 1227 to deliver the Causeway Public Artwork be utilised to fund the conceptual stage of an aspirational artwork, with submissions sought internationally, and the actual project delivery reliant upon securing external funds.”*

The Arts Working Group recommendation is supported by Administration.

**RESOLVED:**

Moved: Cr Anderson

Seconded: Cr Windram

**That up to \$80,000 of the \$150,000 amount listed in the Town’s *Public Art Masterplan 2013-2015* Work Order 1227 to deliver the Causeway Public Artwork be utilised to fund the conceptual stage of an aspirational artwork, with submissions sought internationally, and the actual project delivery reliant upon securing external funds.**

The Motion was Put and

(4-4)

**CARRIED ON MAYOR’S DECIDING VOTE (5-4)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Oliver; and Cr Windram**

**Against the Motion: Cr Bissett; Cr Maxwell; Cr Hayes and Cr Nairn**

*Cr Windram left the Council Chamber at 8.48 and returned at 8.50pm.*

## 14 BUSINESS LIFE PROGRAM REPORTS

### 14.1 Schedule of Accounts for 31 October 2014

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

<b>Date:</b>	20 November 2014
<b>Reporting Officer:</b>	A.Thampoe
<b>Responsible Officer:</b>	N.Cain
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation: That Council confirms the schedule of Accounts paid for the month ended 31 October 2014.**

- The Accounts Paid for 31 October 2014 are contained within the Appendices;
- Direct lodgement of payroll payments to the personal bank accounts of employees are also included.

**TABLED ITEMS:**

Nil

**BACKGROUND:**

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

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

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

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

**DETAILS:**

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

(To be confirmed 10 February 2015)

Fund	Reference	Amounts
<b>Municipal Account</b>		
Recoup Advance Account		
Automatic Cheques Drawn	606184-606296	253,648.42
Creditors – EFT Payments		3,752,384.81
Payroll		908,480.93
Bank Fees		23,329.40
Corporate MasterCard		3,064.88
		<b>1,188,523.63</b>
<b>Trust Account</b>		
Automatic Cheques Drawn	2924-2946	7,326.00
		<b>7,326.00</b>

**Legal Compliance:**

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

*6.10. Financial management regulations*

*Regulations may provide for —*

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

*(i) the municipal fund; and*

*(ii) the trust fund,*

*of a local government.*

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

*13. Lists of Accounts*

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

*(a) the payee's name;*

*(b) the amount of the payment;*

*(c) the date of the payment; and*

*(d) sufficient information to identify the transaction.*

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

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

*(b) recorded in the minutes of that meeting.*

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

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(To be confirmed 10 February 2015)

**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

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

**RESOLVED:****Moved: Cr Windram****Seconded: Cr Anderson**

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

- 1. The Accounts Paid for 31 October 2014 as contained within the Appendices; and**
- 2. Direct lodgement of payroll payments to the personal bank accounts of employees.**

**The Motion was Put and****CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

## 14.2 Financial Statements for the Month ending 31 October 2014

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

<b>Date:</b>	20 November 2014
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Absolute Majority

### Executive Summary:

**Recommendation - The Council, by an absolute majority, approves the budget amendments and accepts the Financial Activity Statement Report – 31 October 2014, as contained within the Appendices.**

- The Financial Activity Statement Report is presented for the Month ending 31 October 2014. The report complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.
- The following additional initiatives / amendments have been included in the recommendation for approval by absolute majority:
  - Reallocation of budget funds from minor equipment repairs account in the Leisurelife Café area to the Asset Management capital area for renewal of furniture.

### TABLED ITEMS:

Nil

### BACKGROUND:

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

### DETAILS:

Presented is the Financial Activity Statement Report – 31 October 2014.

*The financial information as shown in this report (September 2014) does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the year to date as at 31 October 2014.*

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

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(To be confirmed 10 February 2015)

### Revenue

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

### Expense

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

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

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

### **Legal Compliance:**

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

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
  - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
  - (b) *budget estimates to the end of the month to which the statement relates;*
  - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
  - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
  - (e) *the net current assets at the end of the month to which the statement relates.*



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(To be confirmed 10 February 2015)

- (2) *Each statement of financial activity is to be accompanied by documents containing —*
  - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
  - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
  - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
  - (a) *according to nature and type classification; or*
  - (b) *by program; or*
  - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
  - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

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

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

\* *Absolute majority required.*

- (1a) *In subsection (1) —*

*additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.*
- (2) *Where expenditure has been incurred by a local government —*
  - (a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
  - (b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

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(To be confirmed 10 February 2015)

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

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

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

**COMMENT:**

It is recommended that the Financial Activity Statement Report – 31 October 2014 be accepted, noting the following inclusions in the Report:

**Reallocation of budget funds from minor equipment repairs account in the Leisurelife Café area to the Asset Management capital area for renewal of furniture.**

The Manager of Sporting Life has submitted the following;

The existing tables and chairs at the Leisurelife Centre are in need of urgent replacement with cracks appearing in a large number of them. The age of the existing chairs is not known.

It is requested that \$4,000 from the Minor equipment repairs account in the Leisurelife Café area be reallocated to the Asset Management area to purchase new tables and chairs for the Leisurelife Centre.

(To be confirmed 10 February 2015)

**RESOLVED:**

**Moved: Cr Windram**

**Seconded: Cr Anderson**

**That Council:**

1. Pursuant to Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Financial Activity Statement Report – 31 October 2014 as contained within the Appendices.

2. By an Absolute Majority, pursuant to Section 6.8 of the *Local Government Act 1995* authorises the expenditure of \$4,000 (GST exclusive) to be transferred from the Leisurelife operational expenditure area to the Asset Management capital area for the renewal of furniture.

2.1	Increase Expenses	
	Renew – Furniture Allocation Leisurelife	\$4,000
2.2	Decrease Expenses	
	Office – Minor Equipment Repair- Leisurelife Café	\$4,000

The Motion was Put and

**CARRIED BY AN ABSOLUTE MAJORITY (8-0)**

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

### 14.3 Application to Register Three Dogs – 23B Paltridge Avenue, Carlisle

<b>File Reference:</b>	LAW/16/0001~05
<b>Appendices:</b>	No

<b>Date:</b>	24 October 2014
<b>Reporting Officer:</b>	G. Patrick
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – That the applicant not be permitted to keep a third dog at 23B Paltridge Avenue, Carlisle, and that Council advise the applicant their right to appeal.**

- Of the five responses from surrounding properties received by Council, there have been four objections; and
- Rangers have had to attend on two separate occasions, firstly to do with an excessive noise complaint (19 May 2014) and secondly due to all three dogs being off this property and not held by a leash (14 July 2014).

#### TABLED ITEMS:

- Photos for item 14.3.

#### BACKGROUND:

The Town of Victoria Park *Dog Local Law 2000* limits the number of dogs kept on any premises to two dogs over the age of three months and the young of those dogs under that age.

A resident of 23B Paltridge Ave, Carlisle, has requested that an exemption to keep three dogs be considered by Council in accordance with the provisions of Section 26 of the *Dog Act 1976*. This section allows a local government to consider and grant such an exemption to its local law.

Once a decision has been made by Council, any person who is aggrieved by any condition imposed by the decision or the refusal of a local government to grant an exemption may appeal in writing to the Minister.

#### DETAILS:

On 29 July 2014, an application to keep more than the prescribed amount of dogs was received by Council from a resident of 23B Paltridge Avenue, Carlisle. The applicant has resided at 23B Paltridge Avenue, Carlisle since the beginning of 2014. The applicant moved from the Shire of Derby and already possessed 'Meda', a sterilised, female, black and white, Blue Heeler/Jack Russell with registration number 15110 (Shire of Derby), for whom this application is being made.

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(To be confirmed 10 February 2015)

The applicant resides at this address with a relative who already possesses two dogs. These are a sterilised, female, golden, Cocker Spaniel/Poodle, named 'Abbi', currently registered with the Town of Victoria Park with registration number 1009962. The other dog is a sterilised, male, white, West Highland Terrier/Shih Tzu, named 'Robbie' currently registered with the Town of Victoria Park, with the registration number 1009963.

Council Rangers were made aware of the presence of three dogs at 23B Paltridge Avenue due to a barking complaint received on 19 May 2014, and a wandering dog complaint received on 14 July 2014. The officer who attended in response to the barking dog complaint was told by the dogs' owners that the third dog would only be residing at this address temporarily.

Whilst attending the wandering dog complaint, when all three dogs from 23B Paltridge Avenue were off this property without leads, the officer instructed the owner of 'Meda' to make an application to Council for permission to keep a third dog at this address.

On 8 August 2014, after the application was received, an inspection of the property and interview with the applicant was conducted by a Town of Victoria Park Ranger. A report containing photographs of the property was written by the officer who was satisfied with the condition and nature of all three dogs. The fencing is satisfactory and the yard neat, clean and clear of dog faeces.

Letters from the Ranger's office requesting any objections to this application were posted to surrounding properties on 12 August 2014, requesting a response by 21 August 2014. Of the twelve letters posted, four responses were received, each opposing this application due to excessive noise, barking and the dogs being off the property without being held by a leash.

One response from 23A Paltridge Avenue, Carlisle in support of the application was received on 31 July 2014, soon after the application was submitted and prior to requests for comments were posted.

#### **Legal Compliance:**

Section 26(1) of the *Dog Act 1976* states that a local government may, by a local law under this Act-

- (a) *Limit the number of dogs that have reached 3 months of age that can be kept in premises in the local government's district: or*
- (b) *Limit the number of dogs of a breed specified in the local law that can be kept in or at the premises in the local government's district.*

Section 26(4) states that a person must not keep in or at any premises, not being licensed under Section 27 as an approved kennel establishment –

- (a) *In the case of dogs that have reached the age of 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under –*
  - (i) *A local law mentioned in the subsection (1); or*
  - (ii) *An exemption granted under subsection (3); or*

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(To be confirmed 10 February 2015)

- (b) *More than –*
- (i) *2 dangerous dogs (declared); or*
  - (ii) *2 dangerous dogs (restricted breed); or*
  - (iii) *One of each of these kinds of dangerous dogs, that have reached 3 months of age; or*
- (c) *Any pup, of a dangerous dog (restricted breed), that is under 3 months of age.*

The Town of Victoria Park *Dog Local Law 2000*, Section 3.2 refers to the limitation on the number of dogs permitted to be registered to one property and states inter alia -

- (1) *This clause does not apply to premises which have been-*
- (a) *licensed under Part 4 as an approved kennel establishment; or*
  - (b) *granted an exemption under Section 26 (3) of the Act.*
- (2) *The limit on the number of dogs which may be kept on any premises is, for the purpose of Section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.*

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**

Internal Budget

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

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(To be confirmed 10 February 2015)

**COMMENT:**

Currently there is no provision in the *Dog Act 1976* allowing a local government to delegate authority to Council officers regarding these matters, and all applications must be considered by the Council.

**CONCLUSION:**

Based on the contents of the application, it is recommended that the applicant of 23B Paltridge Avenue, Carlisle not be granted an exemption on the basis that of the five responses from surrounding properties received by Council, there have been four objections. The immediate neighbour at 23A Paltridge Avenue, Carlisle did not object to the application and stated on 30 July 2014 that the dogs.. “.. have been very settled for many months now”.

Rangers have also had to attend on two separate occasions, firstly to do with an excessive noise complaint (19 May 2014) and secondly due to all three dogs being off this property and not held by a leash (14 July 2014).

**RESOLVED:****Moved: Cr Windram****Seconded: Cr Anderson**

**That Council, pursuant to the *Dog Act 1976* and the *Town of Victoria Park Dog Local Law 2000*:**

- 1. Not grant an exemption for the application to keep three dogs at 23B Paltridge Avenue, Carlisle; and**
- 2. Advise the applicant of their right to appeal.**

**The Motion was Put and****CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

### 14.4 Variation to Application to Register Three Dogs – 23 Upton Street, St James

<b>File Reference:</b>	LAW/16/0001~05
<b>Appendices:</b>	No

<b>Date:</b>	17 November 2014
<b>Reporting Officer:</b>	G. Patrick
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – That the applicant be granted a variation to the initial approval of the application to keep three dogs at 23 Upton Street, St James granted by Council on 8 July 2014.**

- The variations to the original approval granted being the sex of one puppy and a name change for both newly acquired puppies. The same conditions will apply as for the initial application approval

**TABLED ITEMS:**

- Photos for item 14.4.

**BACKGROUND:**

On 8 July 2014 Council approved an application to keep more than three dogs on the property at 23 Upton Street, St James. At the time the approval was for:

- Holly - Pale gold, Golden Retriever, female, registration Number: 1009871;
- Cloud - Pale gold, Golden Retriever, male (yet to be obtained); and
- Berry - Pale gold, Golden Retriever, female (yet to be obtained).

The puppies to be acquired were not available and the applicant had to accept two male Golden Retrievers instead of a male and female. The variation is for the sex of the puppies and a name change for each.

**DETAILS:**

On 8 July 2014 an application to keep more than the prescribed amount of dogs at 23 Upton Street, St James was accepted and passed by Council. The applicant already owned a Golden Retriever 'Holly' who is 11 years old, unsterilised and registered with the Town of Victoria Park. 'Holly's' registration number is 1009871.

At the time the applicant requested an exemption to acquire two more Golden Retriever puppies, a male and a female. When the applicant tried to obtain the above-mentioned puppies no females were available. Therefore the applicant took two male Golden Retrievers instead and also decided on a name change for each puppy.



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(To be confirmed 10 February 2015)

The dogs that are subject to this variation to the original application approval are:

- Holly - Pale, gold, Golden Retriever, female, registration number 1009871;
- Loki - yet to be registered; and
- Puck - yet to be registered.

A Town of Victoria Park Ranger reinspected the property at 23 Upton Street, St James on 7 November 2014 and took photos of each of the dogs subject to this variation application. The Officer was satisfied with the condition of each dog and the property where they reside.

**Legal Compliance:**

Section 26(1) of the *Dog Act 1976* states that a local government may, by a local law under this Act-

- (c) *Limit the number of dogs that have reached 3 months of age that can be kept in premises in the local government's district: or*
- (d) *Limit the number of dogs of a breed specified in the local law that can be kept in or at the premises in the local government's district.*

Section 26(4) states that a person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment –

- (d) *In the case of dogs that have reached the age of 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under –*
  - (iii) *A local law mentioned in the subsection (1); or*
  - (iv) *An exemption granted under subsection (3); or*
- (e) *More than –*
  - (iv) *2 dangerous dogs (declared); or*
  - (v) *2 dangerous dogs (restricted breed); or*
  - (vi) *One of each of these kinds of dangerous dogs, that have reached 3 months of age; or*
- (f) *Any pup, of a dangerous dog (restricted breed), that is under 3 months of age.*

The Town of Victoria Park *Dog Local Law 2000* Section 3.2 refers to the limitation on the number of dogs permitted to be registered to one property and states inter alia -

- (3) *This clause does not apply to premises which have been-*
  - (c) *licensed under Part 4 as an approved kennel establishment; or*
  - (d) *granted an exemption under Section 26 (3) of the Act.*
- (4) *The limit on the number of dogs which may be kept on any premises is, for the purpose of Section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.*

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

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(To be confirmed 10 February 2015)

**Financial Implications:**

Internal Budget

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Currently there is no provision in the *Dog Act 1976* allowing a local government to delegate authority to council officers regarding these matters, and all applications must be considered by the Council.

The newly acquired puppies will be micro-chipped and registered with the Town of Victoria Park as part of the exemption to keep more than two dogs.

**CONCLUSION:**

Based on the contents of the application for variation, it is recommended that the applicant be granted a variation, which includes the sex of one puppy and a name change for both newly acquired puppies from the original exemption, on the basis that the number of dogs being kept will not be a nuisance or injurious or dangerous to health and the property is kept clean, tidy and clear of any dog faeces.

**RESOLVED:**

**Moved: Cr Windram**

**Seconded: Cr Anderson**

**That Council:**

1. In accordance with the provisions of the *Dog Act 1976* and the *Town of Victoria Park Dog Local Law 2000*, that a variation to the approval for an exemption to keep three dogs at 23 Upton Street, St James granted by Council on 8 July 2014, be granted.
2. Advises the Applicant that the approval for a variation to keep these dogs will be subject to the same conditions as in the original approval granted by Council on 8 July 2014.

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 10 February 2015)

**14.5 Audit Committee Meeting – 25 November 2014**

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

<b>Date:</b>	26 November 2014
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – That Council accepts the Minutes of the Audit Committee meeting held on 25 November 2014 encompassing:**

- 1. Auditor’s Interim Audit Report – 2013-2014 Financial Year;**
- 2. Independent Audit Report and Annual Financial Report – 2013-2014 Financial Year; and**
- 3. Chief Executive Officer’s Systems and Procedures Review: *Local Government (Audit) Regulations 1996, Regulation 17.***

**TABLED ITEMS:**

Nil

**BACKGROUND:**

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

**DETAILS:**

The Audit Committee of Council met on Tuesday 25 November 2014 to consider the following items –

1. Auditor’s Interim Audit Report – 2013-2014 Financial Year;
2. Independent Audit Report and Annual Financial Report – 2013-2014 Financial Year; and.
3. Chief Executive Officer’s review of the Systems and Procedures in accordance with the *Local Government (Audit) Regulations 1996, Regulation 17.*

By way of further explanation –

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

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(To be confirmed 10 February 2015)

2. Each year, as part of Council's audit process, an Independent Audit is undertaken to assess Council's Annual Financial Report and the legitimacy and accuracy of Council's accounts. An Independent Audit Report is then produced by the Auditor and provided to the Chief Executive Officer, Mayor and the Minister / Department for Local Government. The Report is included in Council's Annual Report. Any issues arising from the Independent Audit Report are to be investigated and action taken to resolve those issues.
3. *Local Government (Audit) Regulations 1996*, Regulation 17 prescribes a number of matters that are to be reviewed by the Audit Committee. These functions now include reviewing the Chief Executive Officer's report on the appropriateness and effectiveness of the local government's systems in regard to risk management, internal control and legislative compliance; and reporting the results of the Committee's consideration of that review, to the Council. This report and review process is to occur at least once every two calendar years, with the first review of each of the three areas to be completed by the Chief Executive Officer, reviewed by the Audit Committee and reported to the Council, by 31 December 2014.

**Legal Compliance:**

- *Local Government Act 1995* and associated Regulations;
- Australian Accounting Standards;
- International Financial Reporting Standards; and
- *Local Government (Audit) Regulations 1996*, Regulation 17

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

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(To be confirmed 10 February 2015)

Environmental Issues:

Nil

**COMMENT:**

It is recommended that Council accepts the Minutes of the Audit Committee of Council from the meeting held 25 November 2014 covering the following items –

1. Auditor's Interim Audit Report – 2013-2014 Financial Year;
2. Independent Audit Report and Annual Financial Report – 2013-2014 Financial Year; and
3. Chief Executive Officer's review of the Systems and Procedures in accordance with the *Local Government (Audit) Regulations 1996*, Regulation 17.

**RESOLVED:**

**Moved: Mayor Vaughan**

**Seconded: Cr Anderson**

**That Council accepts the Minutes of the Audit Committee meeting held on 25 November 2014 as confirmed within the appendices encompassing:**

1. **Auditor's Interim Audit Report – 2013-2014 Financial Year;**
2. **Independent Audit Report and Annual Financial Report – 2013-2014 Financial Year; and**
3. **Chief Executive Officer's review of the Systems and Procedures in accordance with the *Local Government (Audit) Regulations 1996*, Regulation 17.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

## 14.6 Annual Report 2013-2014

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

<b>Date:</b>	26 November 2014
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Absolute Majority

### Executive Summary:

#### Recommendation – That Council:

1. **Accepts the Annual Report 2013-2014, and**
2. **Confirms the date, time and place of the 2014 Annual General Meeting of Electors.**
  - The item outlines the requirement for Council to produce and accept an Annual Report, and the processes and determinations associated with the holding of the Annual General Meeting of Electors.

### TABLED ITEMS:

Nil

### BACKGROUND:

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

### DETAILS:

The Annual Report is to contain:

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

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(To be confirmed 10 February 2015)

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

Recent advice was provided to Elected Members as well as advertising, by way of the requirements associated with a local public notice, of the intent to hold the Annual General Meeting of Electors on Tuesday 16 December 2014, at 6:00 pm, in the Council Chambers (99 Shepperton Road, Victoria Park WA 6100) for the purpose of consideration of the Annual Report 2013-2014 and then any other general business.

**Legal Compliance:**

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

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

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

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

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Sufficient funds have been allocated in Council's Budget to cover all costs associated with the preparation of the Annual Report 2013-2014 and the holding of the Annual General Meeting of Electors.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil



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(To be confirmed 10 February 2015)

Environmental Issues:

Nil

**CONCLUSION:**

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

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

**RESOLVED:**

**Moved: Cr Bissett**

**Seconded: Cr Windram**

**That Council:**

- 1. Accepts the Annual Report 2013-2014 as contained within the Appendices, and**
- 2. Confirms the details for the 2014 Annual General Meeting of Electors as being held on Tuesday 16 December 2014 at 6:00 pm, in the Council Chambers (99 Shepperton Road, Victoria Park WA 6100) for the purpose of consideration of the Annual Report 2013-2014 and then any other general business.**

**The Motion was Put and**

**CARRIED BY AN ABSOLUTE MAJORITY (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

(To be confirmed 11 February 2015)

**15 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

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

Nil

**17 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

Nil

**18 NEW BUSINESS OF AN URGENT NATURE**

Nil

**19 PUBLIC QUESTION TIME**

Nil

**20 PUBLIC STATEMENT TIME**

Nil

**21 MEETING CLOSED TO PUBLIC**

**RESOLVED:**

**Moved: Mayor Vaughan**

**Seconded: Cr Windram**

**That the meeting be closed at 9.30pm to members of the public in accordance with Clause 5.2 of the Town of Victoria Park Standing Orders Local Law 2011 and Section 5.23(2) of the *Local Government Act 1995*.**

**The Motion was Put and**

**CARRIED (8-0)**

**In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram**

## 21.1 Matters for Which the Meeting May be Closed

- 21.1.1 Item 11.9 1022-1024 (Lot 1) Albany Highway, East Victoria Park – Mixed Use Development (Shops, Fast Food Outlet and 40 Multiple Dwellings) – Section 31 Reconsideration – *Confidential Item*

Staff left the Council Chamber at 9.35pm.

- 21.1.2 Item 10.3 A/Chief Executive Officer Performance Review and Contract – *Confidential Item*

**RESOLVED:**

Moved: Cr Oliver

Seconded: Cr Windram

That the meeting be reopened at 9.38 pm to staff and members of the public.

The Motion was Put and

**CARRIED (8-0)**

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

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

Mayor Vaughan read out the resolutions for Items 21.1.1 and 21.1.2.

- 21.1.1 Item 11.9 1022-1024 (Lot 1) Albany Highway, East Victoria Park – Mixed Use Development (Shops, Fast Food Outlet and 40 Multiple Dwellings) – Section 31 Reconsideration – *Confidential Item*

**RESOLVED:**

Moved: Cr Hayes

Seconded: Cr Anderson

In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Gary Keen Designs on behalf of Baltimac Pty Ltd (DA Ref: 5.2014.157.1) for Shops, Fast Food Outlet and 40 Multiple Dwellings at No. 1022-1024 (Lot 1) Albany Highway, East Victoria Park as indicated on the amended plans dated received 18 November 2014 be Approved subject to:

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(To be confirmed 10 February 2015)

1. In order to confirm compliance with this planning approval and all relevant Council requirements, approval is to be obtained from the following Council Business Units prior to the submission of a certified application for a building permit:
  - Urban Planning;
  - Street Life; and
  - Park Life.Failure to do so may result in refusal of the application for a building permit (refer related Advice Note).
2. Prior to the submission of an application for a building permit, full details of all external materials, finishes and colours proposed to all elevations of the development shall be submitted to and approved in writing by the Manager Urban Planning, with the building being finished and thereafter maintained in accordance with the approved details.
3. Prior to the submission of an application for a building permit, the applicant/owner is to contribute a sum of 1% of the value of the development towards public art, being either:
  - 3.1 payment directly to the Town which will be placed in the Town's Community Art Reserve with the funds being used for the Town to provide public art within the same Town Planning Scheme Precinct; or
  - 3.2 payment to the Town of a bond to the value of the contribution, on the basis that the owner/applicant is to provide public art on the development site in accordance with the procedures outlined in the Town's Public Art Masterplan, which includes the submission of details for approval by Council and review by the Town's Arts Working Group. The public art is to be completed and installed to the satisfaction of the Director Community Life Program prior to the occupation of the development, at which time the bond will be refunded by council. The public art is to be maintained thereafter by the owner/occupiers; or
  - 3.3 the applicant/owner entering into a legal agreement with the Town prepared by the Town's solicitors at the cost of the owner/applicant, undertaking to provide public art on the development site in accordance with the procedures outlined in the Town's Public Art Masterplan, which includes the submission of details for approval by Council and review by the Town's Arts Working Group. The public art is to be completed and installed to the satisfaction of the Director Community Life Program prior to the occupation of the development. The public art is to be maintained thereafter by the owner/occupiers.

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(To be confirmed 10 February 2015)

4. **Prior to the submission of an application for a building permit, details being submitted of all proposed ventilation systems, including the location of plant equipment, vents and air conditioning units. All equipment and external fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, must be adequately screened from view from any public place, to the satisfaction of the Manager Urban Planning.**
5. **Prior to the submission of an application for a building permit, a Drainage Management plan including details of the on-site stormwater disposal including soakwell sizes and locations to be submitted to the satisfaction of the Executive Manager Street Life.**
6. **Prior to the submission of an application for a building permit a Construction Management Plan shall be submitted to and approved in writing by the Manager Urban Planning which includes the route that construction vehicles will take to and from the site, the temporary realignment of pedestrian access ways (including crossing points and lighting), vehicular access to the site during construction, unloading and loading areas, waste disposal, the location on site of building materials to be stored, safety and security fencing, sanitary facilities, cranes and any other details as required by the Manager Urban Planning. Construction works shall take place in accordance with the approved details at all times.**
7. **Prior to the submission of an application for a building permit, a Waste Management plan to be submitted to the satisfaction of the Executive Manager Street Life.**
8. **Prior to the submission of an application for a building permit, full details of finishes and treatment of boundary walls to be provided to the satisfaction of the Manager Urban Planning. Any exposed portions of boundary wall which will be visible from adjoining properties or public places shall be decoratively treated and articulated to the satisfaction of the Manager Urban Planning.**
9. **Further details being provided of the proposed perforated metal screen adjacent to the pedestrian access ramp, to the satisfaction of the Manager Urban Planning.**
10. **Landscaping as detailed on the attached approved plans date stamped on 9 December 2014 being provided and maintained to the satisfaction of the Manager Urban Planning prior to the subject development being first occupied or commencing operation.**
11. **The two existing street trees on the Albany Highway verge are to be retained and protected with the proposed awnings of the building being modified to accommodate the trees.**

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(To be confirmed 10 February 2015)

12. Landscaping is to be completed prior to the occupation or strata titling of the building, whichever occurs first, and thereafter maintained to the satisfaction of the Manager Urban Planning.
13. Any structure, wall or fence located within a 1.0 metre x 1.0 metre visual truncation at the intersection of any driveway and the property boundary along the right of way, is not to exceed a height of 750mm.
14. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.
15. Before the subject development is first occupied or commences operation, all on site car bays being provided in accordance with the approved plans.
16. 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 Manager Urban Planning.
17. Bicycle spaces to be provided in accordance with the approved plans prior to occupation of the development. All bicycle spaces are to remain available for use at all times with the minimum provision of spaces for residents and their visitors.
18. All development is to be setback 0.5 metre from the right-of-way for the length of the common boundary with the right-of-way to allow for the future widening of the right-of-way.
19. External clothes drying facilities shall be provided for each dwelling and shall be screened from view from the street or any other public place.
20. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
21. This approval is valid for a period of twenty four months only. If development is not commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

#### Advice to Applicant

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

(To be confirmed 10 February 2015)

23. All car parking bays to be lined-marked and designed in accordance with AS2890.1 and AS2890.6.
24. All stormwater drainage for commercial/industrial and multi residential developments (5 or more units) shall be designed and signed by a practicing Hydraulic Consultant. An overland flow path is to be included in the design to ensure diversion of stormwater from the developments during storm events.
25. The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.
26. Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
27. 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.

The Motion was Put and

**CARRIED (8-0)**

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

21.1.2      **Item 10.3      A/Chief Executive Officer Performance Review and Contract – *Confidential Item***

**RESOLVED:**

Moved: Cr Hayes

Seconded: Cr Bissett

That each Councillor receive a copy of the Confidential Report and a Special Council meeting convened 16 December 2014.

The Motion was Put and

**CARRIED (8-0)**

In favour of the Motion: Mayor Vaughan; Cr Anderson; Cr Bissett; Cr Hayes; Cr Maxwell; Cr Nairn; Cr Oliver; and Cr Windram

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(To be confirmed 10 February 2015)

**22 CLOSURE**

There being no further business, Mayor Vaughan closed the meeting at 9.40pm.

I confirm these Minutes to be true and accurate record of the proceedings of the Council.

Signed: ..... Mayor

Dated this: ..... Day of 2015