Minutes
Ordinary Council Meeting
Council Chambers, 99 Shepperton Road, Victoria Park
Tuesday, 11 October 2011
6.27pm

TABLE OF CONTENTS

1 OPENING AND 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 both past, present and future for they hold the memories, the traditions, the culture and hopes of Indigenous Australians.

The Mayor presented the Early Bird Rates Incentive Scheme winner, Mr & Mrs Ajayi with the 2nd prize.

The Mayor then congratulated the following residents who have lived in the Town for over 50 years who were not present at the Early Settlers Event.

NO OF YEARS	**RESIDENT NAMES**
54 years	Mario Mattiaccio; and Daphne Wills
55 years	Reece Baker; Coral Blewett; Roderick Bayne; Mary Jolob; Ian Cooper; and Ray & Jean Webster
62 years	Reginald Blewett
63 years	Janice Henderson
68 years	Clifford Sutton
77 years	Phyllis Sutton

2 ATTENDANCE AND APOLOGIES

Attendance:

Mayor:	Mr T (Trevor) Vaughan
Carlisle Ward:	Cr C (Claire) Anderson Cr J (John) Bissett Cr K (Keith) Hayes Cr R (Rowena) Skinner
Victoria Park Ward:	Cr J (Julie) Armstrong Cr D (David) Ashton (Deputy Mayor) Cr D V (Vin) Nairn Cr A (Adam) Vilaca
Chief Executive Officer:	Mr A (Arthur) Kyron
Directors:	Mr B (Brian) Callander Ms R (Rochelle) Lavery Ms T (Tina) Ackerman
Acting Director:	Mr J (John) Wong
Executive Manager Built Life:	Mr R (Robert) Cruickshank
Secretary:	Ms K (Kathleen) Highfield
Public:	13
Apologies:	Mr A (Anthony) Vuleta

3 DECLARATION OF INTEREST

Disclosure of Financial Interests

Nil

Disclosure of Interest affecting impartiality

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

Name/Position	Brian Callander – Director Business Life Program
Item No/Subject	Item 13.1 – Harold Hawthorne Centre – request for payment in advance of the balance of the 2011/2012 operating subsidy.
Nature of Interest	Interest that may affect impartiality
Extent of Interest	Member of the Board of Harold Hawthorne

Name/Position	Cr K (Keith) Hayes
Item No/Subject	Item 13.1 – Harold Hawthorne Centre – request for payment in advance of the balance of the 2011/2012 operating subsidy.
Nature of Interest	Interest that may affect impartiality
Extent of Interest	Member of the Board of Harold Hawthorne

Name/Position	Mayor Trevor Vaughan
Item No/Subject	Item 13.1 – Harold Hawthorne Centre – request for payment in advance of the balance of the 2011/2012 operating subsidy.
Nature of Interest	Interest that may affect impartiality
Extent of Interest	Member of the Board of Harold Hawthorne as a Council Representative.

4 PUBLIC QUESTION AND PUBLIC STATEMENT TIME

Mr Lindsay Stone, 61A Rathay Street VICTORIA PARK WA 6100

Asked Council as to why the matter he had previously raised at the Special Council Meeting held on the 12 July 2011 in relation the $3.2m increase in employee costs in the 2011/12 budget have not been responded to date?

Response
The Director of Business Life Program, Mr Callander informed Mr Stone that a response has been collated and will be sent to him on the 12 October 2011.

Mr William Tate, 79 Solar Way, Carlisle WA 6101

Mr Tate spoke against the proposed application for a Liquor Store on the corner of Archer Street and Orrong Road.

5 CONFIRMATION OF MINUTES

RESOLVED:

Moved: Councillor Anderson Seconded: Councillor Hayes

That the minutes of the Ordinary Council Meeting held on Tuesday, 20 September 2011 be confirmed.

CARRIED (9-0)

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

The Mayor made the following Announcements:

1. That the Mayor of Hiroshima sent him a letter asking if he would like to be part of Mayors for Peace. Mayor Vaughan responded that he was happy to join.
2. That the second piece of Public Art has been installed outside of Aqualife.
3. On the 17 October 2010 will be the Special Council Meeting at which Councillors will be sworn in along with our new Councillor Vicki Potter and that nominations for Deputy Mayor and Regional Councils and outside organisation's need to be submitted prior to this.
4. Thanked Cr Armstrong for her fantastic work that she has contributed to the Council for the last 4 years.

8 URGENT BUSINESS NOT LISTED ON THE AGENDA

Nil

9 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Item 12.4 is confidential and will be discussed behind closed doors at item 19

10 PETITIONS

RESOLVED:

Moved: Councillor Ashton Seconded: Councillor Hayes

A petition submitted against a proposed application for a Liquor Store on the corner of Archer Street and Orrong Road be received.

CARRIED (9-0)

11 CHIEF EXECUTIVE OFFICER REPORTS

11.1 (Unconfirmed) Minutes of Committees to be Received and Committee Recommendation to be adopted

File Ref:	ADM0034	**In Brief**
Appendices:	Yes	
Date:	29 September 2011	• Minutes of the unconfirmed Committee Meetings as detailed in the appendices to be received.
Reporting Officer:	K. Highfield	
Responsible Officer:	A. Kyron	

1. Business Liaison Committee (appendices page 2).
2. Community Safety Committee (appendices page 8).

RECOMMENDATION

RESOLVED:

Moved: Councillor Armstrong **Seconded: Councillor Anderson**

1. The Unconfirmed Minutes of the Business Liaison Committee dated 30 August 2011 and the Community Safety Committee dated 7 September 2011 be received.

2. That the Business Liaison Committee's Recommendation as shown below be adopted:

2.1 That the Town's Administration report to Council on or before 13 December 2011 outlining the strategy to progress the renaming of Albany Highway in the Town.

CARRIED (9-0)

11.2 Tamala Park Landholding – Proposed Power of Attorney

File Ref:	ADM0008	**In Brief**
Appendices:	Yes	• The TPRC is seeking a Power of Attorney from its Member Councils to sell and deal with any parts of the TPRC landholding. • A Power of Attorney document has been prepared by the TPRC's solicitor. • In order to enable the TPRC to proceed with all land dealings associated with the TPRC landholding it is recommended that the Power of Attorney document be endorsed.
Date:	28 September 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Brian Callander	

TABLED ITEMS:
Nil

BACKGROUND:
The Tamala Park Regional Council (TPRC) is seeking a Power of Attorney covering all land dealings from its seven Member Councils (the Participants) relating to the TPRC landholding.

The TPRC consider this Power of Attorney is necessary in order to avoid any future potential issues associated with land dealings for the Tamala Park project.

DETAILS:
The Town is not permitted pursuant to section 5.38 of the *Local Government Act 1995* (the Act) to provide power of attorney to another party to dispose of land as the Act imposes restrictions on a local government's power to dispose of property (including land).

In relation to the proposed disposition of the Tamala Park land, each of the Participants is therefore bound by the provision of Section 5.38 of the Act to dispose of the land, or to ensure that the land is disposed of, only in accordance with one of the 3 ways set out in that section.

There is no power in the Act itself expressly authorising a local government to execute a power of attorney to enable another person or body to sell land that is owned by that local government.

Notwithstanding the above, legal advice obtained from the TPRC revealed that the establishment of a regional local government is one way in which the functions of a local government may be carried out by another. Section 3.61(1) of the Act enables two or more local governments (referred to as participants), with the Minister's approval to 'establish a regional local government to do things, for the participants, for any purpose for which a local government can do things under the Local Government Act or any other Act.

Clause 4 of the TPRC Establishment Agreement provides that the regional purpose for which the TPRC is established is:

(a) to undertake, in accordance with the objectives, the rezoning, subdivision, development, marketing and sale of the Land; and

(b) to carry out and do all other acts and things which are reasonably necessary for the bringing into effect of the matters referred to in paragraph (a)….

The objectives of the TPRC, referred to in clause 4(a) are set out in clause 5(a) as follows;

(i) to develop and improve the value of the Land:
(ii) to maximise, within prudent risk parameters, the financial return to the Participants;
(iii) to balance economic, social and environmental issues; and
(iv) to produce a quality development demonstrating the best urban design and development practice.

The 'Land', referred to in clauses 4(a) and 5(a) is defined in clause 1 of the Establishment Agreement to include Lot 9504 on Certificate of Title 2230 Folio 333. For the purpose of the power of attorney, 'the Tamala Park Land' is identical to the 'Land' as defined in the Establishment Agreement."

Taking cognisance of the abovementioned provisions of the TPRC Establishment Agreement, it is the TPRC solicitor's view that the provisions of the *Local Government Act 1995* relating to the establishment of a regional local government, are broad enough to enable the Participants to execute a power of attorney in relation to the sale of the Tamala Park Land.

Power of attorney
A copy of a Power of Attorney document has been prepared by the TPRC's solicitor and is shown within the Appendices. The seven (7) Participants have been requested to agree with the Powers of Attorney and arrange for the execution of two (2) copies of the document.

These Powers of Attorney would give the Council of the TPRC powers in relation to the Tamala Park Land that include;

(a) the execution of the transfer documentation;
(b) the decision to sell, including decisions about the terms and conditions of sale;
(c) the execution of the contract of sale documentation;
(d) the execution and allocation of the proceeds of sale in accordance with the Establishment Agreement.
(e) The management and allocation of the proceeds of sale in accordance with the Establishment Agreement.

LEGAL COMPLIANCE:
Section 5.8 of the *Local Government Act 1995* does not permit a local government to execute a power of attorney to enable another person or organisation to sell land that is owned by that local government.

Notwithstanding the above, the provisions of Section 3.61 of the *Local Government Act 1995* relating to the establishment of a regional local government are broad enough to enable the Participants to execute a power of attorney in relation to the sale of the Tamala Park Land.

POLICY IMPLICATIONS:
Nil

STRATEGIC PLAN IMPLICATIONS:
Nil

FINANCIAL IMPLICATIONS:
Internal Budget:
Nil

TOTAL ASSET MANAGEMENT:
Nil

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
Nil

SOCIAL ISSUES:
Nil

CULTURAL ISSUES:
Nil

ENVIRONMENTAL ISSUES:
Nil

COMMENT:
In order for the TPRC to proceed with its purpose and objectives for which it was established as a Regional Council requires its seven (7) Members Participants to agree to a Power of Attorney.

The Power of attorney will enable the TPRC to sell and deal with any parts of the TPRC landholding.

It is therefore recommended that the Council endorse the Power of Attorney and authorise it to be executed.

ADDITIONAL COMMENT:
At the EMBS meeting held on 4 October 2011 further information was sought in relation to the Power of Attorney document. The document and legal advice was provided by McLeods Barristers and Solicitors. The legal advice received indicates that the granting of power of attorney to carry out such functions on behalf of the Town is valid under the *Local Government Act 1995*.

As the legal process determined by Mcleods at the request of the TPRC which is operating in the best interests and on behalf of all seven Member Local Governments (which includes the Town) is appropriate, there is no need for the Town to seek further independent legal advice about this matter

The Town has a one twelfth ownership interest in the land at Tamala Park currently being developed for subdivision and sale by TPRC and all owner Councils have been requested to approve Power of Attorney to cover all land dealings relating to the land in order to avoid any potential issues in the future associated with the land dealings. The phrase *"in order to avoid any potential issues in the future associated with the land dealings"* has been used by the TPRC, and presumably the intent is to avoid the potentially prolonged process of each owner Council having to comply with the requirements of Section 5.38 of the *Local Government Act 1995* in respect to the disposal of property on each and every occasion that TPRC intends to sell a developed block of land within the project area.

The Power of Attorney document will negate the tedious process and the timing for the seven member local governments to consider land dealings at a meeting of their respective Councils where in some instance a member Council may not be expedient in considering the matter due to meeting cycles.

In essence the Power of Attorney provides only a mechanism for the TPRC to undertake the purpose for which it was established, that is subdivide the land and sell it on behalf of its Members.

As a Member Local Government of the TPRC, it is important that the Town acts to ensure the continuing efficacy of the Regional Council in the implementation of the Tamala Park project.

Granting of power of attorney to TPRC to carry out, on behalf of the Town, all functions necessary to develop and sell the land at Tamala Park will improve efficiency of the process.

If Council approves the granting of power of attorney to TPRC, the power of attorney can be revoked by Council at any time. It is proposed that the Power of Attorney will remain in force for 10 (ten) years, or until notice of revocation is issued by Council to TPRC.

It is therefore recommended that Council agree to the request from the Tamala Park Regional Council to grant it a Power of Attorney to ensure that it may implement the Tamala Park project with legal certainty in its land dealings.

RESPONSIBLE OFFICER RECOMMENDATION

Moved: Councillor Anderson **Seconded: Councillor Vilaca**

1. The Council appoints the Tamala Park Regional Council to be its attorney to exercise the powers granted in the Power of Attorney as contained within the "Schedule of Relevant Matters and Documents" to sell and deal with any parts of the TPRC landholding;

2. Two (2) copies of the Power of Attorney Document mentioned in 1 above be executed by the Mayor and the Chief Executive Officer.

AMENDMENT:

Moved: Councillor Hayes **Seconded: Councillor Skinner**

The following words be inserted to recommendation one after landholding "for 2 years".

CARRIED (9-0)

Reason: The

RESOLVED:

Moved: Councillor Anderson **Seconded: Councillor Vilaca**

1. The Council appoints the Tamala Park Regional Council to be its attorney to exercise the powers granted in the Power of Attorney as contained within the "Schedule of Relevant Matters and Documents" to sell and deal with any parts of the TPRC landholding for 2 years;

2. Two (2) copies of the Power of Attorney Document mentioned in 1 above be executed by the Mayor and the Chief Executive Officer.

CARRIED (9-0)

12 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

12.1 4-10 (Lot 4 & 5) Hayman Road, Bentley – 22 Aged or Dependent Persons Dwellings and Ancillary Offices and Proposed Amendment to Rowethorpe Village Masterplan

File Ref:	HAYM4-10	**In Brief** • Application for 22 Aged or Dependent Persons Dwellings and ancillary Offices. • The development application requires an amendment to the Rowethorpe Village Masterplan approved on 28 September 2004. • Consultation undertaken for 14 days with surrounding property owners and occupiers in accordance with Council Policy GEN3 'Community Consultation', closing on 6 October 2011. • Recommended that the development application be Approved subject to conditions. • Recommended that the amendment to the Rowethorpe Village Masterplan be supported.
Appendices:	No	
DA/BA or WAPC Ref:	08/0123	
Date:	5 October 2011	
Reporting Officer:	I Ahmad	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:
- Development application form dated 28 July 2011;
- Amended plans and elevations dated 26 September 2011;
- Correspondence from applicant dated 28 July 2011 and 12 September 2011;
- Consultation with adjoining owners & occupiers dated 21 September 2011;
- Minutes of previous Council decisions dated 28 September 2004; and
- Minutes of the Design Review Committee meeting held on 24 August 2011 and 14 September 2011.

APPLICATION:
Landowner: Uniting Church Homes (Inc)
Applicant: McDonald Jones Architects P/L
Zoning: MRS: Urban
TPS: Special Use
Precinct Plan P13 'Curtin Precinct'

BACKGROUND:
At the Ordinary Council Meeting dated 28 September 2004, the Council adopted a Masterplan for Rowethorpe Village site and resolved as follows (resolution in part):

"B. Council acknowledge that the Final Masterplan forms a basis for the assessment of future development applications for the site, with any increase in the number of units within each stage or significant changes to the Masterplan layout requiring the consideration and approval of the Council."

The purpose of the Masterplan is to guide the progressive redevelopment of the site for Aged or Dependent Persons' accommodation, comprising a mixture of new and refurbished independent living units, hostels, residential care and training facilities, and a village centre with administration offices and community facilities.

On 28 July 2011, Council received an application for 22 Aged or Dependent Persons Dwellings and ancillary Offices on the above mentioned site.

The submitted plans were discussed at the Design Review Committee meeting held on 24 August 2011 and 14 September 2011 in order to obtain feedback from Council Officers and Council's Design Review Committee.

The Design Review Committee considered the application at a formal meeting held on 5 October 2011, and resolved to recommend that the application be approved.

DETAILS:
Council has received a development application for 22 Aged Dependent Persons Dwellings and ancillary Offices located in the north-western part of the site adjacent to Adie Court. The relevant portion of the subject site, which has a total area of 4800m^2, falls within Precinct 2 of the approved Rowethorpe Village Masterplan. There is a total of nine (9) precincts within the Masterplan.

The proposed development comprises the following:

- A four (4) storey building which consists of an undercroft car park, offices on the ground floor and two levels of residential apartments above the offices.
- The undercroft car parking accommodates 44 car bays which include 16 residential car bays and 28 office car bays. Vehicular access is to be taken from Adie Court.
- The ground floor office will be occupied by the Community Care Services which is currently operating within the existing Charles Jenkins building located approximately 70m to the south of the subject site.
- Each level of residential units comprises eight (8) Independent Living Units (ILU), accommodating a total of 16 ILUs in the four (4) storey building.
- Six (6) single storey Grouped Dwellings are proposed to the west of the proposed four storey building, resulting in a total of 22 ILUs being proposed on the site; and
- 14 new visitor car bays and four (4) relocated car bays for the existing ILUs within Precinct 2 of the Masterplan.

The above development results in a change to the building form, the projected number of ILUs and car parking bays for Precinct 2 of the Rowethorpe Village Masterplan as follows:

- The proposal results in a total of 44 ILUs within Precinct 2 of the Masterplan. This is less than the projected 55 ILUs for Precinct 2 under the approved Masterplan.
- A total of 94 car bays being provided within the Precinct 2 of the Masterplan. This is more than the projected 70 car bays for Precinct 2 under the approved Masterplan.
- The approved Masterplan indicates the retention and refurbishment of the existing ILUs in this portion of the site. However, the proposal is to demolish seven of the buildings and to redevelop this part of the site with six (6) single storey Grouped Dwellings and a four (4) storey building.

Community Consultation

As the proposed development requires an amendment to the Precinct 2 of the approved Masterplan, the application is the subject of consultation for a 14 day period with letters being sent to the owners and occupiers of adjoining properties in accordance to Clause 35 of the Council's Town Planning Scheme No. 1 and Council's GEN 3 Community Consultation' Policy. The consultation period commenced on 21 September 2011 and closes on 6 October 2011. At the time of writing this report, no submissions have been received. Should any submissions be received during the consultation period, this will be reported to the Ordinary Council 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 Scheme Text;
- Policy 4.12 'Design Guidelines for Developments with Buildings Above 3 Storeys' of the Policy Manual;
- Policy 5.1 'Parking & Access Policy' of the Policy Manual; and
- Statement of Intent contained in Precinct Plan P13 'Curtin Precinct'.

Compliance with Development Requirements

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

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Residential Design Codes (R-Codes); and
- Rowethorpe Village Masterplan 2004

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

Item	Relevant Provision	Permitted	Proposed	Compliance
Building Height	TPS No. 1 Precinct Plan 13	Maximum height of 15.0m from the natural ground level.	13.72m	Compliant
Density	TPS No. 1 Precinct Plan 13	Maximum density of R40 for the gross area of the site which equates to 572 ILUs.	264 ILUs or R21	Compliant
Plot ratio	Clause 6.11.2 of the R-Codes	A maximum plot ratio area of : • In the case of Single Houses or Grouped Dwellings – 100m^2 • In the case of Multiple Dwellings – 80m^2	• Grouped Dwellings – 55m^2 • Multiple Dwellings – 72m^2	Compliant

Car parking	Clause 6.5.1 of R-Codes	In the case of Grouped Dwellings and Multiple Dwellings where the plot ratio area of an aged or dependent persons dwelling is not more than 100m^2, one (1) car space is to be provided. Visitor car space to be provided at a rate of one (1) space for each four dwellings, or part thereof in excess of four dwellings. Therefore, a minimum of 5 visitor bays to be provided.	• 16 car bays provided for the Multiple Dwellings. • One (1) car bay provided for each Grouped Dwelling. • 14 visitor car bays provided	Compliant

Car parking	Policy 5.1 of TPS No. 1 Policy Manual	For an 'Office' use, a minimum of 18 car bays are to be provided based on a car parking rate of 1 bay for every 40m^2 of net floor area.	28 car bays provided for the exclusive use of 'Office'.	Compliant
Outdoor Living Area	Clause 6.11.2 of R-Codes	• 6.67m^2 minimum for Multiple Dwellings. • 13.33m^2 minimum for Grouped Dwellings.	• 13.75m^2 minimum (balcony) • 19.20m^2 minimum	Compliant

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
No impact.

SOCIAL ISSUES:
The relocation of the Community Care Services to a more convenient location and the provision of aged or dependent persons' dwellings in a form of Multiple Dwelling and Grouped Dwelling configurations will improve the functioning of Rowethorpe Village and promote diversity in the accommodation types for the prospective residents of Rowethorpe Village.

CULTURAL ISSUES:
No impact.

ENVIRONMENTAL ISSUES:
There are no additional impacts on the natural environment. Impacts of redevelopment of Rowethorpe Village were considered as part of the original approval of the Masterplan in September 2004.

COMMENT:
The proposed six (6) single storey Grouped Dwellings, a four (4) storey building and associated car parking and access have been designed in accordance with the requirements of Council's Town Planning Scheme No. 1 and the Residential Design Codes. In addition, the Design Review Committee has also expressed its general support of the design merit of the development at the previous Design Review Committee meetings.

Notwithstanding this, the proposal results in a change to Precinct 2 of the approved Rowethorpe Village Masterplan with regard to the building form, the projected number of Independent Living Units and car parking bays which will be considered as follows:

Building form
The approved Masterplan indicates the retention and refurbishment of the existing ILUs in this portion of the site. However, the proposal involves the demolition of seven (7) buildings to make way for new ILUs and ancillary offices.

Although it is the intent of the Masterplan that the existing amenity of the site is preserved, the demolition of the subject buildings will certainly present an opportunity for the land to be used more efficiently and ensure that the subject site is developed to its full potential with due regard to the existing development context and the desired built form for the area. Furthermore, the provision of aged or dependent persons' dwellings in the Multiple Dwelling and Grouped Dwelling configurations will promote diversity in the accommodation types, and encourage the development of small-scale specialised housing as an alternative to larger and segregated complexes.

Projected number of ILUs
Based on Table 1 of the Masterplan, there are currently a total of 68 ILUs within Precinct 2 of the Masterplan. The Masterplan indicates the future redevelopment of Precinct 2 with a total of 55 ILUs. However, the proposal results in a total of 44 ILUs within Precinct 2 of the Masterplan.

Notwithstanding that the proposal does not achieve the projected number of ILUs for Precinct 2, the proposal results in a total of 264 ILUs for the entire Rowethope Village complex which equates to R21 over the gross area of the site, which is well below the permitted density of R40 under the Town Planning Scheme No. 1 and the existing density of R21.6 or 272 ILUs as stipulated in the Masterplan.

Given that the Masterplan is designed to accommodate future redevelopment and refurbishment of Rowethorpe, it is envisaged that there is a desire to increase the number of new ILUs in other precincts. As such, the reduced number of ILUs within Precinct 2 will allow a higher number of ILUs to be contained within the larger precincts of Masterplan, whilst ensuring that the total number of ILUs does not exceed the density limit of R40 for the overall gross area of the site.

It is particularly worth noting that the reduced number of ILUs within Precinct 2 also allows the retention of large open spaces and generous landscaped areas which have been one of the primary objectives of the Masterplan. The intention of this provision is to serve the special needs of aged or dependent persons such as providing passive or active recreational activities and to facilitate pedestrian access within the site.

Projected number of car bays
The Masterplan indicates a projection of 70 car parking bays within Precinct 2. However, the proposal results in a total of 94 car parking bays.

The substantial number of car parking being provided within Precinct 2 of the Masterplan is mainly due to the high number of car bays proposed for the exclusive use of the 'Office' and visitors. In regards to the 'Office' use, 28 car bays have been provided in lieu of the minimum 18 car bays required on the site. The proponent contends that the excess of 10 car bays designated for 'Office' use is required to accommodate the high number of staff operating the Community Care Services within the subject building.

Given that the Community Care Services serve as one of the major administration centres within the Rowethorpe Village, it is envisaged that the demand of visitor car parking will be high. As such, 14 visitor car bays have been provided in lieu of the minimum required five (5) car bays as per the Residential Design Codes.

Conclusion
In regard to the matters raised above, it is considered that the form, quality and appearance of the development is consistent with the desired character of the area outlined in the Rowethorpe Village Masterplan. In addition, the development is considered to provide a high level of amenity for prospective residents by providing generous living areas and secured car parking and pedestrian access and will set a positive precedent for further similar development within the Rowethorpe Village. In view of the above, it is recommended that the application be Approved subject to conditions. In addition, it is also recommended that the Rowethorpe Village Masterplan be amended accordingly.

FURTHER COMMENTS:
The following answers are provided in relation to queries raised at the Elected Members Briefing Session held on 4 October 2011 :

- Former residents of the seven (7) buildings that have been demolished to make way for the proposed development, have been accommodated within other buildings within the Rowethorpe site.
- The seven (7) buildings that have been demolished previously accommodated 28 units.
- In relation to access to and from the residential units on the third and fourth floors of the four (4) storey building, this is provided by way of a lift and two sets of stairs. As with any building within this class the Building Code of Australia requires adequate fire rating for emergency services to evacuate those who may require help. This building will meet all BCA requirements in a manner consistent with other major constructed multi storey developments such as St.Ives Centro, St.Ives Murdoch and Amana Menora.

RESPONSIBLE OFFICER RECOMMENDATION

Moved: Councillor Skinner **Seconded: Councillor 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 McDonald Jones Architects P/L on behalf of Uniting Church Homes (BA/DA Ref: 11/0453) for 22 Aged or Dependent Persons Dwellings and Ancillary Offices at No. 4-10 (Lot 4 & 5) Hayman Road, Bentley as indicated on the amended plans dated received 26 September 2011 be Approved subject to the following conditions:

1.1 This approval is for the use of the ground floor of the proposed four (4) storey building as Offices associated with the administrative operation of Rowethorpe Village as shown on the approved plans. Any other use will require the submission of a new application for planning approval for a change of use.

1.2 Details to be provided to the satisfaction of the Manager Urban Planning in consultation with the Design Review Committee of improved pedestrian access through and around the site, and in particular between Adie Court and other buildings on the site.

1.3 Prior to the submission of an application for a building licence, a detailed landscaping plan is to be submitted to the satisfaction of the Manager Urban Planning in consultation with the Landscape Architect on the Design Review Committee, with such landscaping plan to provide details of hard and soft landscaping, plant species, levels, lighting, furniture etc. The approved landscaping is to be completed and maintained to the satisfaction of the Executive Manager Park Life prior to the subject development being first occupied or commencing operation.

1.4 The street verge between the kerb and the property boundary is to be landscaped with waterwise planting and reticulated prior to occupation or strata titling of the building(s) whichever occurs first and thereafter maintained to the satisfaction of the Director Renew Life Program. (Refer related Advice Note)

1.5 Any letterbox, structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the front property boundary, is not to exceed a height of 750mm with the exception of:
(i) one brick pier (maximum dimensions 350mm by 350mm); and/or
(ii) wrought iron or similar metal tubing style infill fencing.

1.6 Fencing forward of the building line or facing public and internal streets and pedestrian pathways to be open style fencing. Details of fencing to be submitted to the satisfaction of the Manager Urban Planning, prior to submission of an application for building licence. The approved fencing is to be installed prior to occupation of the building(s) or strata titling, whichever occurs first.

1.7 Details of fencing to the rear of the six (6) Grouped Dwellings to be submitted to the satisfaction of the Manager Urban Planning, prior to submission of an application for building licence.

1.8 All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.

1.9 During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.

1.10 All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.

1.11 All car parking bays to be lined-marked and designed in accordance with AS2890.1.

1.12 A minimum of 16 residential car parking bays located in the undercroft car park being provided for the exclusive use of residents of the Multiple Dwellings at all times. These bays shall be marked prior to the first occupation or commencement of the development.

1.13 A minimum of 18 car parking bays located in the undercroft car park being provided for the exclusive use for Office tenants during normal office hours. These bays shall be marked prior to the first occupation or commencement of the development.

1.14 A minimum of 5 car parking bays being provided for the exclusive use for visitors on the site. These bays shall be marked prior to the first occupation or commencement of the development.

1.15 Final details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Manager Urban Planning prior to submission of an application for building licence. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.

1.16 Clothes drying areas to be adequately screened from streets and adjoining properties. Details of the screening to be provided to the satisfaction of Manager Urban Planning prior to the submission of Building Licence.

1.17 Proposed development complying with setbacks, fencing, driveways, landscaping and other details and amendments as shown in red on the approved site plan.

1.18 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.

1.19 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.

1.20 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

1.21 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.

<u>Advice to applicant</u>

1.22 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty $100.

1.23 With regards to Condition No. 1.9 the following are minimum requirements of the Town of Victoria Park: Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone.

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

1.25 The planning approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

1.26 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. Council supports a modification to Precinct 2 of the Rowethorpe Village Masterplan approved on 28 September 2004, with the applicant to submit a modified Masterplan for approval by the Manager Urban Planning.

AMENDMENT:

Moved: Councillor Armstrong Seconded: Councillor Skinner

That the advice note includes the following:

That Council advise the applicant of its concerns regarding the current access to and from the building in an emergency event. Council request that the applicant consider a ramp access to the upper floors in the event of an emergency.

Reason

Ensure safe exit for tenants during emergencies.

CARRIED (9-0)

THE ORIGINAL MOTION AS AMENDED BEING:

Moved: Councillor Skinner Seconded: Councillor 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 McDonald Jones Architects P/L on behalf of Uniting Church Homes (BA/DA Ref: 11/0453) for 22 Aged or Dependent Persons Dwellings and Ancillary Offices at No. 4-10 (Lot 4 & 5) Hayman Road, Bentley as indicated on the amended plans dated received 26 September 2011 be Approved subject to the following conditions:

1.1 This approval is for the use of the ground floor of the proposed four (4) storey building as Offices associated with the administrative operation of Rowethorpe Village as shown on the approved plans. Any other use will require the submission of a new application for planning approval for a change of use.

1.2 Details to be provided to the satisfaction of the Manager Urban Planning in consultation with the Design Review Committee of improved pedestrian access through and around the site, and in particular between Adie Court and other buildings on the site.

1.3 Prior to the submission of an application for a building licence, a detailed landscaping plan is to be submitted to the satisfaction of the Manager Urban Planning in consultation with the Landscape Architect on the Design Review Committee, with such landscaping plan to provide details of hard and soft landscaping, plant species, levels, lighting, furniture etc. The approved landscaping is to be completed and maintained to the satisfaction of the Executive Manager Park Life prior to the subject development being first occupied or commencing operation.

1.4 The street verge between the kerb and the property boundary is to be landscaped with waterwise planting and reticulated prior to occupation or strata titling of the building(s) whichever occurs first and thereafter maintained to the satisfaction of the Director Renew Life Program. (Refer related Advice Note)

1.5 Any letterbox, structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the front property boundary, is not to exceed a height of 750mm with the exception of:
(i) one brick pier (maximum dimensions 350mm by 350mm); and/or
(ii) wrought iron or similar metal tubing style infill fencing.

1.6 Fencing forward of the building line or facing public and internal streets and pedestrian pathways to be open style fencing. Details of fencing to be submitted to the satisfaction of the Manager Urban Planning, prior to submission of an application for building licence. The approved fencing is to be installed prior to occupation of the building(s) or strata titling, whichever occurs first.

1.7 Details of fencing to the rear of the six (6) Grouped Dwellings to be submitted to the satisfaction of the Manager Urban Planning, prior to submission of an application for building licence.

1.8 All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.

1.9 During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.

1.10 All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.

1.11 All car parking bays to be lined-marked and designed in accordance with AS2890.1.

1.12 A minimum of 16 residential car parking bays located in the undercroft car park being provided for the exclusive use of residents of the Multiple Dwellings at all times. These bays shall be marked prior to the first occupation or commencement of the development.

1.13 A minimum of 18 car parking bays located in the undercroft car park being provided for the exclusive use for Office tenants during normal office hours. These bays shall be marked prior to the first occupation or commencement of the development.

1.14 A minimum of 5 car parking bays being provided for the exclusive use for visitors on the site. These bays shall be marked prior to the first occupation or commencement of the development.

1.15 Final details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Manager Urban Planning prior to submission of an application for building licence. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.

1.16 Clothes drying areas to be adequately screened from streets and adjoining properties. Details of the screening to be provided to the satisfaction of Manager Urban Planning prior to the submission of Building Licence.

1.17 Proposed development complying with setbacks, fencing, driveways, landscaping and other details and amendments as shown in red on the approved site plan.

1.18 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.

1.19 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.

1.20 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

1.21 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

1.22 Failure to maintain the verge by current or future owners or occupiers will

render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty $100.

1.23 With regards to Condition No. 1.9 the following are minimum requirements of the Town of Victoria Park: Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone.

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

1.25 The planning approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

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

1.27 That Council advise the applicant of its concerns regarding the current access to and from the building in an emergency event. Council request that the applicant consider a ramp access to the upper floors in the event of an emergency.

2. Council supports a modification to Precinct 2 of the Rowethorpe Village Masterplan approved on 28 September 2004, with the applicant to submit a modified Masterplan for approval by the Manager Urban Planning.

WAS PUT AND CARRIED (9-0)


DA
0
50
100
meters


ADIE CT
DA
SUBJECT SITE
CHRISTMAS
HAYMAN RD
0
25
50
meters

12.2 608 (Lot 2, Strata Lot 4) Albany Highway. Victoria Park – Change of Use from Showroom to Shop

File Ref:	ALBA608
Appendices:	No
DA/BA or WAPC Ref:	11/0467
Date:	26 September 2011
Reporting Officer:	J Gonzalez
Responsible Officer:	R Cruickshank

In Brief

- Change of Use from Showroom to Shop.
- 'Shop is an 'AA' Use Class in the Zoning Table.
- Consultation with surrounding property owners and occupiers in accordance with Council Policy GEN3 'Community Consultation'.
- Five submissions were received during the consultation process.
- Recommended for Approval subject to conditions.

TABLED ITEMS:

- Development application form dated 8 August 2011;
- Plans dated 8 August 2011;
- Amended plans dated 9 September 2011
- Correspondence from applicant dated 23 August, 26 August and 31 August 2011 ;
- Consultation with adjoining owners & occupiers dated 5 September 2011;
- Submissions from adjoining owners/occupiers dated ;
  Correspondence for information from Council dated 9 August, 26 August, and 29 August 2011; and
- Copy of planning approval granted on 22 April 1991.

APPLICATION:

Landowner: Yue Li Wu
Applicant: H. Hunt
Zoning: MRS: Urban
TPS: Commercial
Precinct Plan P11 – 'Albany Highway Precinct'

BACKGROUND:

On 22 April 1991 a planning approval was granted for the use of the subject tenancy as a 'Showroom' with a car parking area at the rear capable of accommodating four bays with access via a right-of-way

DETAILS:

The application proposes to change the use of the site from 'Showroom' to 'Shop'. The proposed Shop use is to be a Tattoo Shop.

The subject land is zoned Commercial - Albany Highway Central under Town Planning Scheme No.1 and located in Precinct P11 – Albany Highway Precinct.

The proposed Shop has a total area of approximately 86m^2. The Shop is proposing to operate from Sunday to Wednesday from 10.00am to 6.00pm and Thursday to Saturday from 12.00 pm to 8.00 pm. The applicant has advised that for the operation of the shop, there will be seven staff including four Tattooists.

In accordance with the approval for the Showroom granted by Council in 1991, four bays were considered as part of the approval. In accordance with the Town Planning Scheme No.1 Policy Manual, Policy 5.1 'Parking and Access', the total required number of on-site car parking bays for the 68m^2 retail area of the proposed shop is seven car parking bays (1 bay for every 10 square metres of retail floor area). However as no additional car parking can be provided on site, the applicant has agreed to reduce the retail floor area to a maximum of 40m^2 to equate to the four bays available at the rear in accordance with the approval from 1991.

As the proposal is for an 'AA' use within the 'Commercial' zone, the proposal is the subject of consultation for a 14 day period in accordance with Council Policy GEN3 "Community Consultation". This required notices to be mailed to surrounding property owners and occupiers inviting their comment. The consultation period commenced on Monday 5 September 2011 and closed on Monday 19 September 2011. A total of 27 letters were sent to owners and occupiers of surrounding affected properties for their comments in relation to the subject application. Over the comment period, five submissions from property owners were received and have been summarised and includes Officer's comments as follows:

Summary of Submission	**Officer's Comment**
Submission from 610 Albany Highway	
Application to be detrimental for the new Victoria Park, that is slowly changing from a haven for car sales to a people friendly environment with restaurants becoming the norm. Tattoo shop will bring people of questionable character in this area. Writer will be very upset if Victoria Park is diminished by such a store and therefore voice an absolute no tolerance for this application.	Acknowledged: However the proposal is for a Shop use similar to any other Shop use within the area. The definition of shop under the Town Planning Scheme includes a building in which services of a personal nature are provided and includes a hairdresser, beauty therapist or manicurist. The provision of tattoos involves services of a personal nature, not unlike a beauty therapist or manicurist, and is therefore regarded as a Shop. While there is a perception that a Tattoo Shop may attract undesirable persons and diminish the character of the area, there is no evidence that this is the case.

Anonymous property owner submission.	
Tattoo business does not fit with the character and nature of existing business in the area and does not enhance the profile of the Town.	As above.
Submission from the property owners of No. 11B Merton Street (abutting the existing right of way).	
The writer notes the role of Council's Planning Services described in the website and comments that *"By no stretch of the imagination can a tattoo shop be an 'appropriate quality development'".*	Acknowledged: however the subject development refers only to a change of use of the land with no new building being proposed. Any other use proposed on the existing premises will have the same result. If any modification to the exterior of the existing building is proposed in the future it will subject

	to a further planning application.
Tattoo shops seem to be notorious for inviting a certain unsavoury clientele and owners; and research has shown that undesirable types of people are likely to have tattoos.	Refer to comment above.
There will be very loud motor bikes using the lane as the entry point for the shop via the rear entrance, as there is a small area behind the shop that would suit motor bikes.	There is no information to confirm this comment, and in any event there is an existing motor bike shop which utilises the right-of-way.
The opening hours are not in keeping with other shops and are more in line with the 'entertainment' business such as restaurant and hotels and will result in increased noise pollution immediately over the fence outside of business hours and late on weekends.	The nature of the activities occurring on the premises are low intensity and not likely to result in any noise impact.
According to recent media reports tattoo shops appear to have a propensity to self-combust and fire fighting vehicles cannot access the rear of the building due to the restrictive width of the laneway.	There is no evidence to substantiate this claim.
The laneway and back area behind the shop can provide the perfect access and loitering area away from Albany Highway and out of sight of the general public for anti-social activities. Even now and then there are fights and rubbish and stubbies have been thrown over the writer's fence resulting in covering the paving with glass.	It is not expected that the proposed use will result in any additional adverse impact beyond the existing uses.
Anonymous property owner submission.	
Tattoo shop is not considered to be an appropriate enterprise to run in Victoria Park.	Refer to comments above.
The tattoo shop is not aligned with the history and tradition of the area or its strong community atmosphere. It is common to correlate it with illegal activities including drugs and gangs including bikies.	Refer to comments above.
Submission from the property owners of No. 9 Merton Street.	
Object to the tattoo shop if there is any prospect of criminal elements being encouraged into the area.	Refer to comments above.

LEGAL COMPLIANCE:
Relevant General Provisions of Town Planning Scheme No. 1

- Clause 35 of the Scheme Text.
- Clause 36 of the Scheme Text.

Compliance with Development Requirements

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

The previous approval for the site being a 'Showroom' was granted approval with four on-site car parking bays. In accordance with the Town Planning Scheme No.1 Policy Manual, Policy 5.1 'Parking and Access' a Shop requires 1 car parking bay for every $10m^2$ of retail floor area. The applicant has agreed to reduce the retail floor area of the Shop to $40m^2$ to equate to the four car parking bays approved in the past by the Council.

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
No impact

SOCIAL ISSUES:
The objections received contend that the proposed use as a Tattoo Shop will attract undesirable persons and diminish the character of the area. However, there is no evidence that this is the case.

CULTURAL ISSUES:
No impact

ENVIRONMENTAL ISSUES:
No impact

COMMENT:
The application proposes the change of use of the subject tenancy from a Showroom to a Shop. The use class of 'Shop' is an 'AA' (discretionary) use within a Commercial zone. The general use of 'Shop' is considered to be an acceptable use within the zone, which is evidenced by there being a number of other Shops within the zone.

While applicants for planning approval are not obliged to provide details of the specific type of Shop proposed, and that it is sufficient to just state that the application is for a change of use to a Shop, in this case the applicants has provided details that the application is for a Tattoo Shop.

A number of objections have been received in relation to the proposed use as a Tattoo Shop based upon concerns relating to perceived anti-social behaviour and such a business attracting undesirable persons.

While it may have been the case in the past that Tattoo Shops may have been the domain of a limited number of persons, such establishments have modernised and tattoos have become fashionable to the wider community.

In the State Administrative Tribunal case of Woolworths Ltd vs City of Joondalup (WASAT 41 of 2009) being a review of a refusal for an application for a Liquor Store, the Tribunal considered the City's and community's objections to perceived anti-social behaviour that would result from the proposed development. Of relevance are the following comments of the Tribunal :

- *'In Self Help Addiction Resource Centre Inc v Glen Eira City Council, the Victorian Civil and Administrative Tribunal in dealing with a proposed alcohol and drug resource centre and neighbourhood residents' objections stated :*

  While we can appreciate the concern expressed by the resident objectors on these matters, in any assessment of the amenity impacts of this proposal, a distinction must be drawn between what people perceive the impacts of this use will be, and the reality of those impacts. It is perfectly reasonable for the residents to hold the fears that they do, but from the Tribunal's perspective we must be satisfied that there is a factual or realistic basis to those fears in order for us to conclude that this use will result in the amenity impacts alleged by the residents.

  In the present case, the Tribunal is not on the evidence before it able to conclude that there is a factual or realistic basis to the fears of the residents.

- *In essence, this issue is largely driven by what people perceive the impacts of a use might be, but the Tribunal must be satisfied that there is a factual or realistic basis for those fears. In the present case, the Tribunal is not so satisfied …'*

It is the view of Planning Services that the objections received are largely unfounded and that there are no valid planning reasons for the application to be refused.

It is considered that the proposed use as a Shop will not have an adverse impact on the amenity of the surrounding locality, and therefore it is recommended that the application be Approved subject to conditions.

RESOLVED:

Moved: Councillor Skinner **Seconded: Councillor 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 H Hunt on behalf of Yue Li Wu (DA Ref: 11/0467) for Change of Use to Shop at 608 (Lot 2, Strata Lot 4) Albany Highway, Victoria Park as indicated on the amended plans dated received 9 September 2011 be Approved subject to the following conditions:

1.1 This approval does not include the approval of any signage. Any signage for the development is to be the subject of a separate sign licence application.

1.2 Proposed development complying with a maximum of 40m^2 of retail floor area as marked in red on the approved plans.

1.3 Compliance with the *Health (Skin Penetration Procedures) Regulations 1998*

1.4 Hours of operation being:
Sunday to Wednesday 9.00am to 6.00pm; and
Thursday to Saturday 9.00am to 8.00pm.

1.5 Compliance with Council Policy 4.9 'Street Frontage Design Guidelines – District Centre and Commercial Areas along Albany Highway' in relation to at least 60% of the total length of the façade along the footpath being transparent.

1.6 Compliance with Council's Building, Environmental Health and Technical Services requirements.

1.7 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:

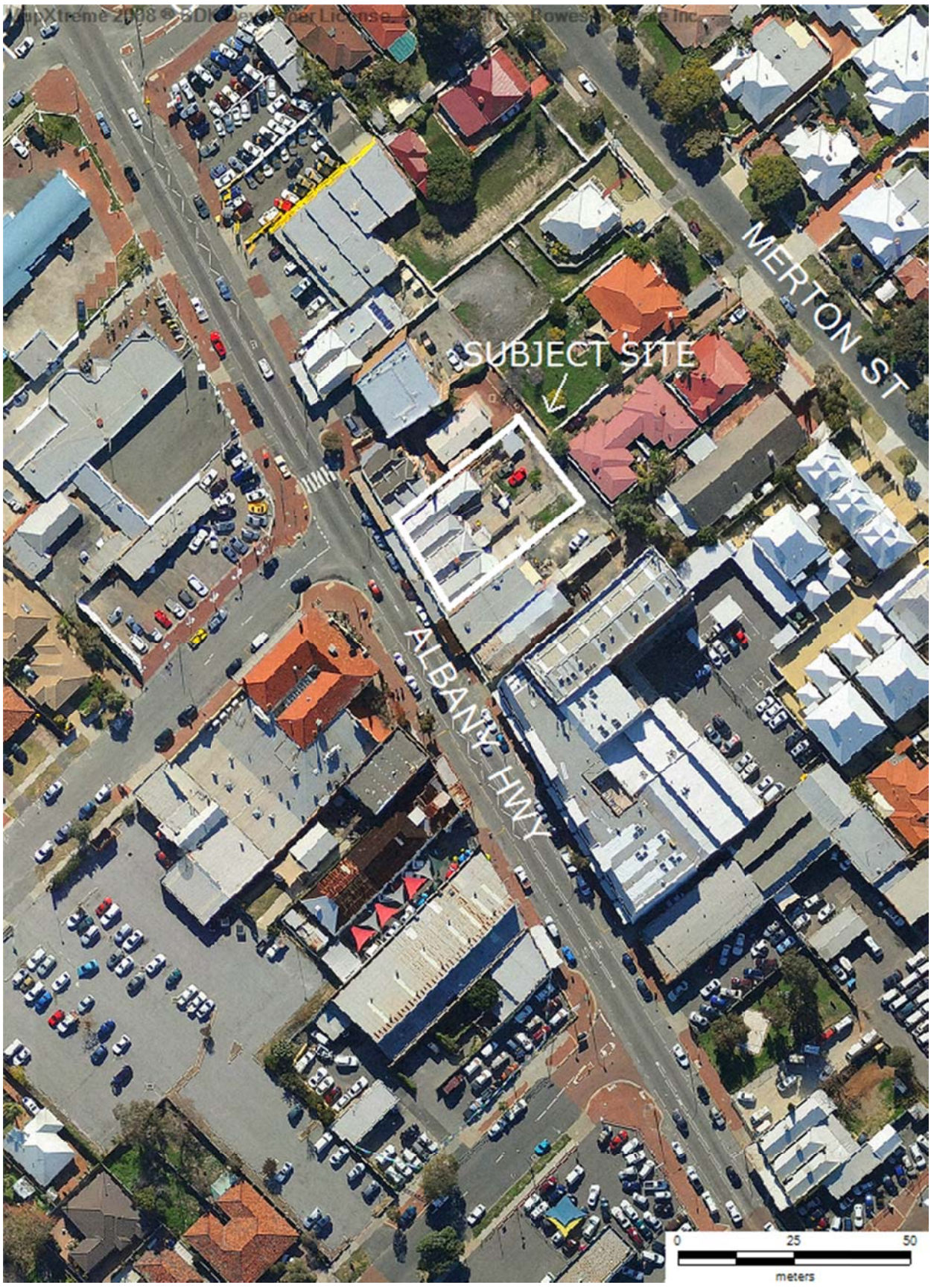
1.8 Any modifications to the approved drawing forming part of this planning approval may require the submission of an application for modifications to planning approval and reassessment of the proposal.

1.9 The planning approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

1.10 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 on the application be advised of the Council's decision.

CARRIED (9-0)


MERTON ST
SUBJECT SITE
ALBANY HWY
0
25
50
meters

12.3 8A (Lot 4, Strata Lot 2) Hillview Terrace, St James – Grouped Dwelling

File Ref:	HILLV8A	**In Brief** • Application for a Grouped Dwelling. • The application involves variations to the Visual Privacy and Boundary Setback standards. • One objection received. • Recommended that the application be Approved subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0495	
Date:	5 October 2011	
Reporting Officer:	H Gleeson	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:
- Development application form dated 17 August 2011;
- Plans and elevations dated 17 August 2011;
- Consultation letters dated 7 September and 22 September 2011;
- Letter of objection from neighbour; and
- Photographs of subject property and streetscape.

APPLICATION:
Landowner: Christine Mary Courtney
Applicant: Cedar Homes
Zoning: MRS: Urban
TPS: Residential 'R30'
Precinct Plan P12 'East Victoria Park'

DETAILS:
Council has received a development application for a two storey Grouped Dwelling to the rear of an existing dwelling on a site within the Residential Character Study Area.

The dwelling has incorporated traditional design features such as weatherboard cladding, open eaves, windows with a vertical emphasis, a verandah and a hipped roof.

The subject site is a narrow lot and three of the upper level rooms involve variations to the Visual Privacy Acceptable Development standards. The height of the boundary wall exceeds the limit of the Acceptable Development standard and there is also a setback variation of a wall from the rear boundary.

Community Consultation
In accordance with Council's GEN3 'Community Consultation' Policy and the Residential Design Codes, the proposal was the subject of consultation for a 14 day period, with letters being sent to the owners and occupiers of surrounding properties. The consultation period regarding the overlooking and boundary wall height variations

commenced on 7 September 2011 and closed on 22 September 2011 with one objection being received. Consultation regarding the setback of the rear wall commenced on 22 September 2011 and closes on 7 October 2011. No responses had been received at the time of writing this report, however, any responses will be reported at the Ordinary Council Meeting on 11 October 2011.

Consultation Submission	
Submission from owner of No.10 Hillview Terrace	
Comments Received	**Officer's Comments**
• Objection regarding the 4.1 metre setback of the first floor sitting room window as it is argued that it will directly overlook a large portion of garden (10 Hillview Terrace) and but for the current position of the fig tree in the garden would have a very clear direct view into the entire back area. Contends that this particular window will significantly impact on the privacy of my property.	Not supported – The adjacent sites have not been developed and the dwellings and outdoor living areas of both these sites sit at the front of the respective lots. The subject windows would overlook a small portion of the extensive rear gardens of the adjacent sites and would not overlook any active outdoor spaces. The area of overlooking from the Sitting Room window would only be to a small portion of an extensive rear garden of No. 10 and would face the dwelling on this site at an oblique angle. However, it would be separated by a distance of some 27m from the dwelling and there is an established fig tree which would obscure all views to the dwelling and outdoor living area. Given this separation distance and the existing established tree it is considered the subject window would not give rise to an unreasonable level of overlooking or loss of privacy and that this variation meets the relevant Performance Criteria. If the window were amended to be setback the required 6m from the boundary shared with No. 10 it would result in an irregular window disposition to the detriment of the character and appearance of the proposed dwelling and given the minimal harm the window would have in relation to the occupants of No. 10 as discussed above, Planning Services did not request the proposal be amended.

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 Scheme Text.
- Clause 39 of Scheme Text;
- Statement of Intent contained in Precinct Plan P12.

Compliance with Development Requirements

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

- 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**
Design	Clause 6.6.1 of R Codes and Clause 3.2.11 A4 of LPPS	Traditional Design, Colours and Materials	Traditional Design, Colours and Materials	Complies
Boundary Setbacks	Clause 6.3.1 of R Codes & LPPS – Boundary Walls	As per Tables 2A & 2B of the R-Codes or Acceptable Development standards of LPPS – Boundary Walls	Alfresco columns setback 1m from rear boundary in lieu of 1.1m Boundary wall average height of 3.2m in lieu of 3m maximum	Variation Refer to Comment section
Open Space	Clause 6.4.1 of R-Codes	45% Open Space	59.67% Open Space	Complies
Access and Parking	Clause 6.5.1 of R-Codes	2 Bays and On-Site reversing	2 Bays and On-site reversing	Complies
Building Height	Clause 6.7.1 of R-Codes	6m wall height 9m roof height	5.6m wall height 7.7m roof height	Complies
Visual Privacy	Clause 6.8.1 of R Codes	Upper floor major opening setback requirements:- Bedrooms - 4.5m Activity Rooms – 6m	Bedroom 2 window setback 3.9m Bedroom 3 window setback 3.6m Sitting Room window setback 4.1m	Variation Refer to Comment section

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
No Impact.

SOCIAL ISSUES:
No impact.

CULTURAL ISSUES:
No impact.

ENVIRONMENTAL ISSUES:
No impact.

COMMENT:
Visual Privacy
The relevant adjacent sites (Nos. 4 and 10 Hillview Terrace) have not been developed and the dwellings and outdoor living areas of both these sites are located at the front of the respective lots. The subject windows would overlook a small portion of the extensive rear gardens of the adjacent sites and would not overlook any active outdoor spaces.

The area of overlooking from the Sitting Room window would only be to a small portion of an extensive rear garden of No. 10 and the window would face the dwelling on this site at an oblique angle. However, it would be separated by a distance of some 27m from the dwelling and there is an established fig tree which would obscure all views to the dwelling and outdoor living area. Given this separation distance and the existing established tree it is considered the subject window would not give rise to an unreasonable level of overlooking or loss of privacy and that this variation meets the relevant Performance Criteria.

If the window were amended to be setback the required 6m from the boundary shared with No. 10 it would result in an irregular window disposition to the detriment of the character and appearance of the proposed dwelling and given the minimal harm the window would have in relation to the occupants of No. 10 as discussed above, Planning Services did not request the proposal be amended.

The Bedroom 3 window would face the rearmost section of the garden of No. 10 Hillview Terrace which is not occupied by any active outdoor spaces and it is also considered this window would not give rise to an unreasonable loss of privacy to the occupants of No. 10 Hillview Terrace.

The Bedroom 2 window would only overlook a small portion of the extensive rear garden to No. 4. However, it is acknowledged the window would face the rear of the dwelling of this property (albeit at an oblique angle). Again, there would be a separation distance of some 27m from the dwelling and there is an established tree which would obscure all views to the dwelling and outdoor living area. Given this separation distance and the existing established tree it is considered the subject window would not give rise to an unreasonable level of overlooking or loss of privacy and that this variation meets the relevant Performance Criteria.

Overall it is considered the proposed upper level windows would not give rise to an unreasonable loss of privacy for the occupants at Nos. 4 and 10 Hillview Terrace.

Boundary Wall
The garage boundary wall would have an average height of 3.2m which exceeds the permitted average height of 3.0 metres under Council's Local Planning Policy. However, given that the subject wall would be sited adjacent to an extensive rear garden at No. 4 Hillview Terrace and be sited some 15m from the dwelling on this site it would not inhibit solar access to the dwelling or outdoor living area and it is considered the wall would not impact the amenity of the adjoining property. Overall it is considered the boundary wall would meet the relevant Performance Criteria.

Boundary Setback
The alfresco columns are setback 1m from the rear boundary shared with No. 17 Alday Street in lieu of 1.1m. The proposed dwelling would be setback 46.5m from the dwelling at No. 17 Alday Street. Given this separation distance it is considered the wall would not appear overbearing when viewed from the dwelling nor would it restrict solar access or ventilation to the dwelling or outdoor living area. Overall it is considered this marginal wall setback variation would meet the relevant Performance Criteria.

Conclusion
In regard to the matters raised above, it is considered the proposed dwelling would not have an unreasonable impact on the amenity of the surrounding occupants and it is recommended that the application for a Grouped Dwelling at No. 8A Hillview Terrace be Approved subject to conditions.

RESPONSIBLE OFFICER RECOMMENDATION:

Moved: Councillor Skinner **Seconded: Councillor 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 Cedar Homes on behalf of Christine Courtney (BA/DA Ref: 11/0494) for a Grouped Dwelling at No. 8A (Lot 4, Strata Lot 2) Hillview Terrace, St James be Approved subject to the following conditions:

1.1 A separate planning application is required for any fence forward of the building line of the dwelling at No. 8 Hillview Terrace.

1.2 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.

1.3 Any letterbox, structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the front property boundary, is not to exceed a height of 750mm with the exception of:
(i) one brick pier (maximum dimensions 350mm by 350mm); and/or
(ii) wrought iron or similar metal tubing style infill fencing.

1.4 During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.

1.5 Paved access ways and/or turning areas being so arranged that all vehicles may at all times leave or enter the street in forward gear. All movements to be

in accordance with the relevant Australian Standards and to be completed within the exclusive use area of Strata Lot 2 and the Common Property Lot.

1.6 Driveway to be graded such that it does not exceed a gradient of 18% to the satisfaction of the Executive Manager Street Life.

1.7 All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.

1.8 External colours, finishes and materials to be used in the construction of the building are to be in accordance with the colour schedule date stamped approved 11 October 2011, attached with the approved plans.

1.9 Open eaves to be provided to all elevations.

1.10 Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.

1.11 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.

1.12 A zero lot gutter to be provided for the boundary wall adjoining the common boundary with No. 4 Hillview Terrace.

1.13 The surface of the boundary walls on the common boundary with No.4 Hillview Terrace to be the same finish as the approved external wall finish for the remainder of the dwelling, unless otherwise approved.

1.14 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.

1.15 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

1.16 Compliance with Council's Building, Environmental Health and Renew Life requirements.

<u>Advice to Applicant</u>

1.17 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty $100.

1.18 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.

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

Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

1.20 The planning approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

AMENDMENT:

Moved: Councillor Armstrong Seconded: Councillor Vilaca

That a new condition 1.17 be included to read "That the first floor sitting room window location move either 1m to the left away from the boundary which is closet to No 10 Hill view Terrace or alternatively change this window to a highlight window or this window to be constructed out of obscure glass".

Reason

Privacy concerns for the neighbour.

CARRIED (9-0)

THE ORIGINAL MOTIONS AS AMENDED BEING:

Moved: Councillor Skinner Seconded: Councillor Anderson

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the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.

1.5 Paved access ways and/or turning areas being so arranged that all vehicles may at all times leave or enter the street in forward gear. All movements to be in accordance with the relevant Australian Standards and to be completed within the exclusive use area of Strata Lot 2 and the Common Property Lot.

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1.17 That the first floor sitting room window location move either 1m to the left away from the boundary which is closet to No 10 Hill view Terrace or alternatively change this window to a highlight window or this window to be constructed out of obscure glass".

Advice to Applicant

1.18 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty $100.

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1.20 The planning approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

WAS PUT AND CARRIED (9-0)


HILL VIEW TCE
SUBJECT SITE
ALDAY ST
0
25.00
50.00
meters

12.4 134 Carnarvon Street, East Victoria Park (Confidential Report)

RESOLVED:

Moved: Councillor Bissett **Seconded: Councillor Hayes**

1. **Council allocate $30,366 from the Raleigh Street Resurfacing project (GL 39.07.01200) towards rectification works for the driveway of Unit 4, 134 Carnarvon Street, East Victoria Park and Right-of-Way 76.**

2. **Council consider reallocating $30,366 back into the Raleigh Street Resurfacing Project (GL 39.07.01200) as part of the mid-year budget review.**

CARRIED BY AN ABSOLUTE MAJORITY (9-0)

12.5 Building Act 2011

File Ref:	PLA0044	**In Brief** • Building Act 2011 to take effect on 31 October 2011. • The Act has significant implications for the operations of the Town's Building Unit. • Recommended that Council note the report, adopt new fees and charges, new delegations and authorisations to Officers.
Appendices:	No	
DA/BA or WAPC Ref:	N/A	
Date:	26 September 2011	
Reporting Officer:	R Cruickshank	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Memorandum from Manager Building Services to Elected Members dated 8 July 2011.
- Building Act 2011.
- The New Building Approvals System – A Guide for Local Government Permit Authorities in Western Australia.
- Drafting Instructions No. 3 – Regulations to support the Building Act 2011 – Fees.
- Existing Delegations from Council to CEO.

BACKGROUND:

The Government has undertaken a Building Regulation Reform package that is planned to deliver the most significant transformation to Western Australian building legislation in over 50 years. Reviews of building regulations have been undertaken which recommended that the legislation be updated to reflect modern building practices. Reviews also suggested that the legislation be managed in one place, by a single entity, and as a result the Building Commission was established.

The Building Commission was established as a division of the Department of Commerce in July 2009 and brings together building practitioner registration, building standards, complaints processes and building policy and is leading the implementation of the Government's Building Regulation Reform package which comprises the following bills:

- The Building Services (Complaint Resolution and Administration) Act;
- The Building Services (Registration) Act;
- The Building Services Levy Act, and
- The Building Act.

The Building Act, which has the most significant impact for Local Government was passed on 23 June 2011 and is planned to come into operation from 31 October 2011 with a proposed phased implementation over 12 months.

The new Building Act has been developed to replace the *Building Regulations 1989* and parts of the *Local Government (Miscellaneous Provisions) Act 1960*. The *Building Act 2011* covers all buildings and the whole State of Western Australia.

Under the Building Code of Australia, all building types are categorised into a particular 'Class' from Class 1 to Class 10. Class 1 buildings are primarily residential dwellings. Class 2 to 9 buildings generally comprise commercial buildings, industrial buildings, and residential apartment buildings. Class 10 comprise structures such as carports, garages, outbuildings, fences etc. Therefore Classes 1 and 10 are typically domestic residential dwellings and structures, while Classes 2 to 9 are primarily non-residential buildings and residential apartments.

Under the existing longstanding process, if someone wishes to undertake building work within the State, they have only one way to obtain a building licence (now called a 'building permit') and that is by submitting an application for a building permit to the relevant local government (now referred to as a 'permit authority'). An appropriately qualified Building Surveyor employed by the local government would then assess the application and once satisfied that the application satisfies the relevant legislation, a building permit would be issued.

DETAILS:
The Building Act 2011 become effective on 31 October 2011 and will bring significant changes to the building approvals process, from the design stage through to the occupation of a building and covers all types of buildings within WA. It will establish Permit Authorities, to issue permits and notices/orders, ensure enforcement of permits and retain building records. A Permit Authority can be a local government, Special Permit Authority (a group of local governments) or State Government.

The *Building Act 2011* enables the local government to take a more proactive role in enforcement of the building control legislation to ensure buildings are constructed in compliance with legislative requirements and appropriate standards within the community.

With the introduction of the new *Building Act 2011* there will be key changes that will affect local governments as it will introduce changes such as:

- Private Certification.
- Permit Authorities.
- Timeframe for approvals.
- Occupancy Permits and Building Approval Certificates.
- Applying for Building Permit when ready to build or occupy.
- Consent to affect other land.

The minimum functions that Local Governments are required to perform under the Building Act include :

- Issue permits including building permits, demolition permits and occupancy permits; and
- Ensure building works within the municipality achieve statutory compliance; and
- Undertake assessment and issue Certificate of Design Compliance for Class 1 (single houses) and Class 10 (sheds & patios etc).

These reforms are likely to have a significant impact on the operation of the Building Unit of the Town however the full impact of the changes is likely to occur over a 6-12 month period. An overview of the key aspects of the Building Act is now provided.

<u>Building permits and certification</u>
Under the existing building legislation, if somebody wishes to undertake building work then they submit an application for a building licence to the Town, and a Building Surveyor employed by the Town undertakes an assessment of the application to confirm that the application complies with all relevant legislation, and then issues a building licence.

The Building Act treats separately the process of certifying compliance with building standards from the process of dealing with an application and issuing a building permit. The process of certifying compliance is now opened up to competition and may be done by any qualified Building Surveyor, either within the local government in the same way as before, or it may be done by a private sector building surveyor. The local government will retain its function to issue building permits.

For Class 1 and 10 buildings (dwellings and incidental structures to dwellings) the local government will be required to provide a certification service, and will now be required to issue a certificate that the building complies with the Building Code (Certificate of Design Compliance) and other associated legislation. Following the issue of the Certificate of Design Compliance, the local government will then issue a building permit.

For Class 2 to 9 buildings, the local government is not required to provide a certification service, however it may choose to do so as a service to the community. In this case, an applicant may engage a registered Building Surveyor of either the local government (if they offer that service) or from the private sector to undertake the certification and issue a Certificate of Design Compliance. Following the issue of the Certificate of Design Compliance, the applicant will then submit the Certificate of Design Compliance, drawings and other relevant documentation to the local government as part of an application for a building permit.

If a local government is to consider providing a certification service then all necessary requirements under the *Local Government Act 1995* are required to be met, in particular:

• Section 3.18 Performing executive functions; and
• Section 3.59 Commercial enterprises by local government.

Certification documents can only be signed by a registered building surveyor. On the other hand, permits can only be signed by 'authorised persons' appointed by the Council.

Applications can be either 'uncertified' (Class 1 and 10 only) or 'certified' (any Class of building). Uncertified applications will be required to be determined in 35 days. Certified applications are required to be determined in 14 days. The timeframes as specified are calendar days and include weekends but exclude public holidays. Failure to achieve the specified timeframes will result in the application being deemed refused and the full application fees refunded to the applicant. Notwithstanding the refund and the refusal the application will still be required to be determined for no fee and the determination is appealable through the State Administrative Tribunal (SAT).

During the assessment if there is any additional information required the local government may 'stop the clock' and request the additional information to be provided within 21 days. Upon the receipt of the additional information within the specified timeframe the 'clock is reset' and the local government is to continue to assess the application within the specified timeframe. If the additional information is not received within the specified timeframe then the application is deemed refused and the fees are retained.

As one of the principles of the Act is to provide a reduction in the approval times for building approvals, the timeframes specified for processing applications will be tight and require local governments to perform at the most efficient level.

Essentially, the implications of the Act on the City's current procedures relating to the processing of building permits is that the applicant when applying for a building permit must ensure that all relevant approvals applicable to the development have been obtained before making the application to the local government for a building permit. This effectively ceases the common practice of lodging simultaneous applications for building and planning, or the local government

holding applications for an extended period of time until the applicant finalises all outstanding requirements.

The key differences between the existing and new building processes can be summarised as follows:

Current Process for Residential Class 1 and 10 and Commercial 2 to 9

- Application for building licence lodged with local government.
- Internal assessment for compliance with Planning approval, Environmental Health and Technical Services requirements.
- Assessed for Building Code Australia compliance.
- External referrals to other agencies where necessary (FESA, Water Corporation, etc.).
- Building Licence issued.

Under the Building Act 2011

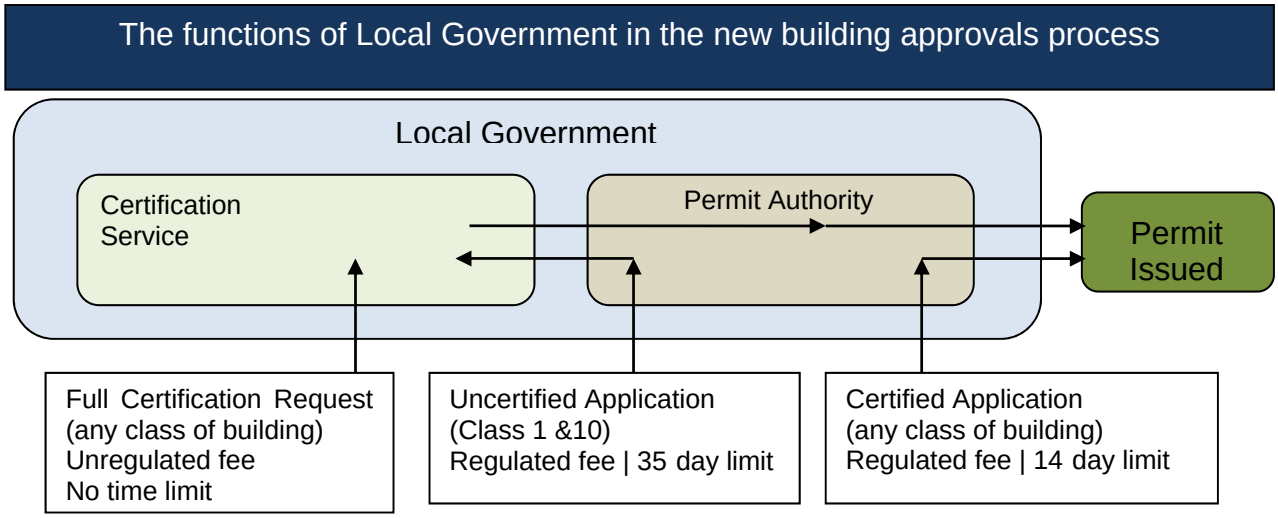
Uncertified Application Class 1 and 10

- Applicant to obtain Planning approval and external approvals where necessary from FESA, Water Corporation, Heritage Council, Swan River Trust, etc.
- Application for building permit lodged with local government.
- Internal assessment for compliance with Environmental Health and
- Technical Services requirements.
- Assessed for Building Code Australia compliance with Certificate of Design Compliance being issued.
- Building Permit issued.

Certified Application Class 1 and 10 and 2 to 9

- Applicant to obtain Planning approval and all required approvals necessary from FESA, Water Corporation, Heritage Council, Swan River Trust, and the Town's Environmental Health and Technical Services.
- Applicant obtains Certificate of Design Compliance (in relation to Building Code
- Australia compliance).
- Application for building permit lodged with local government.
- Internal assessment for compliance with Environmental Health and Technical Services requirements.
- Building permit issued.

The following Figure depicts the functions of the Local Government in the new building approvals process :



Other Permits

The Permit Authority will be responsible for issuing all relevant permits under the Act, including:

1. Building Permits;
2. Demolition Permits;
3. Occupancy Permits; and
4. Building Approval Certificates.

The local government as the Permit Authority is also responsible to issue the Occupancy Permit which will enable a building to be occupied. Occupancy permits are required for all classes of buildings other than Class 1 and 10 and replace the previous Certificate of Classification.

Prior to applying for an Occupancy Permit an inspection is to be undertaken by a registered building surveyor and if the building is compliant with the Building Permit issued by the Permit Authority a Certificate of Construction Compliance can be issued. The owner of the building is then required to apply through the Permit Authority for an Occupancy Permit. The timeframe for determining the Occupancy Permit application is 14 days with the ability to request for additional information to be provided within 21 days. Applications not determined in the specified timeframes require the application fees to be refunded to the applicant.

Fees and Charges

The Building Regulations to support the Building Act are to prescribe new statutory fees. A list of the full range of proposed statutory fees is contained in the tabled items. In relation to fees payable to Council, the following table compares the existing common fees to the proposed fees for the main statutory services :

Act provision	Current Fee (based on construction value exc. GST)	Proposed fee (based on construction value inc. GST)
Building Permit application minimum fee	$85	$90
Building Permit application Class 1 & 10 – uncertified	0.35% of the building/structure's construction value	0.32% of the building/structure's construction value
Building Permit application Class 1 & 10 – certified	No current equivalent	0.19% of the building/structure's construction value
Building Approval Certificate for unauthorised Class 1 & 10 – certified	No current equivalent. For uncertified application 0.7% of the building/structure's construction value	0.38% of the building/structure's construction value
Building Permit Application Class 2 to 9 – certified	No current equivalent. For uncertified application – 0.2% of the building/structure's construction value	0.09% of the building/structure's construction value
Application for Occupancy Permit for unauthorised Class 2 to 9 building – certified	Certificate of Classification is the closest equivalent	$90

In addition to the fees payable to local government, a Building Services Levy of 0.09% is payable which is distributed to the Building Commission.

The Building Commission will review these fees once the new Act has been in operation for a sufficient period to ensure the fees align accurately with the actual costs associated with providing the permit authority functions. Therefore, the above fees are to be seen as interim until more accurate actual information on costs becomes available post the operation of the Building Act.

Delegation of Powers
A Special Permit Authority or a local government will be able under section 127 of the *Building Act 2011* to delegate any of its powers or duties as a Permit Authority to an employee of the Special Permit Authority or a local government (under the *Local Government Act 1995* - section 5.36). The power and the duties of the Permit Authority in relation to both the approval or enforcement roles cannot be delegated to the private sector. The delegation is to be in writing, executed by, or on behalf of, the Special Permit Authority or local government. The person that has the delegated power cannot on delegate those powers to someone else.

The areas in the Act where reference to the local governments having the ability or requirements to perform tasks and delegation from the Council to employees is required are as follows :

- Section 20 - Granting of building permit;
- Section 21 - Granting of demolition permit;
- Section 22 - Further grounds for not granting an application;
- Section 58 - Granting of occupancy permit, building approval certificate;
- Section 96 - Authorised persons; and
- Section 110 - Building orders;

LEGAL COMPLIANCE:
The Building Act will require new statutory procedures to be implemented as part of Council's Building Unit function, and require the adoption of new fees and charges, delegations and authorisations to Council Officers.

POLICY IMPLICATIONS:
Although the Building Act does not have a direct impact on any existing Building Services policies, changes are required in the standard conditions typically attached to building licences and the information sheets on the Town's website.

STRATEGIC PLAN IMPLICATIONS:
The Building Act has implications in the relation to the services currently provided by Council's Building Unit, and into the future. The implications in relation to staffing, resources and finances may be significant for the organisation as a whole.

FINANCIAL IMPLICATIONS:
Though local governments do receive legislated fees for their building permit function, it is expected that the amount of revenue local government normally receives from building licence applications will be affected. With the introduction of private certification, local governments will cease to be the sole permit approving authority. Undoubtedly private certification will have an impact on the Town's revenue in relation to building approval fees and charges, and may impact on staffing levels into the future.

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
Nil

SOCIAL ISSUES:
Nil

CULTURAL ISSUES:
Nil

ENVIRONMENTAL ISSUES:
Nil

COMMENT:
The Building approval process in Western Australia is about to undergo significant change. The changes have been talked about for many years however the Building Act has now been passed by the Government in June 2011 and is set to commence operation on 31 October 2011. The Regulations supporting this Act, (at the point of preparing this report) have not been released and are expected to be introduced at the beginning of October 2011 which has made it difficult to

determine the full impact on Local Government. While this Act has been on the table for the last 20 years or so, the introduction of the current version of the Act and supplementary guidance information has been very quick. The speed with which it has been implemented and the lack of supporting information such as the Regulations, and limited advice from the Building Commission, has made it difficult to understand the full implications of the Building Act for Local Government.

It is anticipated that little will change in the first 6-12 months as the building industry gains an understanding of the new system. However it is expected that over time that competition will become quite aggressive as new businesses (private certifiers) claim their place. Building Surveyors in Local Government will likely be lured from those organisations via significant salary increases that local governments may not be able to compete with.

It is likely that initially large projects will be sought after by the private certification industry in order to be profitable, and with time, residential buildings will be picked up by the private sector. Residential buildings are currently the Town's primary business, with 80 – 90% of income currently derived from this source, so if this portion of the work was to be picked up by private certifiers, it would have a significant impact on the income of the Town's Building Unit. It is anticipated that most residential applications will continue to be processed by Local Governments at this stage.

For the Town's Building Unit to be in a position to continue to effectively operate from 31 October, there are a number of procedures to be put in place, and decisions to be made.

Certification Service

For Class 1 and 10 applications, the Town is required under the Act to provide a service to check plans for compliance with the Building Code of Australia and other legislation and issue a Certificate of Design Compliance. This service will be absorbed by the statutory building permit application fee payable by the applicant. Given that 88% of the applications received by the Town in 2010/2011 financial year were for residential applications, and it being anticipated that most residential applications will be submitted as uncertified applications requiring local governments to undertake the compliance check, it is expected that there will not be any significant change in workload associated with residential applications.

However in respect to Class 2 to 9 applications, where the certification can now be undertaken by a registered Building Surveyor either employed by the local government or from the private sector, there is likely to be a major impact for the Town and other local governments. Under the existing system, local governments have previously undertaken the certification function for Class 2 to 9 buildings. It is considered that the Town should maintain the current level of services provided to the community by offering a service for applicants to seek for registered Building Surveyors of the Town to undertake the certification.

It should be noted that for the 2010/2011 financial year, the income received by the Town for Class 2 to 9 building applications was $341,715. Based upon the proposed statutory fee for certified Class 2 to 9 building applications being reduced, the Town would now only receive an income of $161,000 for those same applications. The proposed reduction to the statutory fee for Class 2 to 9 applications coupled with the need for applications to be certified prior to the submission of an application for a building permit, therefore has significant financial implications. The provision of a certification service by the Town would provide additional revenue to offset the reduction in building permit fees.

It is recommended that the Town initially offer a certification service for building applications and that the implications in relation to staffing, workload, finances etc be monitored.

The certification fee to be charged by local governments is not set by legislation and is open to the local government to determine. While a "business unit" could be established in accordance with

Section 3.59 of the Local Government Act, the purpose of providing a certification service is not for the Town to make a profit. Instead it is proposed that the certification fee be set on a "cost recovery model" and as additional service that the local government provides, in accordance with Section 3.18 of the Local Government Act.

The following fees have been determined to be an appropriate fee to cover operating costs :

Fees for Certification service for Class 2 to 9 buildings	
Construction value (inc. GST)	**Proposed fee**
Up to $150,000	$270
$150,001 to $500,000	$270 plus 0.15% for every $1 in excess of $150,000
$500,001 to $1m	$795 plus 0.12% for every $1 in excess of $500,000
$1,000,001 and above	$1395 plus 0.1% for every $1 in excess of $1,000,000
Unauthorised structures	Double the fee above
Issuing of Certificate of Design Compliance	$50.00

Other fees	
Inspection fee (per inspection)	$90 for up to 1 hour, and thereafter $30 for each 30 minute block

As the above fees are not statutory fees, this fee is required to be advertised for public comments in accordance with Section 6.19 of the Local Government Act.

Delegations

With the introduction of the Building Act, existing delegations will become redundant as the head of power will now be the Building Act rather than the Local Government (Miscellaneous Provisions) Act. Therefore new delegations are required for Council Officers to perform the tasks under the Act. Section 127 of the Building Act 2011 enables local governments the ability to delegate any powers or duties to an employee.

Council is requested to approve the following new delegations as provided under the following sections of the Building Act:

- s20 – Approve or refuse a Building Permit
- s21 – Approve or refuse a Demolition Permit
- s22 – Further grounds for not granting an application
- s58 - Issue an Occupancy Permit and a Building Approval Certificate
- s65 - Consider Extending the period of duration of an Occupancy permit or a Building approval Certificate.
- s96 – Authorised Persons
- s110 - Issue Building Orders
- s117 - Revoke Building Orders

It should be noted that under Section 127 of the Act, a delegation that is assigned to a person cannot be delegated to another person. In view of this, rather than the delegations being issued to the CEO who may then sub-delegate, in this instance the delegations are to be directly to the relevant Officers.

Authorisations
Under s.96 of the Building Act 2011, permit authorities (local governments) may also designate employees as authorised persons to undertake certain actions in accordance with the Act.

The following new authorisations are therefore proposed under different sections of the Building Act:

- s100 - Entry Powers
- s101 - Powers after entry for compliance
- s102 - Obtaining information and documents
- s103 - Use of force and assistance
- s106 - Apply for an entry warrant
- s133 – Commence prosecution action

Conclusion
While the Building Act has been on the table for the last 20 years or so, the introduction of the current version of the Act and supplementary guidance information has been very quick. The speed with which it has been implemented and the lack of supporting information such as the Regulations, and limited advice from the Building Commission, has made it difficult to understand the full implications of the Building Act for Local Government. While undoubtedly the Act will have an impact upon the existing services provided by the Building Unit, it will take some time for the full impact of the changes to be felt. Therefore it is considered that the proposals contained in this report regarding providing a certification service, fees and charges, delegations etc should be regarded as a starting point, and be reviewed and appropriately modified where necessary at a future time.

FURTHER COMMENTS:
Advice has now been received that the introduction of the Building Act has been delayed, and that the Act will now become effective on 1 January 2012.

RESOLVED:

Moved: Councillor Skinner **Seconded: Councillor Ashton**

1. **Council notes the information contained in this report.**
2. **Council's Fees and Charges for 2011/2012 be modified to reflect the statutory fees contained in the Building Regulations supporting the Building Act 2011, with the modified fees being effective 1 January 2012.**
3. **Council adopts by Absolute Majority the proposed fees and charges for certification service for Class 2 to 9 buildings and other related fees as follows :**

Fees for Certification service for Class 2 to 9 buildings	
Construction value (inc. GST)	**Proposed fee**
Up to $150,000	**$270**
$150,001 to $500,000	**$270 plus 0.15% for every $1 in excess of $150,000**
$500,001 to $1m	**$795 plus 0.12% for every $1 in excess of $500,000**
$1,000,001 and above	**$1395 plus 0.1% for every $1 in excess of $1,000,000**
Unauthorised structures	**Double the fee above**
Issuing of Certificate of Design Compliance	**$50.00**

Other fees	
Inspection fee (per inspection)	**$90 for up to 1 hour, and thereafter $30 for each 30 minute block**

4. Pursuant to Section 6.19 of the Local Government Act 1995, Public Notice be given of the proposed fees and charges outlined in 3. above.

5. The following existing delegations from Council to CEO be revoked on 1 January 2012 : 520; 522; 523.

6. New delegations from Council to the assigned Officers, be adopted and effective on 1 January 2012 as follows :

Building Act 2011

Del No.	Reference	Delegation	Council to relevant Officer
700	s20	Approve or refuse building permits	MBS; SBS;
701	s21	Approve or refuse demolition permits	MBS; SBS
702	s22	Refuse building permits or demolition permits where there appears to be an error in the documents or information provided in the applications	MBS; SBS
703	s58	Approve, modify or refuse Occupancy Permits or Building Approval Certificates	MBS; SBS
704	s65	Approve or refuse an application to extend the validity of an occupancy permit or building approval certificate	MBS; SBS
705	s96	Appoint authorised persons for the purposes of the Building Act 2011	CEO
706	s110 and s117	Issue and withdraw building orders in relation to building work, demolition work and/or an existing building or structure	DFLBLP; EMBL; MBS

7. In accordance with Section 96 of the Building Act 2011, the following positions be appointed as 'Authorised Officers' :

Reference	Authorised Officer
S100 Entry Powers	MBS; SBS; BS; CO
S101 Powers after entry for compliance purposes	MBS; SBS; BS; CO
S102 Obtaining information and documents	MBS; SBS; BS; CO
S103 Use of force and assistance	MBS; SBS; BS; CO
S106 Application for warrant to enter a place	DFLBLP; EMBL; MBS
S133 Commence prosecution action	DFLBLP; EMBL; MBS

Note:	**DFLBLP**	**Director Future Life & Built Life Programs**
	EMBL	**Executive Manager Built Life**
	MBS	**Manager Building Services**
	SBS	**Senior Building Surveyor**
	BS	**Building Surveyor**
	CO	**Compliance Officer**

8. A review of the impact of the Building Act upon the services provided by Council's Building Unit to be undertaken by January 2013, with the review to consider workload, the provision of a certification service for Class 2 to 9 applications, fees and charges, and staffing levels.

CARRIED BY ABSOLUTE MAJORITY (9-0)

13 RENEW LIFE PROGRAM REPORTS

13.1 Harold Hawthorne Centre – Request for Payment in Advance of the Balance of the 2011/2012 Operating Subsidy

File Ref:	MEM02 / ORG0198	**In Brief** • The Town has received correspondence from the Harold Hawthorne Centre requesting an advance on their next three quarterly donations for the 2011/2012 financial year. • Recommend that an advance payment of $78221.86 (plus GST) be made to the Harold Hawthorne Centre, being the balance of the Operating Subsidy for the 2011/2012 financial year.
Appendices:	No	
Date:	27 September 2011	
Reporting Officer:	T. McCarthy	
Responsible Officer:	J. Wong	

TABLED ITEMS:
- Correspondence received on 9 September 2011 from the General Manager of the Harold Hawthorne Centre.

BACKGROUND:
Each year, the Town provides the Harold Hawthorne Centre with an operational subsidy, released quarterly in advance, to support the delivery of services to seniors. The amount is indexed annually in accordance with the Consumer Price Index as published by the Australian Bureau of Statistics for Perth (All Groups).

Correspondence was received from the Centre on 9 September 2011 seeking an advance of the 2011/2012 annual operating subsidy, and the purpose of this report is to recommend a course of action in response to the letter.

DETAILS:
The Harold Hawthorne Centre is currently on a Lease Agreement with the Town that outlines terms upon which the annual operational subsidy will be delivered:

"…(e) the Operating Subsidy must be paid quarterly in advance on the first day of each month commencing on the date of commencement of the term."

The Harold Hawthorne Centre has complied with the above condition in previous years.

Upon receipt of an invoice, the Town paid the first operational subsidy to Harold Hawthorne Centre (Carlisle Seniors Centre) for the period July to September 2011 by releasing a cheque for the amount of $26,447.40 (excluding GST) in August 2011.

On 9 September 2011, the Town received correspondence signed by the General Manager of the Harold Hawthorne Centre requesting an advance on the remaining three operational subsidies for the 2011/2012 financial year as follows:

"As you are aware the Town of Victoria Park provides a $116,358.56 grant to the Harold Hawthorne Senior Citizen's Centre and Homes Inc to assist in providing quality community services to seniors living within the Town.

The organization is currently facing a shortfall of funds due to a slump in the real estate industry. We currently have several retirement village units that unfortunately have not been re-leased and therefore, the organization kindly requests that the council allows the remaining grant funds of $87,276.42 to be advanced to the organization.

The organization understands and appreciates the financial implications to the Council however, finds itself with no other immediate alternative to ensure the organization can continue to meet all of its financial obligations.

Please trust that the Boards of management and the General Manager are continuing to rectify the current financial situation to ensure future risk management strategies are in place to eliminate future risk."

It is recommended to support the request by the Harold Hawthorne Centre and release the remaining funds. It should be noted that the amount of operating subsidy ($116,358.56) referred to by the Harold Hawthorne Centre is inclusive of GST (equates to $105,780.51 + GST) and has been slightly miscalculated. The amount as calculated by the Town is $104,669.26 (plus GST).

LEGAL COMPLIANCE:
The request is not in accordance with the terms of the current Lease Agreement which states

"…(e) the Operating Subsidy must be paid quarterly in advance…."

The centre has been paid one quarter of the 2011/2012 financial year operating subsidy, and is seeking the remaining three quarters amount to be paid as one lump sum.

POLICY IMPLICATIONS:
Nil.

STRATEGIC PLAN IMPLICATIONS:
Nil.

FINANCIAL IMPLICATIONS:
Internal Budget:
An amount of $103,109 (excluding GST) has been allocated in the 2011/2012 budget (GL 520500.620) as the estimated operating expenditure for the Harold Hawthorne Senior Citizens Centre. The actual amount to be paid to the Harold Hawthorne Senior Citizens Centre as operating subsidy for the 2011/2012 financial year has been calculated by the Town as $104,669.26 (excluding GST). The calculation of this amount is as follows:

1 July 2007	(payment for 2007/2008)	$93,000 (ex GST) - first year of current lease term
1 July 2008	(payment for 2008/2009)	$96,348 (ex GST) - increase of 3.6%
1 July 2009	(payment for 2009/2010)	$99,238.44 (ex GST) - increase of 3%
1 July 2010	(payment for 2010/2011)	$101,719.40 (ex GST) - increase of 2.5%
1 July 2011	(payment for 2011/2012)	$104,669.26 (ex GST) - increase of 2.9%

Percentage increases shown are as per the annual increases in the Consumer Price Index as published by the Australian Bureau of Statistics for Perth (All Groups).

Total Asset Management:
Nil.

Sustainability Assessment:
External Economic Implications:
Nil.

Social Issues:
Nil.

Cultural Issues:
Nil.

Environmental Issues:
Nil.

COMMENT:
It is acknowledged that the request from the Harold Hawthorne Centre is not in accordance with terms of the Lease Agreement which states that operating subsidy payments will be made quarterly in advance, however, it is deemed acceptable to support the request in this instance to ensure adequate cash flow for the continuation of services to seniors.

As the request from Harold Hawthorne Centre is not for an increased financial contribution from the Town (only a change in payment schedule), sufficient funds are available.

It is appropriate to reiterate to the Harold Hawthorne Centre that this advance of funds is a 'one-off' scenario and there is every expectation from Council that the operational subsidy in future years will be processed in accordance with the terms of the lease.

RESOLVED:

Moved: Councillor Bissett **Seconded: Councillor Skinner**

That:
1. **An advance payment of $78221.86 (plus GST) be forwarded to the Harold Hawthorne Centre upon receipt of a tax invoice as their second and final contribution from the Town for the 2011/2012 financial year.**

2. **The Harold Hawthorne Centre be advised of the expectation to comply with the terms of the Lease in future years regarding payment of the operational subsidy quarterly.**

CARRIED (9-0)

13.2 Acceptance of Grant funding – Perth Bicycle Network Local Government Grants Funding 2011/2012

File Ref:	ADM0170	**In Brief**
Appendices:	No	
Date:	26 September 2011	• The Town has been offered grant funding of $88,850 by the Department of Transport under the Perth Bike Network Local Government Grants Program.
Reporting Officer:	F. Squadrito	
Responsible Officer:	J. Wong	• Recommend the endorsement and acceptance of the Perth Bicycle Network (PBN) grant funding for the 2011/2012 financial year.

TABLED ITEMS:
Letter received by the Town on the 16 September 2011 from the Department of Transport notifying of Perth Bike Network Local Government Grant success for two projects the Town submitted.

BACKGROUND:
The PBN Local Government Grants Program is a State Government program administered through the Department of Transport (DOT) that provides funding assistance, typically on a dollar for dollar basis, to Local Government Authorities (LGAs) for approved cycling projects.

Each local government authority is asked to consider its works program for the subsequent year and determine whether there are cycling projects within that works program that could be eligible for grant assistance through the PBN grant scheme.

Projects that the DOT identified as potential grant recipients include the following:
- Outstanding projects identified in PBN local bicycle routes (missing shared links, paths along recreational routes, upgrading existing paths);
- On/off road bicycle lanes (particularly busier ones);
- End of trip facilities e.g. bike parking at public places;
- Bike plans; and
- Signage

DETAILS:
In response to the Town's formal application for PBN funding submitted in March 2011, the Department of Transport has offered the Town of Victoria Park $88,850 of funding for the projects listed below:

New Paths:

Design of Armadale Principle Shared Path (PSP) from Great Eastern Highway to Roberts Road ($52,600)

Funding for this project has been provided to the Town to undertake detailed design. Internal staff will effectively project manage the design phase to ensure a successful outcome for the Town and its community. Additionally, as part of the scope, a full feature survey will be commissioned that will encompass some sections of the railway corridor and

practically the entire Rutland Avenue road reserve from Great Eastern Highway pedestrian overpass to Roberts Road.

In order to minimize conflict to bicycle users, the alignment of the uninterrupted principle shared path (PSP) is envisaged to be located on the western side of Rutland Avenue for the most part and a small section within the rail reservation between Great Eastern Highway (GEH) and Enfield Street. The total length of the PSP is approximately 1.7km with a proposed 2.5 - 3.0m wide red asphalt cross-section.

It is important to note that the Perth to Armadale PSP (Principle Shared Path) is considered the highest priority project in the Town of Victoria Park's current Bicycle Network Plan.

McCallum Park Shared Path Connection ($36,250)

As part of last financial year's Labour Government stimulus package, the City of South Perth secured funding under the $2.8 million Cycling Infrastructure Program to install a separated bicycle only path in Sir James Mitchell Park. The path was completed in the 2010/2011 financial year which extended to Ellam Street where it terminated on the Victoria Park municipal boundary. Subsequently a missing link to the towns pedestrian/cycling network resulted as no continuing path was provided into McCallum Park to connect to the existing shared path.

The proposed new 3m wide, 68m long red asphalt path will provide connectivity from South Perth to Victoria Park and vice-versa. The minor extension is anticipated to deliver the final stage of the original path design undertaken by the City of South Perth.

Legal Compliance:
All works undertaken will comply with Austroads Guidelines and relevant Australian Standard relating to Bicycle infrastructure

Policy Implications:
Delegation 560 (Grants) of the Town's Delegations Register states that the administration can; *Make and accept submissions for grants from Lotteries Commission, State and Commonwealth Governments,* with a condition that acceptance of successful submissions over $22,000 (incl. GST) to be subjected to Council approval.

Strategic Plan Implications:
One of the key objectives in the Plan for the Future 2011/2012 strategy under the Renew Life Program is to effectively manage, maintain and renew the Towns assets. Additionally we will ensure residents have safe, clean and attractive streetscapes.

Financial Implications:
Internal Budget:
The Town will need to fund at least 50% of the nominated project costs to receive the grant funding from DOT which have now been endorsed. The funding arrangement would be:

Project	**Funding source**		**Total**
	ToVPK	**DOT**	
Principle Shared Path Design	$52,600	$52,600	$105,200 ($134,417) inclusive of overheads
McCallum Park – Shared Path Connection	$36,250	$36,250	$72,500 ($89,725) inclusive of overheads
	$88,850	**$88,850**	**$177,700**

As part the Towns 2011/2012 adopted budget, both of the above mentioned projects were listed and endorsed by Council. Unfortunately the Capital Expenditure for the Principle Shared Path was incorrectly reported with a total allocation $89,725. This results in a shortfall of $15,475 excluding the Towns overheads, therefore, an additional $29,217 inclusive of overheads is required.

Total Asset Management:
The works completed as a result of the two projects will be maintained by the Town.

Sustainability Assessment:
External Economic Implications:
Improved cycling infrastructure is likely to yield results in terms of positive outcomes for cyclists and a corresponding increased use of bikes for transport. It is hoped this will have a positive effect on the businesses and services within the Town as more people view the Town of Victoria Park as a Local Government Authority committed to infrastructure supporting alternative modes of transport

Social Issues:
An increase in cycling within the Town will improve the health and wellbeing of community members and assist in developing more people-friendly neighbourhoods. With fewer cars and more people on the streets, a greater sense of community is developed. People on bikes tend to engage with other cyclists and pedestrians in a different way to those in cars. Cycling also provides a cost efficient and sustainable form of transport.

Cultural Issues:
The close proximity of the Town to Perth City and good connectivity to public transport mean that a mode shift is possible from single car occupants to cyclists for many trips. Improved cycling infrastructure is critical to this mode shift. Travel Behaviour change to increase cycling within the Town relies on good cycling infrastructure.

Environmental Issues:
Continuing to provide safe and efficient cycling facilities will encourage and facilitate more use of bicycles, rather than vehicles, for commuting, transport or recreational journeys. Reducing vehicle dependency will help reduce vehicle emissions and vehicle noise.

COMMENT:
Acceptance of the funding and return of the contract agreements to the Department of Transport need to be finalised by close of business, Friday 7 October 2011. All works associated with the grants are to be completed by Friday, 11 May 2012. In the event that the project completion date exceeds the deadline, DOT shall be notified 30 days prior.

Initially as part of the detailed design process a concept of the ultimate layout will be provided by the appointed consultant. Officers recommended that consultation is undertaken once the concept has been finalised. The Town will also need to engage representatives from the Public Transport Authority and other key stakeholders including Main Roads Western Australia to ensure that the project obtains all relevant statutory approvals.

Construction of the McCallum Park shared path connection is anticipated to commence in early November/December 2011. The City of South Perth will be consulted prior to construction through the Administration to ensure there is a complete understanding of the implications of the proposed link.

RESOLVED:

Moved: Councillor Hayes **Seconded: Councillor Bissett**

1. **Accept grant funding totalling $88,850 from the Perth Bicycle Network Grant program though the Department of Transport and endorse the projects nominated projects in the 2011/2012 financial year budget:**

2. **An allocation shortfall of $29,217 be provided to the Principle Shared Path Project (Great Eastern Highway to Roberts Road) utilising funds from the Minor Footpath Budget GL40.09.01014**

CARRIED BY ABSOLUTE MAJORITY (9-0)

13.3 Proposal to Request Minister for Lands to Dedicate Land, Currently Used as a Right of Way off Griffiths Street, as Road Reserve (ROW97)

File Ref:	TES0330	**In Brief**
Appendices:	No	
Date:	14 September 2011	• Recommendation that the Minister for Lands be requested to acquire portion of a privately owned "Right of Way" as a Crown Right of Way.
Reporting Officer:	T. McCarthy	
Responsible Officer:	J. Wong	• Recommendation that the Minister for Lands be indemnified by Council against any and all costs, including any future claims, associated with the process of acquiring the subject land as a Crown Right of Way.
		• Recommendation that the Minister for Lands be requested to acquire portion of a privately owned "Right of Way" for dedication as road reserve.

TABLED ITEMS:
- Deposited Plan 30745
- Deposited Plan 71816
- Letter dated 10 November 2009 from State Solicitor's Office.

BACKGROUND:
Main Roads Western Australia (MRWA) owns Lots 303, 304 and 305 (numbers 291, 293 and 295) Great Eastern Highway. The 3 lots were acquired by MRWA for works associated with the construction of Graham Farmer Freeway. MRWA has excised all land required for the Freeway project, and is in the process of amalgamating the 3 balance lots in readiness for disposal.

Vehicle access to the 3 lots from the Graham Farmer Freeway access ramp is not permitted. MRWA has made application for amalgamation of the 3 balance lots, and during background investigation into vehicle access to the property it was found that the "Right of Way" leading to the property from Griffiths Street may not technically be a Right of Way as defined in the *Transfer of Land Act 1893*, and legal vehicle access via the "Right of Way" to the 3 lots may be questionable.

As part of the amalgamation approval process for the 3 lots, the Town has imposed conditions that a specified land area is ceded for the purpose of construction of a cul-de-sac turning circle sufficient to allow for the manoeuvring of a standard rubbish collection truck. MRWA is also required to construct the cul-de-sac turning circle.

MRWA has requested that the "Right of Way" leading to the property from Griffiths Street be vested as a Crown Right of Way in order that there is certainty regarding legal vehicle access to the new lot (Lot 150) to be created from the 3 amalgamated lots.

DETAILS:
The State Solicitor's Office has advised the Town by letter dated 10 November 2009 that the original Plan of subdivision, dated 1907, for the affected lots did not have the letters "R.O.W."

marked on the portion of land now referred to as the "Right of Way" leading to the property from Griffiths Street. It therefore is technically not a Right of Way for the purposes of Section 167A of the *Transfer of Land Act 1893*, even though the intention at the time of subdivision was that it was to be used as a Right of Way. There is currently a degree of uncertainty as to whether there are any carriageway rights over the "Right of Way," and MRWA has requested that it be vested as a Crown Right of Way in order to remove the uncertainty.

Investigation of the subject "Right of Way" revealed that it is part of a larger collection of "Rights of Way," collectively known as Lot 401 on Deposited Plan 30745. Lot 401 is 4073m² in area and is comprised of 5 portions of land located between Great Eastern Highway and Riversdale Road. Some portions of Lot 401 have been sealed and are used daily by occupiers of adjoining properties, presumably on the basis that they all believe they have a legal right of carriageway over Lot 401.

It is considered appropriate that the whole of Lot 401 should eventually be vested in the Crown as a Crown Right of Way. The whole of Lot 401 has been classified as "To remain open and ultimately be constructed" under the Right of Way Strategy Plan previously endorsed by Council. All portions of it have been included in the Right of Way construction priority listing previously endorsed by Council. Only the portion bounded by Griffiths Street, Great Eastern Highway, Graham Farmer Freeway and Stiles Avenue is the subject of this report.

If the subject portion becomes vested in the Crown as a Crown Right of Way, the Town would become responsible for maintenance of it. There would be nil effect on the Town's works programme or budget, as all portions of Lot 401 have already been included in the Right of Way construction priority listing.

Lot 401 is registered in the name of Albert Edmund Cockram, on Certificate of Title Volume 2219 Folio 580, who deceased in 1943. There appears to be no descendants of Albert Edmund Cockram who have expressed any interest in having the Certificate of Title transferred into their ownership.

LEGAL COMPLIANCE:
The proposed acquisition by the Minister for Lands of the land as a Crown ROW is carried out under Section 52 of the *Land Administration Act 1997.*

STRATEGIC PLAN IMPLICATIONS:
Nil.

FINANCIAL IMPLICATIONS:
Internal Budget:
No direct cost to the Town.

Total Asset Management:
The Town has already accepted, to some extent, responsibility for ongoing maintenance of the ROW. As indicated above, all portions of Lot 401 have already been included in the Right of Way construction priority listing. The subject portion is believed to have been paved by the City of Perth, and by carrying out the paving the City of Perth accepted ongoing responsibility for maintenance of the subject portion.

MRWA will not permit vehicle access to the 3 lots, the subject of amalgamation, from the Graham Farmer Freeway access ramp. Because the newly created lot, and other lots abutting the subject portion of ROW, require rubbish to be removed, access for the rubbish truck is via the ROW. For that reason the Town imposed a condition of approval for the amalgamation that MRWA cede sufficient land from the 3 lots to allow for a cul-de-sac of sufficient turning area to accommodate a

rubbish truck carrying out a 180º turn. MRWA is required to also design and construct the cul-de-sac head. The provision of the cul-de-sac turning circle will provide a benefit to the Town in carrying out rubbish removal from properties abutting the subject R.O.W. There will also be a benefit to drivers of other vehicles using the R.O.W. to access properties abutting the R.O.W., in that the cul-de-sac head will allow better manoeuvrability of vehicles in the R.O.W.

COMMENT:
The process outlining the procedure to be followed by a local government prior to requesting the Minister for lands to acquire a privately owned ROW as Crown land is detailed in Section 52 of the *Land Administration Act 1997.* In this instance the subject land is, in the opinion of the State Solicitor's Office, technically not a ROW as the subject area is not marked as "R.O.W." on the approved plan of survey. The State Solicitor's Office does state, however, that *"The plan for the Subdivision (the Plan) shows areas coloured brown which were presumably intended to be used as a private road/right of way."* The areas shown brown on the plan for the subdivision are the "Right of Way" areas.

As part of the process, all owners of adjoining properties are to be notified of the proposal and afforded opportunity to object if they so desired. All owners of adjoining properties have been contacted. To date insufficient time has elapsed for any responses to have been received.

All suppliers of public utility services to the subject land are required to be notified of the proposal. There is only one affected supplier in this instance, the Water Corporation, which has a sewer main within the subject ROW. Public utility service authorities have been notified of the proposal, and to date no responses have been received. It is envisaged that the Water Corporation will require an easement over the whole of the ROW in order to protect the existing sewer main.

The owner of the ROW is required to be notified of the proposal. The owner of the ROW in this case is Albert Edmund Cockram, on Certificate of Title Volume 389 Folio 77, dated 1907. Albert Edmund Cockram died in November 1943. It is not known if there are any beneficiaries to his estate. No beneficiaries to his estate have registered a transfer of ownership of the property.

Council is required to consider any objections to the proposal prior to making a request to the Minister for Lands that the subject ROW be acquired as a Crown Right of Way under the provisions of Section 52 of the *Land Administration Act 1997.* In this instance insufficient time has elapsed for any objections to have been received.

State Land Services has previously provided advice that the Town is required to provide the Minister with an indemnity against any claims (should they arise) resulting from the privately owned land being acquired as a Crown ROW.

As an alternative to Council making a request to the Minister for Lands to acquire the privately owned ROW as Crown land, Council could request that the subject land be dedicated as road reserve. It is unlikely, however, that the Western Australian Planning Commission would approve the dedication because of the narrow width of the subject land (4.02m). This alternative has therefore not been recommended. A Crown ROW is very similar in nature to a road reserve. It is owned by the Crown and there is no restriction on public access to it, with the local government having responsibility for management of it. A Crown ROW does remain a ROW under Section 297A of the *Transfer of Land Act 1893*, even though it is owned by the Crown.

It is recommended that Council request the Minister for Lands to acquire the subject privately owned subject land as Crown land, and the Minister be provided with an indemnity against any and all costs, including any future claims, associated with the process of acquiring the subject land as a Crown ROW, provided that no objections to the proposal are received from the beneficiaries of the estate of the registered owner, owners of adjoining properties or from public utility service

authorities, within the specified time for the lodgement of submissions. If any objections are received from the beneficiaries of the estate of the registered owner, owners of adjoining properties or from public utility service authorities, the matter will be referred back to Council for further consideration. The owners of all adjoining properties have been contacted in relation to the proposal, as have all public utility service authorities. Contact details of beneficiaries of the estate of the registered owner have not been established, and no contact has been made with the beneficiaries of the estate of the registered owner.

It is also recommended that the Minister be requested to dedicate as road reserve the portion of the subject land located to the north east of Lot 40 (number 44) Stiles Avenue. This portion falls within the Graham Farmer Freeway reserve, and would eventually be dedicated as road reserve. It is considered expedient to dedicate that portion simultaneously with the subject portion being acquired as a Crown Right of Way.

RESOLVED:

Moved: Councillor Bissett **Seconded: Councillor Ashton**

1. **That the Minister for Lands be requested to acquire the privately owned land bounded by Griffiths Street, Great Eastern Highway, Graham Farmer Freeway and Stiles Avenue used as a Right of Way, on Certificate of Title Volume 898 Folio 107, as a Crown Right of Way under Section 52 of the *Land Administration Act 1997,* subject to no objections to the proposal being received from the beneficiaries of the estate of the registered owner, owners of adjoining properties, or from public utility service authorities, within the specified time for the lodgement of submissions.**

2. **That the Minister for Lands be indemnified by Council against any and all costs, including any future claims, associated with the process of acquiring the subject land as a Crown Right of Way.**

3. **That the Minister for Lands be requested to dedicate as road reserve that portion of the privately owned land bounded by Griffiths Street, Great Eastern Highway and Graham Farmer Freeway, used as a Right of Way, on Certificate of Title Volume 898 Folio 107, located to the north east of Lot 40 (number 44) Stiles Avenue.**

CARRIED (9-0)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13.4 Public Transport Plan 2031

File Ref:	TES0124	**In Brief** • There is general support for the plan with comments • The Town is providing comments on the Public Transport for Perth 2031 plan.
Appendices:	No	
Date:	23 September 2011	
Reporting Officer:	A. Vuleta	
Responsible Officer:	A. Vuleta	

TABLED ITEMS:
- Draft Publication from the Department of Transport 'Public Transport for Perth in 2031'

BACKGROUND:
The WA State Government, through the Department of Transport, has recently prepared a draft public transport plan for the Perth metropolitan area. This document entitled Public Transport for Perth in 2031 is currently advertised for public submissions for a period of three months from 14 July 2011 to 14 October 2011 inclusive.

The purpose of this report is for the Council to consider the document Public Transport for Perth in 2031 and to provide comment to the Department of Transport on aspects of the public transport plan that directly relate to the transportation network and services within the Town of Victoria Park. Following the completion of the consultation period, the Department of Transport will consider all submissions and refine the plan as considered appropriate.

The State Government established an independent panel to identify options for the development of a mass transit network up to 2031. The panel was required to identify a primary public transport network for a City comprising 2.5 million people (at 2031), recommend the capital investments necessary to achieve this objective, and consider how best to achieve land use and transport integration across the Perth metropolitan area.

The independent panel consulted with key stakeholders such as the Public Transport Authority, Main Roads Western Australia, Department of Planning, WA Treasury, Local Government and transport and development industries. The end result is the formulation of a plan which establishes a long term vision for a public transport network and for public transport to be the preferred mode of travel to Perth's strategic centres and through growth corridors.

DETAILS:
There is a close relationship in Directions 2031 planning document, previously presented to council, between the urban (built) environment and public transport. To ensure alignment between the urban environment and public transport, the WA State Government through the Department of Transport recently completed a draft public transport plan for Perth.

The WA State Government has called for significant change in the way public transport operates if it is to deal with the anticipated growth over the next 20 years and beyond. 'PublicTransport for Perth in 2031' highlights that the current network will be unable to cope with the expected demand in public transport usage and the resultant growth of the City. The report finds that over the next 20 years, much of the investment in public transport infrastructure and system improvements is required within 15km of the Perth central area.

By 2031, the plan highlights that public transport will account for:

- 1 in 8 of all motorised trips (currently 1 in 14);
- 1 in 5 of all morning motorised trips (currently 1 in 8);
- Over 30% of peak hour distance (currently around 20%); and
- Nearly 70% of all trips to the CBD (currently around 47%).

The plan states that public transport is a public necessity, finding exponential increases in the use of public transport over the last ten years and recording a growth of 67% over that period.

The Perth public transport system currently serves 330,000 trips every weekday. Therefore, for the level and quality of public transport services to improve, there will need to be real improvements in reliability, speed of travel, service frequency, safety and security, and ease of use to satisfy the future public transport demand of a growing City.

The plan cites a discrepancy between inner metropolitan service quality and that of the outer areas particularly that of the northern sector of Perth which is described as having limited quality mass transit services. Accordingly, the plan calls for systematic improvements of the existing infrastructure and network, indicating that the public transport system can be enhanced by increasing capacity on the existing network, expanding the network, and developing transformational projects.

The project proposals are grouped into two distinct categories – stage one (or shorter term) before 2020 and stage two (or medium term) before 2031. The transport plan calls for an expanding of the existing network in a four-stage method:

- Purchasing new trains and buses;
- Upgrading major bus interchanges and providing bus services to transfer passengers to rail services;
- Building new train stations; and
- Providing access to the system including adequate park and ride facilities.

The following initiatives are viewed as being integral to the creation of Perth's long term public transport network:

- Providing priority bus lanes along routes that connect major centers through congested intersections;
- Adding a rail spur service to Perth airport and the Hills area;
- Extending the Armadale line to Byford and Mundijong in the longer term;
- Extending the Northern Suburbs Railway to Yanchep.

The plan estimates that the total annual cost to operate and maintain the public transport system will rise to $1.2 billion, up from about $691.2 million in 2009/2010. Over the next 20 years, the major components of the cost of fleet expansion are highlighted below:

- Additional rail rolling stock (about 156) $624 million
- Additional buses (about 900) $482 million
- New light rail vehicles (about 29) $131 million

The estimated cost to construct the infrastructure recommended in the public transport plan is $2.9 billion, with the major components being:

- Rail system expansion $1.2 billion
- Light rail $1 billion
- Bus rapid transit and bus priority infrastructure $343 million
- Additional rail, bus and light rail depot and maintenance facilities $180 million
- Transit interchanges, including park and ride $135 million

The improvements planned for the Town include the following:-

- Light rail from the City to Curtin University by 2020 and to Oats Street Station by 2031 and ultimately a light rail service will then extend to Canning Bridge from Curtin University
- Bus Rapid Transit along Canning Highway from Victoria Park to Booragoon
- Bus Rapid transit along Manning Road from the freeway to Cannington
- Bus Rapid Transit from Oats Street Station to Manning Road
- Bus Rapid Transit along Great Eastern Highway
- Eventual Rapid Transit along Oats Street from the station to Belmont

It is also noted in the document that there will still be a need for Bus transit and priority along Shepperton Road to Miller Street.

The report does also note that some of the bus rapid transit routes denoted in the document could end up as light rail in the long term subject to further detailed master planning.
The transport plan specifically discusses connecting centres (i.e. Universities) outside of the Perth central area. The Town is of the opinion that light rail is the most effective means to connect the Universities and centres of significance. Light rail also has the capacity to move greater numbers of people per hour than rapid bus transport, and would therefore support the long-term growth of these specialised centres more appropriately than conventional bus services. Accordingly, the Town considers that a light rail route, based on the "knowledge arc" concept developed by Professor Peter Newman of Curtin University, to be of significant benefit to the future growth and sustainability of the Perth metropolitan area.

Legal Compliance:
Nil

Policy Implications:
Nil

Strategic Plan Implications:
The development of the Town's own integrated transport plan is in line with objectives 1 and 3 of the Town of Victoria Park 'Plan for the Future2011 - 2026' as noted below:

1. Improve and provide infrastructure, services and environmental leadership that focuses on the public domain and which is delivered to a standard that meets community expectations and contributes to a Vibrant Lifestyle in Victoria Park.

2. We will effectively manage, maintain and renew the Town's assets.

Now that the planning of public transport across the Metropolitan area has been undertaken the Town can now proceed to develop its own integrated transport plan.

Financial Implications:
Internal Budget:
Nil

Total Asset Management:
The plan has an impact on the delivery of effective management of the Town's assets as there will be additional vehicle movements and differing transport modes constructed along various routes in the Town.

Sustainability Assessment:
With the population of the Town expected to grow to 45, 756 by 2031 (a 42% increase) the Public transport provision enables the movement of people across the metropolitan area in a manner that results in less car dependency which provides a benefit to the community.

External Economic Implications:
One of the significant implications however is whether such an ambitious plan will be implemented by successive State Government in the next 20 years, as the capital expenditure is in the order of $4.1 billion based on 2011 costs. In developing the Integrated Transport and Parking Strategy for the Town, assumptions need to be made about the public transport infrastructure and what the implications might be if the provision of public transport infrastructure is delayed or changed.

Social Issues:
Public transport provides services and access to the widest range of socio economic levels within the Town.

Cultural Issues:
Nil

Environmental Issues:
Mass rapid transit solutions would be the most efficient way to move large numbers of the community on a regular basis and therefore the most effective use of fuel, resources, land and infrastructure.

COMMENT:
The Public Transport Plan for Perth 2031 provides a blueprint which outlines the public transport network improvements planned across the Perth Metropolitan area out to 2031. The document provides a high level roadmap of how and when the improvements will occur. It is one of a number of strategic transport planning documents that will be provided to local government for comment over the coming year or so. This is the first time in recent history that there has been a clear direction set for public transport that will enable the City to manage its anticipated growth. With the clarity now being provided by these key documents it is with some certainty that the Town may now progress the next level of transport planning across its local government boundaries.

Overall the plan reflects the anticipated growth and planning outcomes that the Town is endeavouring to achieve but as with most of these plans there is further refinement required to meet local needs. Therefore the Towns Renew Life and Future Life Program areas have provided a consolidated response on the plan for transmittal to the Department of Transport as follows.

Summary of comments to the Department of Transport
It is important that transport and land use are considered in conjunction with each other and that transport routes are not used to drive land use outcomes that are contrary to Council's vision and community aspirations. As such the creation of nodes of higher intensity development is generally supported around major public transport stops such as railway stations and light rail stops and major bus interchanges. However, it is important that the local character of an area isn't lost because of high intensity development.

A substantial part of the Town of Victoria Park has a very unique character that Council intends on maintaining. This includes both the character of the Albany Highway main street and the nearby residential areas which feature a large number of substantially intact streetscapes of character dwellings constructed generally between the 1920s and 1940s. The Albany Highway main street contains original shop fronts with a fine grain pattern that sets it apart from contemporary main streets and town centre developments such as Claremont or Subi Centro.

Redevelopment along the Albany Highway main street has been deliberately kept at a similar scale to the original buildings with a 2-3 storey height limit for substantial portions of the strip to ensure the scale of new developments reflects the character of the original streetscape, albeit in a modern style. This character sets Victoria Park apart from other main streets such as Joondalup or the

main street created as part of the Mezz development in Mt Hawthorne, which have a different character to Albany Highway.

Similarly the nearby residential areas have retained their character of small traditional cottages and local residents have come to value this character as a desirable place to live as it creates a sense of place and a distinct local identity.

It is therefore considered important that the argument for provision of mass rapid transit solutions and in particular light rail isn't used to enforce higher intensity development beyond that contemplated or desired by Council as presented within the 'Draft Local Planning Strategy' and 'Draft Local Planning Scheme No. 2' which are both with the Department for Planning awaiting permission to advertise. These documents, as well as Council's response to the 'Draft Central Metropolitan Perth Sub-Regional Strategy', set out Council's strategic vision for the Town. This includes potential for high density development in strategic locations while retaining the unique character of Albany Highway and the existing residential areas within the Town.

While there may be some site specific opportunities to increase development potential, a substantial and broader increase in development potential could largely change the desired future character of the Town, set out in the documents referred to above. Council therefore needs to qualify its support for light rail. If the light rail proposal becomes a driver for significant change in development intensity and form then this needs to be clearly defined and be the subject of a consultation process with the community.

The community needs to determine whether the advantage or desire for light rail is compelling enough to define a different desired future character for the Town.

Specific Comments:
Higher density development around transport nodes is supported in principle but needs to be subject to local conditions. High density development is not considered appropriate along entire routes which may not create any benefits for residents as stops may be spaced significant distances apart and as a result residents being located close to public transport routes may be experiencing inconvenience due to noise etc. without the advantages that public transport offers.

Pg. 7. There is no reference to critical public transport 'interchange' upgrades required including the Causeway Interchange and relocation of Oats Street railway station. These are critical components of the public transport system, particularly with the proposal to provide a light rail link to Oats Street station. In addition the designation of 'new' railway stations is unclear in the document and the Belmont Park, Burswood and Oats Street station all need to be identified as they all require replacement/ relocation. (Stirling station has been mentioned as needing an upgrade on p. 23)

The network now needs to consider the impact of the decision to locate the Perth Stadium on the Burswood Peninsula. All transport planning to date has relied on the railway station alone without any proposal for any supplementary public transport service. This needs to be reviewed and there may be a case to even consider a light rail route connecting to the Causeway Interchange to spread the peak demand for events.

Pg.7. The criteria for the rapid transit system infer a critical role for local governments in terms of creating a mechanism for capital cost contributions by the private sector based on increased property value and securing minimum development outcomes. This is also referred to in relation to "Longer term funding options" (Pg. 36). Some 'model' provisions for town planning schemes need to be developed which do not rely on Councils having any financial risk associated with developer contributions.

P.17. Mentions light rail should be provided in a restricted access corridor with full transit priority. This needs to be looked at based on local circumstances. In particular where light rail is proposed to run through activity centres or main streets the needs of those centres will need to be balanced with the need for high speed light rail.

P.21. The railway line to the airport should be considered in conjunction with the proposed grade separated expressway on Orrong Road. This should be considered for implementation prior to 2031 to provide an efficient public transport link between the airport and the city.

P.21. In principle Albany Highway is the best route for road rapid transit but detailed planning is required to ensure it can be achieved particularly given the limited available road reserve widths and still meet the Town's and wider community needs. A high frequency/high capacity bus route would only be acceptable along Shepperton Road and is not appropriate for Albany Highway. An alternative form of high frequency/ high capacity public transport, such as light rail, requires further investigation in terms of operation and land requirements before it can be determined whether Albany Highway or Shepperton Road is the most appropriate route.

There are a number of issues with a light rail route along Albany Highway including the limited road reserve width, with existing encroachments, such as street trees, alfresco dining areas and awnings.

It should be noted that the Department of Transport has progressed investigations of creating dedicated bus lanes along Shepperton Road. This would support the argument for Shepperton Road to become the route for high-frequency/high-capacity public transport. Given that Albany Highway has a 40km/h speed limit along its entire length, Shepperton Road would be the obvious choice for a high speed bus route.

Additional ferry services are supported.

Pg.26. There is reference to bus priority in the short term along Shepperton Road, but no reference to Kent Street and Oats Street/Hillview Terrace. The demand generated by Curtin University could provide a case for provision of bus priority before 2031.

P.39. Appropriate densities and form of development in TODs should be left to the local authority. Minimum densities should be included in structure plans rather than mandated by the State Government due to local variances in circumstances and community acceptance.

Pg.39. The reference to Subi Centro as a good example of a TOD highlights the value of using a redevelopment authority model. The "coexisting" conditions referred to that existed in Subiaco very much mirror those that currently exist in the Burswood Station East area within the Town. This presents a strong case for a redevelopment authority model for Burswood Station East. The document should identify priority TOD areas/projects as part of promoting public transport as a catalyst for significant redevelopment.

P.42. States that light rail is dependent on minimum density outcomes being secured. This needs to be considered within a local context as the character of a local area should not be lost for the sake of light rail e.g. the character of Albany Highway main street and surrounding residential character study.

P.43. The discussion of parking provision in strategic centres and the need to establish a policy framework is brief and should be expanded to at least include a set of principles. This should include parking at railway stations and the spill into surrounding residential.

ADDITIONAL COMMENTS

- Council's preference is that Park and Ride facilities should not be located on the Lathlain side of the Victoria Park train station and the Carlisle side of the Carlisle train station.

- It would be appreciated if information on the proposed relocation of the Oats Street /Carlisle train stations was included in the report.

- Consideration be given to opportunities to improve bike transportation facilities that will enhance the public transport network.

It is recommended that the above comments form the basis for feedback to the Department of Transport on the Public Transport Plan for Perth 2031 by the Town of Victoria Park.

RESOLVED:

Moved: Councillor Ashton **Seconded: Councillor Skinner**

Council lodges a submission on the Public Transport for Perth in 2031 document – July 2011 based on the comments outlined in the report of the Director Renew Life Program dated 23 September 2011.

CARRIED (9-0)

The CEO, Mr Arthur Kyron; Director Business Life, Mr Brian Callander and Acting Director Renew Life Mr John Wong left the meeting at 7.15pm.

Moved: Councillor Bissett **Seconded: Councillor Ashton**

That in accordance with clause 11.1 (c) of the Standing Orders Local Law the Council do now adjourn at 7.18pm.

Present:

Mayor:	Mr T (Trevor) Vaughan
Carlisle Ward:	Cr C (Claire) Anderson
	Cr J (John) Bissett
	Cr K (Keith) Hayes
	Cr R (Rowena) Skinner
Victoria Park Ward:	Cr J (Julie) Armstrong
	Cr D (David) Ashton (Deputy Mayor)
	Cr D V (Vin) Nairn
	Cr A (Adam) Vilaca
Directors:	Ms R (Rochelle) Lavery
	Ms T (Tina) Ackerman
Executive Manager Built Life:	Mr R (Robert) Cruickshank
Secretary:	Ms K (Kathleen) Highfield

CARRIED (9-0)

Moved Councillor Bissett **Seconded Councillor Ashton**

That the meeting reconvened at 7.32pm.

Present:

Mayor:	Mr T (Trevor) Vaughan
Carlisle Ward:	Cr C (Claire) Anderson
	Cr J (John) Bissett
	Cr K (Keith) Hayes
	Cr R (Rowena) Skinner
Victoria Park Ward:	Cr J (Julie) Armstrong
	Cr D (David) Ashton (Deputy Mayor)
	Cr D V (Vin) Nairn
	Cr A (Adam) Vilaca
Chief Executive Officer:	Mr A (Arthur) Kyron
Directors:	Mr B (Brian) Callander
	Ms R (Rochelle) Lavery
	Ms T (Tina) Ackerman
Acting Director:	Mr J (John) Wong
Executive Manager Built Life:	Mr R (Robert) Cruickshank
Secretary:	Ms K (Kathleen) Highfield

CARRIED (9-0)

14 COMMUNITY LIFE PROGRAM REPORTS

14.1 Artz Games in the Park Project

File Ref:	CMS0052	**In Brief** • The Town sought quotations from suitable artists to deliver the 'Artz Games in the Park' project; two were received. • Recommend that Abnormal Design be contracted to deliver 'Artz Games in the Park'.
Appendices:	No	
Date:	27 September 2011	
Reporting Officer:	N.Tomkins	
Responsible Officer:	T. Ackerman	

TABLED ITEMS:
- Quotation/expression of interest provided by Abnormal Design for 'Artz Games in the Park'.
- Design Brief for 'Artz Games in the Park' Urban Art project
- List of Urban Artists
- Extract from Ordinary Council Meeting Tuesday 22 February 2011 - Item 14.1 Installation of Concrete Hardstands to Enhance the Rotation of Portable Skate Ramps.
- Extract from Ordinary Council Meeting Tuesday 25 May 2010 – Item 3.7 Purchase of Portable Skate Ramps.

BACKGROUND:
To support the rotation of portable skate ramps and the introduction of the 'Artz Games in the Park' urban art project, three hardstands have been successfully installed at the following locations:

1. McCallum Park (adjacent to the skate bowl and fun box), Victoria Park
2. Rayment Park, Lathlain
3. John Bissett Reserve, East Victoria Park

The second phase of the project is to have games selected through community consultation designed and painted onto the hardstands.

The final phase of the 'Artz Games in the Park' will culminate with a launch event to be held at each park (April/May 2012) to showcase the new park assets and inspire place activation. The cost of the launch events will be covered by a grant of $5,000 provided by the WA Police Office of Crime Prevention.

This report addresses the second phase of the project and makes a recommendation to progress and fund its completion.

DETAILS:

Concrete hardstands are now installed at McCallum Park, Rayment Park and John Bissett Reserve for the purpose of hosting the portable skate ramps which will be rotated to various locations throughout the Town.

Phase two of the project is to paint the concrete hardstands with community games (such as hopscotch) to ensure the infrastructure can be used by the community all year round. The 'Arts Games in the Park' project was developed to address this need.

Based on the delivery costs of previous similar projects and indicative costs sourced by the Town's Administration, an amount of $12,000 was allocated to fund the 'Arts Games in the Park' project. The project includes both an artistic component and youth engagement component to deliver on all objectives.

The WA Police Office of Crime Prevention Graffiti Taskforce provided a comprehensive list of reputable urban artist and contacts used for similar projects previously undertaken by the Town were included (tabled). These contacts were used to source formal quotations based on the design brief.

Two quotes were received in response to the design brief, both greater than had been allocated for the project when preparing the budget. This additional financial commitment has arisen due to the increased level of engagement with young people to deliver the project.

The submissions were assessed on:

a) Budget

b) Demonstrated previous experience in urban art projects

c) Creativity in proposed approach to the work (design ideas)

d) Demonstrated understanding of the brief

The selection panel comprised three (3) staff from Neighbourhood Enrichment including the Acting Senior Neighbourhood Enrichment Officer; Youth and Events Officer and the Community Safety Officer.

The submission from Abnormal Design (tabled) scored highest by the selection panel as most suitably meeting the 'Artz Games in the Park' design brief.

The submission by Abnormal Design was considered the most advantageous because it demonstrated a strong understanding of the brief and offered evidence of similar, previous projects that had brought uplifting community results.

The artistic team from Abnormal Design demonstrated strong creativity and artistic merit, for example, interpretation of 'hopscotch on a magic carpet' which inspires imagination and demonstrates the project intent which is in keeping with the Town's Vision of a 'Vibrant Lifestyle'. Additionally, Abnormal Design showed a wide range of designs which had met the expressed needs of their clients and proved their experience of engaging and working with young people. They also demonstrated a high level awareness of occupational health and safety requirements in relation to involving young people in the project.

The selection panel considered that Abnormal Design would maintain the integrity of the project and deliver a high quality project outcome focused on community feedback and needs. It was deemed that second company from which a quote was received did not demonstrate an adequate level of understanding, creativity and experience in these core areas for the project.

The quotation received from Abnormal Design includes delivery of three (3) public workshops, submission of concept designs for each hardstand based on feedback from community consultations and workshops, preparation of the concrete for the paint stage and the final paint and top coats at all three hardstand locations. Total cost of project -$29,400.

The Town has a sufficient budget available to fully fund the engagement of Abnormal Design. It is proposed to fund the amount through:

- GL 636005.630 - Youth Action Plans: $18,000
- GL 612500.630 - Community Safety Strategic Initiatives: $11,400

There will be $5,000 remaining funds in the Family and Youth budget to cover relevant projects for the benefit of young people for the remainder of the current financial year. Additionally, there will be $6,600 remaining in the Community Safety Strategic Initiatives account to enable the Town to deliver other community safety projects planned for the 2011/2012 financial year.

It is deemed that using funds from each general ledger is in keeping with the intended expenditure for which the funds were allocated. Further details on this are given below.

Youth Plan Actions – GL 636005.630

The general ledger was allocated with a total of $18,000 to be spent on projects that fulfil actions listed within the Town's *Youth Plan 2005*. The 'Artz Games in the Park' project aligns with the following actions within the Plan:

- *To develop low cost and free youth culture and arts projects in the Town such as graffiti art, urban walls and murals, youth artwork in public places.*

- *To provide and support low cost and free activities for youth in the Town*

- *To investigate other options for skate facilities across the Town linked with other youth venues and facilities and/or public open spaces such as mobile facilities, small scale facilities, multipurpose youth venue, skateable areas.*

- *To ensure youth have access to a range of high quality public facilities such as pools, parks, recreation centres, skate facilities, public open spaces and ovals.*

- *To identify opportunities for 'youth led' projects in the Town of Victoria Park and seek funding for those.*

Community Safety Strategic Initiatives - GL 612500.630

The general ledger was allocated a total of $18,000 to be spent on projects that fulfil actions listed within the Town's *Community Safety and Crime Prevention Plan 2008-2012*. The 'Artz Games in the Park' project supports the following actions listed within the Plan to:

1.0.2 *'Develop opportunities aligned with young peoples' activities which educate young people on crime, safety and drug issues.'*

1.2 *'Engage young people in meaningful activity to discourage the opportunity to desire to commit crime (cross reference to Youth Plan)'.*

The 'Artz Games in the Park' project fulfils a range of Plan actions as listed above. The opportunity to participate in urban art projects and skate is regarded as a proactive, diversionary avenue to work with young people and can counter incidents of graffiti and other antisocial behaviours.

The timing of 'Artz Games in the Park' has stimulated further interest arising from urban art workshops held by the Public Transport Authority (PTA) in the July school holidays at the Aqualife Centre which were well supported by young people from the Town. Feedback indicated a high level of interest in similar activities being organised locally. Furthermore, youth workers at Kent Street High School have approached the Town in relation to setting up an urban art project targeted at disengaged students from the school.

LEGAL COMPLIANCE:
Nil

POLICY IMPLICATIONS:
Nil

STRATEGIC PLAN IMPLICATIONS:

Plan for the Future 2011-2026

Objectives of the Community Life Program that this project meets:

1. *We will connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.*

2. *We will create a vibrant Town that is a place of social interaction, creativity and vitality.*

3. *We will promote access and equity in service provision for all members of the community.*

FINANCIAL IMPLICATIONS:
Internal Budget:
Sufficient funds are available in the 2011-2012 Annual Budget to accommodate the contracting of Abnormal Design to deliver the 'Artz Games in the Park' project through:

- General Ledger 636005.630 - Youth Action Plans: $18,000
- General Ledger 612500.630 - Community Safety Strategic Initiatives: $11,400

Additionally, grant funds from a successful grant application to the WA Police Office of Crime Prevention for $5,000 will be used to cover costs for the three launch events to be held at each hardstand location. These funds must be expended by May 2012.

Sufficient funds remain in 'Families and Youth' and 'Community Safety' to fund additional projects in the current financial year.

TOTAL ASSET MANAGEMENT:
The artists from Abnormal Design predict the artwork will last for 5 years under the proposed conditions for passive and active recreation including the rotation of portable skate ramps and the playing of games such as hopscotch and 4-square.

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
Nil

SOCIAL ISSUES:
The concrete hardstands will be able to accommodate the temporary location of the skate ramps and be utilised as a mini playground. This will provide residents and families with free, fun and affordable activities to enjoy and will activate the areas where the hardstands are painted.

CULTURAL ISSUES:
Nil

ENVIRONMENTAL ISSUES:
Nil

COMMENT:
Abnormal Design is the preferred artist of the selection panel to lead the 'Artz Games in the Park' project as they demonstrated a thorough understanding of the design brief and the intentions of the project. Administration is confident of their knowledge and experience to deliver the project to maximise community involvement and deliver quality artworks.

The increased financial contribution to deliver the project has come about due to the expanded opportunity to engage with young people over several sessions to design and paint the artwork on-site. This is believed to build community capacity and ownership of the infrastructure, beyond the initial financial estimates sought by Administration which were based on a lesser amount of youth involvement.

It is deemed Abnormal Design have broad experience working with young people, conveyed the creative aspects requested for the game designs and have a sound awareness of occupational, safety and health considerations for this type of project.

The 'Artz Games in the Park' urban art project will facilitate the active participation of key stakeholders identified as young people and families to be positively engaged and encouraged by the Town, as well as urban artists to contribute to place development.

The third and final phase of the project will celebrate community effort, the new hardstand infrastructure and artwork at launch events to be held at each of the three hardstand locations during April and May 2012. Funding for each of the 'Artz Games in the Park' launch events has been acquired through a successful grant application of $5,000 from the WA Police Office of Crime Prevention.

Importantly, the Town can fully fund the engagement of Abnormal Design to deliver 'Artz Games in the Park' within the current budget whilst ensuring sufficient funds remain to deliver other youth, family and community safety projects to be undertaken in the current financial year.

RESOLVED:

Moved: Councillor Skinner **Seconded: Councillor Bissett**

1. **That the quotation received from Abnormal Design to deliver the 'Artz Games in the Park' at a cost of $29,400 be accepted.**

2. **The cost of the project mentioned in 1 above be charged to:**

   - **GL 636005.630 - Youth Action Plans: $18,000**

   - **GL 612500.630 - Community Safety Strategic Initiatives: $11,400**

3. **Director of Community Life Program be given delegated authority to sign a contract with Abnormal Design as detailed in 1 above.**

CARRIED (9-0)

15 BUSINESS LIFE PROGRAM REPORTS

15.1 Town Centre Redevelopment – Draft Probity Plan

File Ref:	PLA0049	**In Brief** • The Town is progressing the Town Centre Redevelopment which will require: • various consultants' to be aware of their obligations from a probity perspective; and • careful management of various land transactions. • Given the risks associated with the above it is important that they are undertaken in an open and accountable manner. • To ensure that these risks are managed appropriately a Probity Plan has been developed. • Recommend that the probity Plan is received and that the Director Business Life be responsible for the management and implementation of the Plan throughout the project.
	Yes	
Date:	14 September 2011	
Reporting Officer:	Brian Callander	
Responsible Officer:	Brian Callander	

TABLED ITEMS:
- Copy of Confidentiality Agreement and Conflict Declaration
- Probity Plan
- Project Definition Plan
- Policy Procedure FIN4 Purchase of Goods and Services

BACKGROUND:
- In 2007 the Town entered into a MoU with Hawaiian to determine the roles of both parties in the creation of a Structure Plan for the Town Centre. A copy of the MoU was distributed to the Elected Members under separate cover on Friday 16 September 2011.
- The Plan for the Future 2011-2026 has a project in the Business Life Program area for the completion of the Town Centre Redevelopment to Construction Stage.
- This Structure Planning process stalled for a short period of time but was rejuvenated with a new focus on the overall site by both the Town and Hawaiian, which resulted in the consultant Kooperman Projects developing a Project Definition Plan. The Plan outlined the progress made and including made and high level financial concepts based on a density yield table developed from the block plan and staged development produced for the project.
- The outcomes of this work have been presented to Council at two separate workshops. One in June 2010 where TPG presented a block plan outlining the development of the land owned by the Town and Hawaiian. The second in November 2010 where Consultants Reuben Kooperman and John Syme presented the first draft of the Project Definition Plan and various financial models based on a staged approach to the development.

- On 30 November 2010 Council resolved to receive the Project Definition Plan (PDD) for the Town Centre and approved further expenditure of up to $200,000 to employ consultants to further inform the PDD.
- In April 2011 a request for quotation for the Urban Design and Landscape Architecture work required to further inform the project Definition Plan was distributed to five consultancies. The panel reviewed the submissions received and TPG were awarded the contract.
- TPG presented the progress on the work at the Elected Members' Workshop held on 16 August 2011
- To manage this project effectively it is considered necessary to develop a Probity Plan to ensure that all of the transactions, meetings, correspondence, confidentiality matters and interest conflicts are undertaken in an open and accountable manner and that they are recorded.

DETAILS:
The extent of probity services for this type of project are hard to quantify. The processes are complex and the probity issues vary throughout the project. As such it was considered that it was more relevant to contract the probity consultant using an hourly rate and have them develop a Probity Plan as part of ongoing work. Braxford Consultancy are considered to be the leader in this field in WA and are on the register of the State Governments "Common User Contract [No 23706]" which negates the requirement to undertake a tender or quotation process as detailed in Council's Policy on Purchasing of Goods and Services.

Braxford have now developed the Probity Plan, which defines the scope of the plan and the role of the probity Advisor as follows:

"1.1 Scope of Probity Plan
This plan places emphasis on the initial stages of the project and sets up some enduring principles to be applied for the ongoing Redevelopment. This plan will eventually address all stages of the project and will be amended to cater for any additional probity matters that arise of an overall nature and as each of the project precincts are addressed. To quote the Infrastructure Australia National Public Private Partnership Guidelines: "Good process and probity are consistent with achieving value for money in commercial engagements. Probity management is an integral part of the process, not a separate obligation."

1.2 Role of the Probity Adviser
Probity is a collective responsibility with everyone involved in the Redevelopment having an explicit obligation and duty, to the project and one another, to uphold the highest standards of integrity, honesty, fairness, ethical dealing and behaviour throughout the process. That obligation and duty extends to the MOU partners and all the officers, staff, consultants and contractors involved in the various working groups and aspects of the overall project.

That said the role of the Probity Adviser is to observe, review, and provide guidance on and confirmation that the agreed process and procedures have been followed. To do this effectively, the Probity Adviser will report directly to the Project Director with free access to the Project Control Group (PCG), the Strategic Planning Group (SPG) and the Town of Victoria Park Council as required.

Specific tasks of the Probity Adviser include, but are not limited to:
Reviewing and advising on the Probity Plan and guiding procedural fairness;
Reviewing all key procurement documentation and advising whether the procedures adopted and evaluation process are fair and equitable;

Providing independent access or perspective to all interested proponents on specific probity matters or concerns that may arise throughout the project;
Providing advice and guidance to the Project Director and MOU parties (i.e. Oahu Management Pty Ltd/Hawaiian Pty Ltd and the Town of Victoria Park) to address any unforeseen issues as they arise;
Providing advice on probity improvements related to the procurement or negotiation processes;
Making specific observations on certain matters on behalf of proponents; monitoring and reporting to the Project Director, MOU parties and Council that procurement processes are properly followed and that the outcomes are capable of being independently validated;
Attend meetings or interviews where deemed necessary to maintain probity standards or as requested by the Project Director, MOU parties and Council; and
Continuously monitor project records to confirm that probity has been followed and can be readily demonstrated at a later stage.

To ensure that the Probity Adviser remains an independent observer of the process, the Probity Adviser will not be engaged by any of the proponents or be involved in any part of the future evaluation of submissions.

The Probity Adviser should be consulted for advice and assistance in establishing the policies and procedures needed to help minimise probity risks. This task would involve:

- *Review and advice on proposed policies and practices for general application*
- *Recommending implementation of procedures, where necessary, in respect of:*
  - *Security of information and documentation*
  - *Confidentiality and communications*
  - *Conflicts of interest*
  - *Transparency and accountability*
  - *Ensuring value for money*

Other probity specialist activities designed to address the existing and foreseeable probity risks, include:

- *Providing independent observance and records where sensitive meetings may require public recall at some later stage;*
- *Examination of records of financial contributions to Councillor election campaigns etc;*
- *Company and Directorship searches of stakeholders and possibly related parties (including private land owners, the Oahu Management Pty Ltd/Hawaiian Pty Ltd and some Councillors and senior managers);*
- *Review of Declarations of Interests submitted by Councillors and senior managers of Council and other relevant project participants and stakeholders;*
- *Review of Declarations re Conflicts of Interest prepared specifically in relation to this project;*
- *Interviews as needed with those people (if any) who may have a declared or undeclared but suspected conflict of interest; and*
- *Reporting on the results of examinations, where appropriate."*

The Probity Plan is not to be seen as a binding document with legal status but more as a guide to ensure that the processes, systems and interests are managed to ensure accountable and transparency throughout the project. It is a fluid document that will be modified to address issues not necessarily identified at this early stage.

LEGAL COMPLIANCE:
Nil

POLICY IMPLICATIONS:

Extract from Policy Procedure – FIN4 – Purchase of Goods and Services with relevant parts bolded

"Policy Procedure

FIN4 Purchase of Goods and Services
When public tenders or quotations are NOT required
In the following instances public tenders or quotation procedures are not required (regardless of the value of expenditure):

An emergency situation as defined by the Local Government Act 1995;
The purchase is under a contract of WALGA (Preferred Supplier Arrangements), ***Department of Treasury and Finance (permitted Common Use Arrangements),*** *Regional Council, or another Local Government;*
The purchase is under auction which has been authorised by Council;
The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
Any of the other exclusions applicable under Regulation 11 of the Functions and General Regulations.

PLAN FOR THE FUTURE IMPLICATIONS:
The Town Centre Redevelopment is included in the Plan for the Future 2011 – 2026 as one of the projects in the Business Life Program.

FINANCIAL IMPLICATIONS:
Internal Budget:
The cost of the Probity Consultant is funded in the 2011/12 Budget in the Non Recurrent Projects where $190,000 has been set aside to fund various consultants for the Town Centre project.

TOTAL ASSET MANAGEMENT:
Nil

SUSTAINABILITY ASSESSMENT:
Nil

COMMENT:
The development of the Probity Plan is timely given the current work on the project involves a range of consultants and that it defines the manner in which we intend to progress the Town Centre Project from a probity perspective. The recommendation is drafted in such a way to ensure that the Probity Plan cannot be construed as having legal obligations on the parties and does not bind the parties to any commitment as the project develops. Formal commitments by the parties will be dealt with using other forms of legal agreements.

RESOLVED:

Moved: Councillor Skinner **Seconded: Councillor Bissett**

1. **The draft Probity Plan developed by Braxford Consultancy for the Town Centre Redevelopment dated September 2011 be received and that it be used to ensure that the processes associated with the redevelopment of the Town Centre are open and accountable.**

2. **By receiving the document referred to in 1. above the Council acknowledges that it is not committed to any outcome in relation to any part of the Project, including in particular any sale of land owned by the Town as any such commitment would require compliance with various processes under the *Local Government Act 1995.***

3. **The Director Business Life be responsible for the management and implementation of the Probity Plan.**

CARRIED (9-0)

15.2 Civica National User Group Conference – 16 to 19 October, 2011, Hunter Valley

File Ref:	ADM0049	**In Brief**
Appendices:	No	
Date:	21 September 2011	• The Information Systems Manager has approval to attend the Civica National User Group Conference in the Hunter Valley NSW, between the 16 and 19 of October, 2011. • The conference is of a technical nature and would not be of benefit to Elected Members to attend. • It is recommended that the report be received.
Reporting Officer:	G. Pattrick	
Responsible Officer:	B. Callander	

TABLED ITEMS:
Civica National User Conference 2011 - Program and Registration brochure.

BACKGROUND:
The Town of Victoria Park installed the Civica product Authority, as the Town's core financial and property system. The application has been developed specifically for Local Government and it retains its currency and makes enhancements based on advice from the Users all over Australia and this forum is the opportunity to ensure the future needs of the Town are covered in the plans for product development.

DETAILS:
This year the program features sessions on the latest product developments across the Authority Enterprise Software Suite for Local Government with particular focus on the latest release available in Authority Version 6.5, which the Town plans to move to in December 2011. Civica programmers will discuss long term planning, reporting and strategic asset management. Presentations and workshops will include product demonstrations and tips for enhancing the Town's applications.

Peter Baines, one of Australia's most experienced disaster management specialists will draw on his expertise in managing responses to disasters, providing insights into the management of events such as the Bali bombings, the Waterfall train disaster and the Boxing Day tsunami in Thailand. The session will be followed by a panel discussion, where Authorities will discuss their experiences in dealing with disasters – the recovery the impact on the community, staff and the future.

There are specialised Executive Management Systems sessions which the Town has particular interest in as a user of the Authority Business Intelligence System.

A presentation from Pacnet and Propensity on how the cloud can save the Town from a rainy day, the session includes Business continuity, environmental sustainability and disaster recovery enabled/supported by a journey into the cloud. Key strategies on how to keep communications live and retain access to business critical applications and data in the wake of disaster.

LEGAL COMPLIANCE:
Nil

POLICY IMPLICATIONS**:**
Council Policy ADM 5 Conference Expenses - Officers and ADM 6 Conference Attendance - Interstate. The Information and Systems Manager has been endorsed by the Executive Management Group in accordance with Council policy ADM 5.

STRATEGIC PLAN IMPLICATIONS:
Nil

FINANCIAL IMPLICATIONS:
INTERNAL BUDGET:
The total estimated cost to attend the conference is as follows;

Return Airfare to Sydney	$ 713.00
Transfers to the Hunter Valley	$ 100.00
Accommodation (3 nights)	$ 585.00
Registration & Events	$ 855.00
Sundry Expenses (as per policy)	$ 225.00
Estimated Total	$2,478.00

TOTAL ASSET MANAGEMENT:
Nil

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
Nil

SOCIAL ISSUES:
Nil

CULTURAL ISSUES:
Nil

ENVIRONMENTAL ISSUES:
The carbon dioxide emissions for all flights will be abated via the Carbon Neutral Program (subject to Council approval).

COMMENT:
The Civica application is the Town's core software it is essential that the product continues to meet the needs of the Town now and into the future. The benefits of the conference include;

- Networking with peers
- Discussing the latest trends
- Building professional bridges for the future
- Gain information on emerging issues
- Put professional challenges in perspective
- Take away the best of ideas and innovations
- Gain continuing education specific to corporate systems and risk management
- Learn about the latest technological advances
- Information Systems Manager has been approved to attend the Civica National User Group Conference, to be held in the Hunter Valley from the 16 October to the 19 October 2011 at total estimated cost of $2,478 funded from the GL number 591000.515.2209.
- The conference is of a technical nature requiring a background in the use of the Civica product Authority. The conference would not be of benefit to Elected Members to attend.

RESOLVED:

Moved: Councillor Armstrong **Seconded: Councillor Hayes**

Recommended that the report dealing with the Civica National User Group Conference from 16 to 19 October 2011 be received.

CARRIED (9-0)

15.3 Litter Control

File Ref:	ADM0058	**In Brief** • At the Ordinary Council meeting of 9th August 2011 a Notice of Motion was submitted requesting a report dealing with the control of litter. • The *Litter Act 1979* (the Act) authorises all local government employees to enforce offences under the act. • The Keep Australia Beautiful Council of Western Australia has a wide range of information, programs and support for Local Governments wishing to address issues of littering.
Appendices:	No	
Date:	23 September 2011	
Reporting Officer:	A. Lantzke	
Responsible Officer:	B. Callander	

TABLED ITEMS:
- National Litter Index 2010
- Litter Prevention Manual

BACKGROUND:
At its meeting held on 9 September 2011 the Council adopted a Notice of Motion dealing with Littering Offences as follows:

"*The Chief Executive Officer be requested to submit a report at the Ordinary Council Meeting to be held on or before 20 September 2011 dealing with the control of litter taking cognisance of Section 26(1) (c) of the Litter Act 1979 which authorises an employee of a local government to assist in the control of litter with the view to increasing the number of staff who can enforce the Litter Act."*

Historically the enforcement of littering offences is problematic as offences are rarely witnessed firsthand, with the exception of cigarette butts or incidental littering, and as a result the identification of an offender can be hard to determine or prove.

The Town's Administration recognises a number of categories of litter including:
- Cigarette Butts and incidental small items,
- Dumped household waste, and
- Dumped commercial or construction and industrial waste.

The Keep Australia Beautiful Council (KABC) of Australia forms a network of associations which specialise in litter prevention initiatives. KABC in Western Australia falls under the Department of Environment. Although they have their own authorised officers for enforcement they also provide litter prevention assistance through grants, programs, partnerships, provision of litter collection equipment for participants and educational materials.

The KABC website contains links to significant information on grants, case studies and litter prevention schemes and programs. For example:
- The Litter Reporter program allows any member of the public to register as a litter reporter. When they witness a littering offence, usually involving a vehicle, they can then report the offence on line or in writing to the KABC and an Infringement will be issued to the vehicles owner.

- The Bin Your Butt program runs one month a year and focuses on businesses educating employees and reducing cigarette related littering.
- The Clean Marine program targets recreational fishers for awareness and education. The Swan River Trust is a partner of this program.
- The Sustainable Cities program is an annual award with a number of categories aimed at initiatives by Local Governments for litter prevention and other sustainability initiatives. The City of Subiaco won the 2011 awards with initiatives relating to Bin Your Butt, water waste reduction and sustainable building design and construction.
- Litter reduction grants are available. The next round of funding is due to be released in February 2012.

The National Litter Index is a national document produced annually which identifies trends in litter. The document is tabled along with this report. Some of the statistics relevant to this report are as follows:

- *"The most littered sites surveyed within Western Australia were generally industrial sites, highways, retail sites and beaches"*
- *"Cigarette butts were the most frequently identified item across all sites in Western Australia"*
- *"Plastic litter objects contributed the largest amount of volume to the litter stream in Western Australia"*
- *"Plastic litter items contribute large volumes to the litter stream but are associated with only moderate numbers of litter items"*
- *"Cigarette butts contribute large numbers, but such items contribute only a negligible estimated volume to the overall litter stream"*

In addition to the statistics in this report the KABC also provides assistance for Councils wishing to conduct their own litter audits. They are also happy to give guidance on developing initiatives and can provide resources in the form of signage, stickers, litter bags etcetera.

The KABC provides a *Prevention of Illegal Dumping* Handbook which details how the authority responsible for land, including local governments can design a litter prevention program. A copy is tabled with this report. Although this handbook focuses on illegal dumping the principles also apply for other littering types. It recognises four motivators for illegal dumping/littering:

- *"Unwillingness to pay – as previously local governments have supplied either free or subsidised collection and disposal or as a result of inability to pay for some low-income groups*
- *Uncaring attitude – as a result of a lack of understanding of the problem illegal dumping causes*
- *Convenience – many people find landfills and waste transfer stations too far away to access or do not know of their locations or alternative services for waste collection*
- *Organised networks – as in the case of commercial enterprises related to illegal landfill and C&D waste."*

Research also indicates that providing a clean environment assists with reducing the incidence of littering.

STATISTICS
In the 2010-2011 financial year Officers have issued:

Infringements
Littering (not cigarette butt) 4
Littering Cigarette Butt 5

Warnings
Throwing or Placing anything on a verge without permission 2

Please note that many verbal warnings are given in relation to dumping offences associated with bulk or green waste collections. Additionally it is not possible to issue a notice unless the minimum evidence standards are met.

DETAILS:
Depending on the offence the enforcing officer requires different levels of skills and knowledge.

- Offences involving a vehicle only require a witness who can provide the date, time, make model colour and registration of the vehicle, the location of the offence and a description of the materials littered. With this information, if the Officer is a witness an Infringement can be issued directly. Alternately the Officer can act on a statement provided by a witness.
- Offences involving other identifying information.
    - A witness may be able to identify a person from a specific address. In this case the Officer is required to approach the person to get their name and address. Although all Local Government Officers are authorised to do this not all are equipped with the experience and skills to handle the potential conflict which may come from accusations of littering.
    - The dumped materials may have a letter or other written information which can identify where the litter has come from. In these cases further investigation is required to determine the identity of the offender. Although a letter may have a name or address on it, this is not enough evidence to determine that any individual has committed an offence and the investigating Officer needs to gather enough information to ensure that the offence can be proven in court before any enforcement action is taken.

  In these cases knowledge of evidentiary requirements and prosecution procedures is required.

- In some instances a person may be witnessed littering but no other evidence exists. In these cases the Officer is required to approach the person and has the authority under the Act to require them to provide their name and address before deciding if an Infringement is warranted. In this case the Officer again needs to have skills to deal with the potential conflict which may ensue.

With this in mind there is a limited number of Town staff who may be able to be added to the list of those expected to enforce littering offences. These include Health Officers, Compliance Officers, Parks Officers and Building Surveyors. These positions already have an element of enforcement in their roles however they would require additional training and guidance on how to handle a littering offence. Other Officers such as Leisurelife staff, Customer Service Officers, Human Resources staff etcetera, due to the physical location of their roles and their specific job experiences are less suited to this type of activity.

If these additional positions are expected to also enforce litter related offences it is expected that they will have limited impact on overall littering in the Town because:

- They will be focusing on their main duties and will not be patrolling specifically for this type of offence.
- They will be focusing on their main duties and would not be as capable as Rangers at identifying offences.
- Due to the infrequency that they would deal with littering their skills in this area would be difficult to maintain.

As *the Act* already authorises all Local Government employees to enforce littering offences no action is required in this regard however due to the skills and knowledge required to effectively enforce the range of littering offence types it is not recommended that all staff be required to take on an enforcement role. Instead to complement the development of a litter reduction program the Administration will:

- Advertise in the staff newsletter the existence of the KABC litter reporter scheme which employees can join and then use anywhere in WA and in the Town.
- Advise staff by email and new staff during induction, that they are authorised under the litter act to enforce littering offences and that if they witness a littering offence they can record the required evidence and report it to a Town Ranger for follow up.
- Provided training to selected Officers in the Town who due to their positions are more suited to also look for littering offences to assist them to deal with any which they identify.

Littering of all types including dumping and cigarette butts is an ongoing issue in the Town which may be able to be reduced through the adoption of a litter reduction program of some type targeted at the specific aspects of littering in the Town.

Information provided by the KABC indicates that a successful litter reduction program is multi-faceted and not focused purely on enforcement activities although this does form a specific part of the successful strategy.

As such the recommendation is that the Town's Community Environmental Advisory Committee reviews the information available from KABC and provides direction to the Council on the development of a litter prevention strategy with the assistance of relevant Business Unit within the Town. To assist in this development the Town's Waste Services Unit should conduct an audit of litter in the Town on an ongoing basis, before during and after any scheme which is adopted.

LEGAL COMPLIANCE:
Section 26(1) (c) of the *Litter Act 1979* authorises an employee of a local government to assist in the control of litter offences. As such there is no requirement to provide any additional authorisation in order for any staff member to enforce a witnessed littering offence. Training would be required in relation to collection of evidence and issuing a Warning or Infringement Notice and dealing with situations involving high likelihood of conflict.

POLICY IMPLICATIONS:
Nil

STRATEGIC PLAN IMPLICATIONS:
This recommendation is consistent with the Town's Plan for the Future.

FINANCIAL IMPLICATIONS:
Internal Budget:
Nil

TOTAL ASSET MANAGEMENT:
Nil

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
Nil

SOCIAL ISSUES:
The causes of littering behaviour are related to aspects of our society.

CULTURAL ISSUES:
Nil

ENVIRONMENTAL ISSUES:
The issue of littered and dumped materials has significant impacts on the local environment.

COMMENT:
The development of a Litter Reduction Strategy for the Town will provide a solid base for reducing the issue of littered materials. The auditing of littered items will also provide a suitable measure of the effectiveness of any program adopted. To complement these measures increased enforcement may be achieved through the improved training of other compliance related staff.

RESOLVED:

Moved: Councillor Vilaca **Seconded: Councillor Anderson**

1. The Town:

1.1 Provides training and support for Staff, in positions which make them suitable for litter enforcement, to enable them to target littering offences.

1.2 Conducts ongoing audits of littered material.

2. The Town's Community Environmental Advisory Committee, with the assistance of the Keep Australia Beautiful Council where available, develop a litter prevention scheme including performance measures to record and report the effectiveness of any scheme.

CARRIED (9-0)

16 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

1. *That the Town of Victoria Park investigates establishing a dual use bike path around the perimeter of Raphael Park.*

2. *Funding towards the dual use pathway construction be allocated from the budget savings resulting from an election not being required in 2011.*

Reason

Residents in the Raphael park precinct have raised their desire for a dual use pathway to be constructed around the Park.

Raphael Park is the premier recreational reserve in the P5 precinct. P5 indicates the park land will be 'used, maintained and enhanced as parklands.' Providing a dual use pathway will ensure greater recreational use of the park and enhance the area's amenity. it is a small community park with playground equipment and bbq facilities. Cycling and walking are recreational activities which may be enjoyed by local residents at the park in a manner which will not compromise the existing Moreton Bay Figs. Technical investigation needs to be undertaken to ensure that the proposed dual use pathway is situated and constructed in a manner which does not interfere with existing recreational activities on the park (cricket, football, etc) and the path is not uprooted by the vigorous root systems of the Moreton Bay Figs. The plan also refers to 'safe, accessible movement for cyclists and pedestrians,' as a priority.

While it is acknowledged there is a nearby cyclepath at McCallum Park, the McCallum Park cycleway is frequented by commuter cyclists and cyclists who are often travelling at high speeds, presenting a danger to other path users and which is intimidating for many people with young children wanting a quieter cycle path for a more leisurely ride. Travelling to McCallum Park to use the dual use pathway there also requires crossing an extremely busy main road (Canning Highway) which may be difficult for parents with children to navigate in a safe manner.

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

A dual use path would encourage increased physical activity and improved health outcomes in the area as well as promote community life objectives by encouraging residents who are walking or cycling at slower speeds to meet and greet each other while using this infrastructure.

Officers comment:

16.1 Motion on Which Previous Notice Has Been Given: Investigate establishing a dual use path on the perimeter of Raphael Park

File Ref:	Tech???	**In Brief** • Officer comment relating to Notice of Motion from Cr Armstrong regarding the investigation into the provision of a dual use path on the perimeter of Raphael Park
Appendices:	No	
Date:	5 Oct 2011	
Reporting Officer:	J Wong	
Responsible Officer:	J Wong	

TABLED ITEMS:
Nil

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

Raphael Park has a good size open area with a club room and is located near Canning Highway and the Swan River foreshore reserve. It is surrounded by mainly residential properties and several schools.

There is a concept landscape plan for Raphael Park incorporated in the Raphael Precinct Structure Plan which was prepared by the Town's consultant, Taylor Burrell Town Planning and Design which depicts a pathway along the sides of the park. The transport and traffic components of the Town's precinct structure plans are due for review to ensure alignment with current best practices and the Town's Integrated Movement Network Strategy which is currently being developed.

DETAILS:
Cr Armstrong highlighted that residents in the Raphael Park precinct have raised their desire for a dual use pathway to be constructed around the Park.

Raphael Park is the premier recreational reserve in the P5 precinct. Cr Armstrong added that P5 indicates the park land will be 'used, maintained and enhanced as parklands.' Providing a dual use pathway will ensure greater recreational use of the park and enhance the area's amenity. It is a small community park with playground equipment and barbeque facilities. Cycling and walking are recreational activities which may be enjoyed by local residents at the park in a manner which will not compromise the existing Moreton Bay Figs. Technical investigation needs to be undertaken to ensure that the proposed dual use pathway is situated and constructed in a manner which does not interfere with existing recreational activities on the park (cricket, football, etc) and the path is not uprooted by the vigorous root systems of the Moreton Bay Figs. Cr Armstrong indicated that the plan also refers to 'safe, accessible movement for cyclists and pedestrians,' as a priority.

Cr Armstrong noted that while it is acknowledged there is a nearby cyclepath at McCallum Park, the McCallum Park cycleway is frequented by commuter cyclists and cyclists who are often travelling at high speeds, presenting a danger to other path users and which is intimidating for many people with young children wanting a quieter cycle path for a more leisurely ride. Travelling to McCallum Park to use the dual use pathway there also requires crossing an extremely busy main road (Canning Highway) which may be difficult for parents with children to navigate in a safe manner.

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

A dual use path would encourage increased physical activity and improved health outcomes in the area as well as promote community life objectives by encouraging residents who are walking or cycling at slower speeds to meet and greet each other while using this infrastructure.

LEGAL COMPLIANCE:
Nil

Policy Implications:
Nil

STRATEGIC PLAN IMPLICATIONS:
This pathway is depicted in the Raphael Precinct Structure Plan dated September 2002.

FINANCIAL IMPLICATIONS:
Internal Budget:
The Project is estimated to cost over $170,000. There is no funding allocated for this project in the current Financial Year's Capital Works budget. As there is no funding available in the current fiscal year, the Council will need to reallocate funds to undertake the project should the project be deemed a priority as part of normal shortlisting process used to identify Multi Modal Transport Capital Works projects.

Total Asset Management:
New pathways will be added to the Town's asset register and will be maintained and replaced in future using the Town's operating budget.

SUSTAINABILITY ASSESSMENT:
External Economic Implications:
The Town will assess the eligibility of this project for external funding through the 2012/13 funding programs including Perth Bike Network program.

Social Issues:
May result in greater patronage of the park for recreational uses.

Cultural Issues:
Nil

Environmental Issues:
Nil

COMMENT:
The installation of a dual use paths is consistent with the concept plan provided in the Town's Raphael Precinct Structure Plan dated September 2002 and the general public health promotional objectives of the Town's Plan for Future and Bike Plan (2009).

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

The project construction cost is estimated to cost over $170,000. The entire 2011/2012 Multi Modal Transport reserve has been allocated to the various multi modal infrastructure components of the 2011/2012 Capital Works projects including the Perth Bike Network funded projects.

It is therefore the Administration's view that this project, though a worthwhile one, be reviewed for future inclusion in the capital works budget based on the same criteria used to assess the priority of other strategic projects listed on the Town's Plan for Future.

RESPONSIBLE OFFICER RECOMMENDATION:

Moved: Councillor Armstrong **Seconded: Councillor Skinner**

1. **That the installation of a dual use path around Raphael Park be reviewed for future inclusion in the capital works budget based on the same criteria used to determine the priority of other strategic projects listed on the Town's Plan for Future.**

2. **That a report be presented to Council when this project has been developed, costed and scheduled.**

AMENDMENT:

Moved: Councillor Armstrong **Seconded: Councillor Skinner**

That a new recommendation 3 be added to read, "Administration prepares a report on or before the 13 December 2011 including design drawings, construction details, costings, feasibility of installing a duel use path around Raphael Park.".

That a new recommendation 4 be added to read, "Funding of the project be drawn from either the mid-year budget review or placed on the draft 2012/2013 Budget".

Reason

Not enough money from the budget savings to cover this year.

CARRIED (9-0)

THE ORIGINAL MOTION AS AMENDED BEING:

Moved: Councillor Armstrong **Seconded: Councillor Skinner**

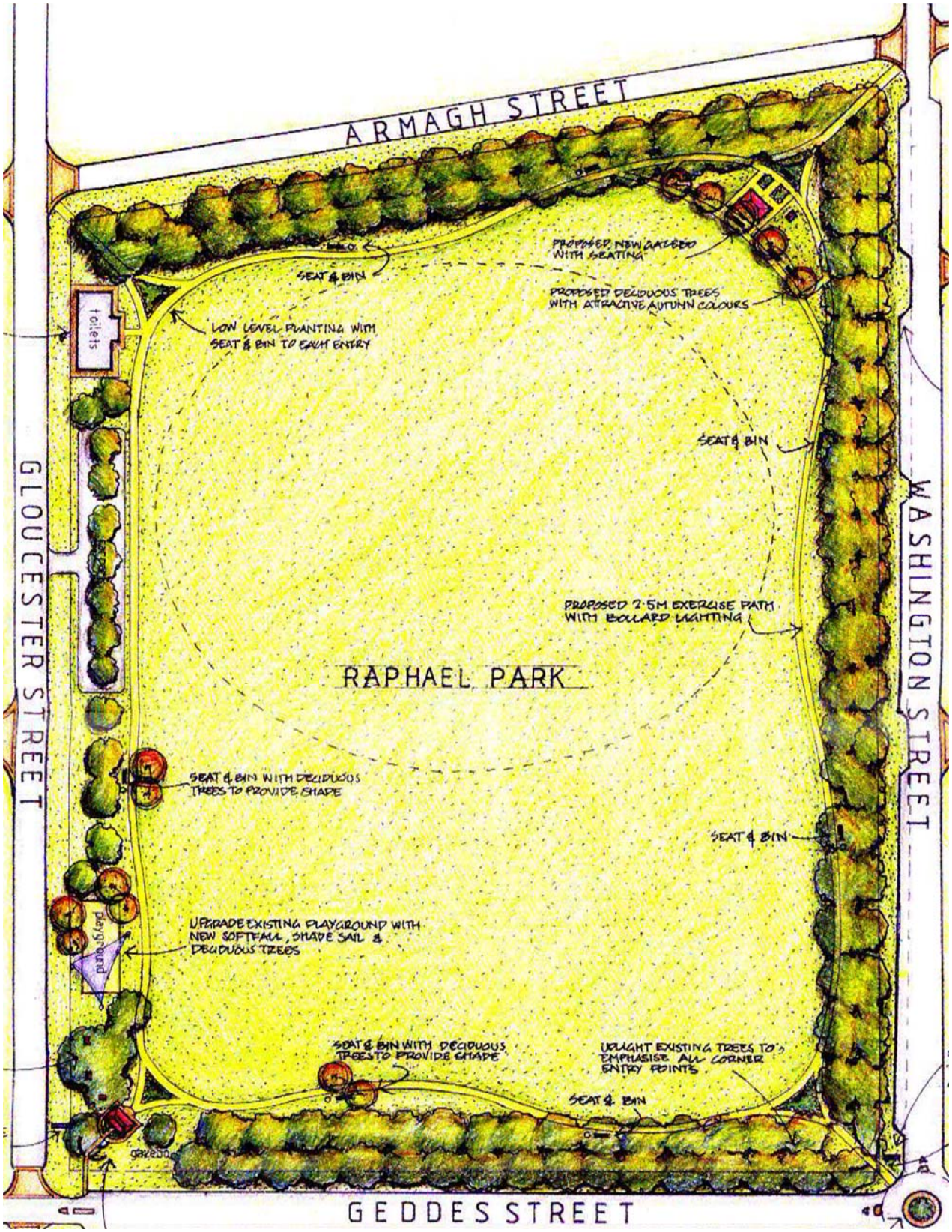
1. **That the installation of a dual use path around Raphael Park be reviewed for future inclusion in the capital works budget based on the same criteria used to determine the priority of other strategic projects listed on the Town's Plan for Future.**

2. **That a report be presented to Council when this project has been developed, costed and scheduled.**

3. **Administration prepares a report on or before the 13 December 2011 including design drawings, construction details, costings, feasibility of installing a duel use path around Raphael Park.**

4. **Funding of the project be drawn from either the mid-year budget review or placed on the draft 2012/2013 Budget**

WAS PUT AND CARRIED (9-0)


ARMAGH STREET
GLOUCESTER STREET
WASHINGTON STREET
GEDDES STREET
RAPHAEL PARK
toilets
playground
SEAT & BIN
PROPOSED NEW GAZEBO WITH SEATING
PROPOSED DECIDUOUS TREES WITH ATTRACTIVE AUTUMN COLOURS
LOW LEVEL PLANTING WITH SEAT & BIN TO EACH ENTRY
SEAT & BIN
PROPOSED 2.5M EXERCISE PATH WITH BOLLARD LIGHTING
SEAT & BIN WITH DECIDUOUS TREES TO PROVIDE SHADE
SEAT & BIN
UPGRADE EXISTING PLAYGROUND WITH NEW SOFTFALL, SHADE SAIL & DECIDUOUS TREES
SEAT & BIN WITH DECIDUOUS TREES TO PROVIDE SHADE
UPLIGHT EXISTING TREES TO EMPHASISE ALL CORNER ENTRY POINTS
SEAT & BIN
GAZEBO

17 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

Moved: Councillor Bissett **Seconded: Councillor Ashton**

Suspension of Standing Orders Part 9 – to enable Cr Armstrong to speak at 7.48pm

CARRIED (9-0)

Moved Councillor Bissett **Seconded Councillor Ashton**

Reinstate Standing Orders Part 9 at 8.00pm

CARRIED (9-0)

18 PUBLIC QUESTION AND PUBLIC STATEMENT TIME

Mr Peter Petta, VICTORIA PARK WA 6100

Voiced his concerns in relation to pathway maintenance within the Town.

Mr Williams, VICTORIA PARK WA 6100

Mr Williams asked if Council could consider changing the operational hours for LeisureLife Centre during the day time and afternoons and also regarding deregistration/re-registration matters for his dog.

19 MATTERS BEHIND CLOSED DOORS

Item 12.4 was discussed behind closed doors.

20 CLOSURE

There being no further business the Mayor declared the meeting closed at 8.06pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed .....…….... Mayor

Dated this ..... Day of 2011