



MINUTES
Ordinary Council Meeting
Council Chambers, 99 Shepperton Road, Victoria Park
Tuesday, 13 December 2011
6.30pm

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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.

2 ATTENDANCE AND APOLOGIES

Attendance:

Mayor: Mr T (Trevor) Vaughan

Banksia Ward: Cr C (Claire) Anderson
Cr K (Keith) Hayes
Cr R (Rowena) Skinner

Jarrah Ward: Cr D (David) Ashton
Cr D V (Vin) Nairn
Cr V (Vicki) Potter
Cr A (Adam) Vilaca

Chief Executive Officer: Mr A (Arthur) Kyron

Directors: Mr B (Brian) Callander
Ms R (Rochelle) Lavery
Mr A (Anthony) Vuleta
Ms T (Tina) Ackerman

Executive Manager Built Life: Mr R (Robert) Cruickshank

Secretary: Ms K (Kathleen) Highfield

Public: 13

Leave of Absence: Cr J (John) Bissett (Deputy Mayor)

Apologies: Nil

3 DECLARATION OF INTEREST

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

Disclosure of Financial Interests

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

Name/Position	Cr Nairn
Item No/Subject	15.3 Adoption of Annual Financial Report for the year ended 30 June 2011
Nature of Interest	Financial
Extent of Interest	Proprietor of Allsigns

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	Cr Rowena Skinner
Item No/Subject	13.7 Proposed Community Garden – 98 Rutland Avenue, Lathlain
Nature of Interest	Impartiality
Extent of Interest	Officer bearer, Victoria Park Community Committee

Name/Position	Cr Claire Anderson
Item No/Subject	13.6 Request for Extension of Leased Area and Lease Terms – Hillview Clinic, 15 Hillview Terrace
Nature of Interest	Impartiality
Extent of Interest	Chair of a committee which determine funding grants through Disability Services Commission

Name/Position	Cr Keith Hayes
Item No/Subject	13.6 Request for Extension of Leased Area and Lease Terms – Hillview Clinic, 15 Hillview Tce
Nature of Interest	Impartiality
Extent of Interest	Volunteer position Disability Services Commission – Count us in Ambassador

Name/Position	Cr Keith Hayes
Item No/Subject	13.7 Committee Member Victoria Park Community Garden Association
Nature of Interest	Impartiality
Extent of Interest	Committee Member Victoria Park Community Garden Association

Name/Position	Cr Nairn
Item No/Subject	12.2 Raleigh Street, Carlisle - Change of use from Restaurant to Restaurant/Fast Food outlet and additions/Alterations.
Nature of Interest	Impartiality
Extent of Interest	Proprietor of Allsigns

Cr Skinner arrived at 6:29pm

Name/Position	Cr Nairn
Item No/Subject	13.3 Perth Football Club Lease – Request to amend the Schedule of the Lease Document
Nature of Interest	impartiality
Extent of Interest	Member of Perth Football Club

4 PUBLIC QUESTION AND PUBLIC STATEMENT TIME

Mr Peter Lesiter – 40 Oats Street, East Victoria Park WA 6100

Spoke against renaming Albany Highway.

Mr Sam Zammit – 31 Alvah Street, St James WA 6102

Mr Zammit farewelled Mr Brian Callander and thanked him for his contributions to the Town.

Mr Mark Valentine – 8 Coode Street, Mt Lawley WA 6000

Mr Valentine spoke on Item 12.2, 44 (Lot 483) Raleigh Street, Carlisle – Change of Use from Restaurant to Restaurant/Fast Food Outlet and Additions/Alterations requesting Council to approve the application.

5 CONFIRMATION OF MINUTES

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Anderson

That the minutes of the Ordinary Council Meeting held on Tuesday, 8 December 2011 be confirmed.

CARRIED (8-0)

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

The Mayor announced the following:

- The Town's fourth piece of artwork was installed;
- The Town's Christmas Decorations are up and looking great;
- The Annual General Meeting of Electors is next week and will be held on Tuesday 21 December;
- Thanked Councillor's for their hard work this year; and
- Thanked the Director Business Life, your hard work is appreciated and I wish you well for the future and as Chief Executive Officer at Mindarie Regional Council.

8 URGENT BUSINESS NOT LISTED ON THE AGENDA

Nil

9 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

The below Confidential Items will be discussed behind closed doors. Refer to item 19.

12.4 55 (Lot 274) Bank Street, East Victoria Park - Confidential

12.5 3 (Lot 4) Claude Street, Burswood - Confidential

15.8 3 Town Centre Redevelopment – Revised Project Definition - Confidential

10 PETITIONS

Nil

11 CHIEF EXECUTIVE OFFICER REPORTS

11.1 Constitutional Recognition of Local Government

File Ref:	ORG0031	In Brief <ul style="list-style-type: none"> • The Federal Government has committed to a referendum on Constitutional recognition for Local Government, likely to be held in conjunction with the 2013 election. • A national position was developed at the Local Government Constitutional Summit held in Melbourne in December 2008, and has been refined by the ALGA Board to focus the referendum on financial recognition. • ALGA has requested that all Local Governments formally resolve to support the conduct of the referendum.
Appendices:	No	
Date:	18 November 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Arthur Kyron	

TABLED ITEMS

- Nil

BACKGROUND:

The Council at its meeting held on the 30 May 2008 when considering a report dealing with Constitutional Recognition of Local Government resolved inter alia that:

- “1. *The Chief Executive Officer be authorised to complete the Australian Local Government Association feedback form (on line) in accordance with the ratings and comments contained in the “details” section of this report.*”

The “details” section of that report (tabled item) contained a response to questions and provided the ratings drawn from the discussions at the Elected Members Workshop held on 6 May 2008.

There is however a long history of debate on Constitutional recognition for Local Government in Australia, with referendums having previously been put before the voters in 1974 and 1988, with both being defeated.

During 2008 the Australian Local Government Association (ALGA) actioned a strategic approach aimed at securing a referendum which involved:

- Some initial resource materials to assist Local Governments to conduct a conversation at the local level on the need for Constitutional recognition
- Zone or region level discussions, where appropriate, based on WALGA agenda items
- Statewide forum to determine a State Local Government position (resolved at Local Government Convention)
- A national experts forum – National Constitution Summit (Melbourne December 2008)

In 2009/10 ALGA focused advocacy around national political forums, political parties and key influential academics, while State Associations built up State profiling campaigns to improve the image and perception of their local government jurisdictions.

The ALGA Board further refined the national position in 2010 to focus specifically on financial recognition and the WALGA position was also aligned to this focus.

DETAILS:

Whilst the Federal Government has said that it will run a referendum, their willingness to do so in any sort of reasonable time frame will be heavily influenced by their perceptions of its likely success. A major factor in their perceptions will be the degree to which the conversation reflects broad community engagement.

It is important that local community support is marshalled to ensure that community ownership is injected into the campaign. If the campaign is seen purely as one being run by and for the local government system, then success will be difficult to achieve.

Legal Compliance:

Nil

Policy Implications:

Nil

However, the national policy position of ALGA is consistent with the WALGA position. Adoption of the recommendation will formalise the Council's policy position and align it with the national campaign.

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Local Level Campaign: The costs associated with any local level campaign will be contingent on its extent and complexity. Expenditures could involve expenses such as venue hire and minor catering and administrative charges including telephone calls, printing, etc. These are likely to be minimal and manageable within the constraints of budgeted operational expenditure.

National Campaign: These are not defined at this stage and will depend largely on the willingness of the Federal Government to fund “YES” and “NO” campaigns. A full range of funding options needs to be developed by ALGA and WALGA before the specific implications for Council can be explored.

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

Recently the Town received a request from the President of the ALGA for the Council to pass a resolution supporting the conduct of a referendum to recognise Local Government in the Australian Constitution. This latest initiative in a long running campaign designed to ensure Local Government can continue to receive direct funding from the Federal Government, should be supported.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Anderson

That the Council:

- 1. Supports the ALGA campaign for the Constitutional recognition of Local Government;**
- 2. Calls on the Federal Government to conduct a referendum to achieve the Constitutional recognition of Local Government at the 2013 Federal Election;**
- 3. Develops a local level campaign, in support of the national campaign, to inform the local community and garner its support;**
- 4. Acknowledges that funding implications need to be considered as part of the ongoing financial planning process;**
- 5. Advises WALGA and ALGA of its decision to support the ALGA campaign for the Constitutional recognition of Local Government.**

LOST (2-6)

Voted for Cr Skinner & Cr Nairn

Reason:

Council does not believe that Constitutional Recognition will enhance the operation of Local Government.

11.2 Belmont & Victoria Park SES Unit Accommodation

File Ref:	ORG0027	In Brief <ul style="list-style-type: none"> The Belmont Victoria Park SES Unit's new accommodation at 314 Kew Street Belmont is nearing completion. FESA agreed to fund the project with the exception of the site works which cost \$265,000. The City of Belmont funded the cost of the site works with the Town making a contribution of \$30,000. The City of Belmont is now seeking a further contribution of \$100,000 from the Town. It is recommended that a further contribution of \$100,000 be made to the City of Belmont.
Appendices:	No	
Date:	18 November 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Arthur Kyron	

TABLED ITEMS:

- Plans showing the proposed SES building at 314 Kew Street Belmont

BACKGROUND:

The Town has received a letter from the City of Belmont dated 18 November 2011, formally requesting a contribution of a further \$100,000 towards the site works for the Belmont Victoria Park SES Unit's new accommodation being developed at 314 Kew Street Belmont. This will bring the Town's contribution to \$130,000 which would be a little less than half the cost required for the site works.

History of the SES Unit

The Town is serviced by the Belmont Victoria Park State Emergency Services (SES) Unit. This Unit was provided with accommodation by the City of Belmont (the City) until it sold its old depot site for residential development.

The following summarises the history of the SES unit accommodation arrangements from the mid to late 1980s until recently:

- In the mid to late 1980s the SES unit building was constructed on the City's land in Abernethy Road near the corner of Fairbrother Street, Belmont. It is understood that the funds for the original building and subsequent additions and upgrades were in part provided by the Commonwealth through the State.
- As the City was proposing the sell the Abernethy Road site in 2006 the SES Unit was required to vacate the building, the City having negotiated a peppercorn rent arrangement with Fire and Emergency Services Authority of Western Australia (FESA) at a property in Hehir Street Belmont.

- It was planned to relocate the unit into premises adjacent the City's new Operations Centre site, on a reserve in the closed former Briggs Street road reserve that the City and the Town had had jointly vested in the City and the Town for that purpose however, the Town decided to reopen Briggs Street and initiated the reverting of the reserve purpose to road reserve, thus removing the planned site for the Unit. A plan was then prepared for a building on the City's Operations Centre site proper.
- The tendered prices for the new building, of \$750,000, were higher than the City's available funds and the construction could not proceed.
- The rented premises in Hehir Street, funded through the Emergency Services Levy (ESL) are acknowledged to be less than ideal for the SES Unit's accommodation.
- Subsequently with the City's appeal to the State through Department of Planning and Infrastructure, it acquired land at 314 Kew Street for the construction of the new unit building and a plan was prepared for this site and funding sought through the ESL. This land is vested in the City.

DETAILS:

The City has advised that in relation to the new building a quantity surveyor has costed the planned building works, including all site works, service provision and fit out plus a 5% contingency and an allowance for escalation at \$1,843,648 (excluding GST). No allowance has been made for loose furniture and equipment.

In addition, the City said it would build a short access road, funded through its roads budget, clear trees from the site and do the final landscaping, (generally with the mulch generated from the cleared material) and some infill native plantings. It was agreed to do this so that the landscape buffer zone around the site could be protected and developed in a manner acceptable to the City. The total cost of these works is estimated to be \$115,000 and the Town had budgeted to contribute \$30,000 which was the estimation for half the cost of the clearing works. This amount was included in the Town's recurrent budget under "Contributions - Emergency Services" in the Ranger Services Section each year awaiting progress on the proposed new SES Unit building.

In attempting to reach a mutually acceptable position in respect to funding the new SES Unit building there had been ongoing discussions with FESA over several months. The position adopted by the City in these negotiations has been that the City will undertake/fund the works detailed in the above paragraph and oversee the final design and the construction. The remainder was to be funded by the ESL and from FESA funds, the latter because of the co-location of the SES Mounted Section and a district SES Communications Unit in the facility.

The major problem with the negotiations was the funding of the "Site Works", which are required to be funded by the Local Government Authority and which the City has defined differently to FESA. The City has taken the normal construction definition of site works as clearing the site and any fill or retaining to prepare it for construction while FESA has included hardstand, and parking as well as providing services (power, gas, water and sewer) to the site.

FESA has stated that irrespective of the normal definition of site works, the FESA definition applied to this facility is consistent with its application to units over many years, including recently, to unit buildings at the City of Swan and the Shires of Murray and Pingelly. This has been confirmed by City of Swan who disputed the definition but eventually contributed some \$750,000 to their \$1,500,000 building.

Following further discussions and negotiations, FESA sought approval to raise the agreed ESL funding of payments on a \$1,000,000 loan to payments on a \$1,324,000 loan which the City will be required to take out. Because of the desire by FESA to co-locate the Mounted and Communications units in the building FESA will contribute some \$369,000 by way of a direct payment, not a loan, to meet the additional building cost to accommodate these units' requirements.

On the basis of these ESL and FESA contributions the City and Town were expected to contribute about \$150,000 to the project (for hardstand and provision of services to the property boundary) in addition to already agreed road construction, clearing and landscaping valued at about \$115,000.

The proposal was, that the City spends \$265,000, less the Town's contribution, towards building a Unit valued at nearly \$2,000,000 on land that is not owned by but vested in the City. This was considered to be a reasonable outcome and the best that is likely to be achieved.

The City therefore sought a contribution of 50% of the cost of \$265,000 for the "Site Works. In deliberating on this matter at its meeting held on the 6 July 2010, the Council resolved that:

- “1. *An amount of \$30,000 be forwarded to the City of Belmont as the Town's contribution towards the site works for the development of the new Belmont Victoria Park SES Unit Accommodation at 314 Kew Street Belmont subject to the Town receiving or sighting a copy of the construction contract.*
2. *The amount of \$30,000 in clause 1. above being funded from the budget Item "Emergency Services - Account 512000.620.4104"*
3. *The City of Belmont be advised of the Council's decision."*

The Town remitted a payment of \$30,000 to the City on 7 September 2011.

Legal Compliance:

The *Emergency Management Act* does not prescribe that local government need to fund SES units or provide for their accommodation.

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

There are no funds provided on the 2011/12 Budget to make a further contribution to the City. If the Town decides to make a further contribution of \$100,000 then a reallocation of funds will need to be made at the mid-year review of the Budget.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The City of Belmont is seeking a further contribution of \$100,000 from the Town towards the \$265,000 cost of the site works.

The *Emergency Management Act* does not prescribe that local government need to fund SES units or provide accommodation. The Town could therefore not contribute further towards the "Site Works". Should the Belmont Victoria Park SES Unit disband then other SES units would respond to emergency call outs within the district.

Notwithstanding the above, the Belmont Victoria Park SES Unit performs an important community service and is valued by City and the Town which has long supported the Unit, including either fully or partly funding it for many years.

Some Call Out History			
Year	Belmont	Victoria Park	Other
2008	55	20	12
2009	46	34	7
2010	47	52	4
Total	148	106	23
	53%	38%	10%

Many of the unit members are very long serving – several over 20 years and many over 10 years – and the members are very proud of being the Belmont Victoria Park Unit. They are committed to providing a quality service and put a lot of effort into training in their own time.

Morale at the unit is very low for several reasons associated with the unit building. Older members are unhappy with the loss of the original building and recall the “broken promise” of the building on land adjoining or on the Operations Centre site. All members are unhappy with the rented accommodation which is not suitable as a long-term headquarters and are similarly upset about the time taken to build a suitable alternative.

It is therefore considered that the retention of the Belmont Victoria Park SES Unit is worthwhile taking cognisance of the service it provides to the community. It also provides valuable training for volunteers in dealing with emergency situations which is not only a benefit to the community but for the development of young people from both local government districts.

Taking cognisance of the above, it seems reasonable to assist the City as a partner in the continuance of support for the Belmont Victoria Park SES Unit. In this regard it is considered that the Town should contribute a further \$100,000 making a total contribution of \$130,000 (nearly half) to the City of Belmont to assist it with the development of the site works for the new Belmont Victoria Park SES Unit accommodation at 314 Kew Street, Belmont.

RESOLVED:

Moved: Councillor Nairn

Seconded: Councillor Potter

- 1. An amount of \$100,000 be forwarded to the City of Belmont as the Town’s further and final contribution towards the site works for the development of the new Belmont Victoria Park SES Unit Accommodation at 314 Kew Street Belmont subject to the amount of \$100,000 being funded from the mid-year review of the 2011/12 Budget.**
- 2. The City of Belmont be advised of the Council’s decision**

LOST (1-7)

Voted for Cr Nairn

Reason:

- 1. Council does not support infrastructure or facilities outside the Town; and**
- 2. Cost Shifting is the responsibility of State Government.**

11.3 Town of Victoria Park Standing Orders Local Law 2011

File Ref:	ORG0061	In Brief
Appendices:	Yes	
Date:	11 November 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Arthur Kyron	
		<ul style="list-style-type: none"> • Council resolved on 19 July 2011 to approve the Draft Standing Orders Local Law as the basis for public consultation. • One submission was received. • Recommended that the Council now resolve to adopt the new Standing Orders Local Law with some minor amendments.

TABLED ITEMS:

- Nil

BACKGROUND:

The Council at its meeting held on the 19 July 2011 resolved in accordance with Section 3.12 of the *Local Government Act, 1995*, (the Act) to approve the Draft Standing Orders Local Law as the basis for public consultation, for a period of not less than 44 days, with the following purpose and effect:

“The purpose of the proposed Standing Orders Local Law is to provide rules and guidelines for the orderly conduct of meetings of Council, committees and other meetings as prescribed.”

“The effect of the proposed Standing Orders Local Law is that all council meetings, committee meetings and other meetings as prescribed, shall be governed by these standing orders, unless otherwise provided by the Act, regulations or other written law.”

Notices were placed in the Southern Gazette Community News on the 26 July 2011 and the West Australian Newspaper on the 22 July 2011 advising inter alia that submissions about the proposed Local Law should be lodged with the Town by Wednesday 21 September 2011. This provided a period of 55 days in which submissions could be received. Only one submission was received that being from the Department of Local Government (DLG).

DETAILS:

The DLG pursuant to section 3.12(3)(iii) of the Act, has requested that the Town considers its comments on the draft Local Law which has been summarised and shown in the following numerated comments 1 to 7:

Comment 1

The formatting of Part and Division headings in the contents and throughout the law should be as follows:

- Part headings should be bold and centralised.
e.g. **Part 1 – Preliminary**
- Division headings should be italicised and centralised.
e.g. *Division 1 - Presiding member*
- Defined terms should be bold and italicised.
e.g. ***cases of extreme urgency or other special circumstances***

Comment 2

The Town may wish to include an application clause below the Purpose and Effect clause as below:

1.4 Application

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

Comment 3

The local law currently uses the word "Town" to refer to the Town of Victoria Park. The Delegated Legislation Committee has recently stated that it prefers the use of the term "local government" rather than "Town". This is because the term "local government" is more consistent with the terminology of Act.

As such it is recommended all references to "Town" be changed to 'local government'.

Comment 4

Legislation drafting standards require clauses, subclauses, paragraphs and subparagraphs to be numbered as follows:

- (1) -
 - (a).....;
 - (b).....;
 - (i).....;
 - (ii).....;

As such it is recommended that clause 4.2 be renumbered to be consistent with this requirement.

Comment 5

The Delegated Legislation Committee has recently requested undertakings to limit the maximum penalty imposed under Standing Orders local laws to \$1,000. It is therefore suggested that the penalty provisions in clauses 5.13 and 5.14 be removed and replaced with an overall penalty provision at the end of the law or within "Part 14 - Miscellaneous" as follows:

14.2 Penalty for breach

A person who breaches a provision of this local law commits an offence.
Penalty: \$1,000.00 and a daily penalty of \$100.00.

Comment 6

The marked up wording change in clause 7.6 is highly suggested in accordance with concerns raised by the Delegated Legislation Committee in their Report 41, item 4.

Clause 7.6 deals with a “Continued breach of order” and the change suggested by the DLG is to delete the words “that meeting” and replace them with the words “in the debate of that item” clause 7.6 will then read as follows:

7.6 If a member –

- (a) persists in any conduct that the presiding member had ruled is out of order;
or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 7.5(3),

The presiding member may direct the member to refrain from taking any further part in ~~(that meeting)~~ **the debate of that item**, other than by voting, and the member is to comply with that direction.

The effect of the change will prevent the member from participating further in the debate on the item before the Council but not being prevented from taking further part in the Council meeting.

Comment 7

References to numbers “2 minutes” or “2 members” etc. should be written in their symbol form e.g. 1, 2, 3 etc. rather than in words. There appears some inconsistency throughout the local law in regards to this.

The comments raised by the DLG have been acted upon and the Draft Standing Orders Local Law has been amended accordingly. The suggested comments made by the DLG are considered to be minor amendments and do not significantly alter the new Local Law from what was originally proposed.

Legal Compliance:

When making of a new Standing Orders Local Law, the full procedural requirements of section 3.12 of the Act need to be undertaken as shown hereunder;

“3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*

- (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
** Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law;*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
“making” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.”

There is no requirement to undertake a National Competition Policy Public Benefit Test in relation to making a Standing Orders Local Law.

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Nil

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The Town has reviewed its Standing Orders Local Law pursuant Section 3.16 of the Act which has revealed that it is necessary to repeal the current Standing Orders Local Law and promulgate a new Local Law that will not only to comply with the requirements of the Act but to bring it into line with contemporary local government governance procedures and practices.

In addition to changes to the content of the proposed new Standing Orders Local Law, there is also a significant change to the format. The rationale behind the recommended format change lies in the fact that the laws affecting the Town's meeting procedures are governed by three different legal instruments which are not presently consolidated in one place. These are:

1. the *Local Government Act 1995*;
2. the *Local Government (Administration) Regulations 1996*; and,
3. the Town of Victoria Park Standing Orders Local Law.

The purpose of the changed format, which incorporates the relevant provisions of the Act and the Administration Regulations is to:

1. ensure consistency between the Standing Orders and the legislation;
2. eliminate clauses which deal with similar or overlapping matters and which were internally inconsistent; and,
3. provide for clearer layout and organisation of clauses to make it easier to read and find the relevant provision.

By this revised format, which has now been adopted by a number of local governments, it is intended that the proposed Standing Orders will result in:

1. better decision-making by Council and committees;
2. the orderly conduct of the business of meetings;
3. better understanding of the process of conducting meetings; and
4. the more efficient and effective use of time at meetings.

In view of the above it is recommended that the Town adopts the new Standing Orders Local Law as contained within the appendices.

As the new Standing Orders Local Law that are to be published in the Gazette do not state the specific the sections of the *Local Government Act 1995* and Regulations, Elected Members will be provided with a marked up copy of the Standing Orders which contain marginal notes referring to the relevant sections of the Act and Regulations. In addition the CEO and Executive Manager governance will be conducting familiarisation and training sessions on the use of the Standing Orders and meeting procedures.

RESPONSIBLE OFFICER RECOMMENDATION:

In accordance with Section 3.12(4) of the *Local Government Act 1995* the Council adopts the *Town of Victoria Park Standing Orders Local Law 2011* as contained at item 11.3 within the appendices.

NEW MOTION:

Moved: Councillor Hayes

Seconded: Councillor Skinner

1. In accordance with Section 3.12(4) of the *Local Government Act 1995* the Council adopts the *Town of Victoria Park Standing Orders Local Law 2011* as contained at item 11.3 within the appendices.
2. Excluding the following - Comment 3: The local law currently uses the word "Town" to refer to the Town of Victoria Park. The Delegated Legislation Committee has recently stated that it prefers the use of the term "local government" rather than "Town". This is because the term "local government" is more consistent with the terminology of Act.

As such it is recommended all references to "Town" be changed to 'local government'.

CARRIED BY AN ABSOLUTE MAJORITY (5-3)

Voted for Cr Ashton, Cr Hayes, Cr Potter, Cr Skinner, Mayor Vaughan

11.4 Working Groups & Project Teams - Terms of Reference

File Ref:	ADM0010	In Brief <ul style="list-style-type: none"> • The Council has established Working Groups and Project Teams. • A Generic Terms of Reference was endorsed by the Council which requires some minor amendments. • The “Aims and Objectives” for each Working Group and Project Team needs to be endorsed. • The endorsement of the “Aims and Objectives” will enable the Administration to advertise for community members and progress the roll-out of the new community engagement structure.
Appendices:	Yes	
Date:	21 November 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Arthur Kyron	

TABLED ITEMS:

- Nil

BACKGROUND:

The Council at its meeting held on the 8 November 2011 when considering a report dealing with the appointment of Elected Members to Council Committees, Working Groups and Project Teams resolved inter alia that:

“4. The Generic Terms of Reference for Working Groups and Project Teams which includes general rules for appointing the presiding member, establishing membership and quorums, determining agendas, recording minutes and management of the meeting as contained within the appendices be endorsed;”

The endorsed generic “*Terms of Reference*” now provides the Administration with a platform from which to fully develop each Working Group and Project Teams meeting rules and more importantly its “*Aims and Objectives* to prepare an Annual Working Plan that aligns to the strategic objectives of the adopted Plan for the Future.

By endorsing each Working Group and Project Teams Aims and Objectives in its Terms of Reference will enable the Administration to progress with the appointment of community members. Selection criteria will be developed and an invitation placed in the community newspaper inviting submissions. Previous community members on the now disbanded Advisory Committees will receive a letter inviting them to apply to sit on a Working Group/s or Project Teams. In this regard a report will be submitted to the Council meeting to be held on the 14 February 2012, recommending the appointment of community members.

DETAILS:

The Generic Terms of Reference that was endorsed by the Council has been modified slightly in as detailed hereunder:

1. Define Working Group & Project Team:

A definition of a Working Group or Project Team has been included to assist Working Group/Project Team Members and staff to identify the variation between the two;

2 Purpose of Working Group & Project Team:

The words “Vibrant Lifestyle” have been included in the “Purpose” of the Working Group or Project Team to align it with the Town’s Mission.

3. Membership:

The word “Preferably” has been inserted at the beginning of clause 3.2.1 so that it reads;

“Preferably at least one community member from each of the 2 wards of the district (to be selected by the Council from nominations received). Criteria for the selection will be based on the individual’s interest, experience and/or qualifications in issues pertaining to (*insert purpose of Working Group or Project Team*).”

This will enable a community member from any ward being qualified for membership should the Council determine the best applicants all reside in the same ward.

4. Meetings:

Clause 4.2 in relation to Quorums has been changed from;

“A quorum for any meeting of the (*insert Working Group or Project Team*) shall be no less than two of the three Elected Members and half of the number of community member/expert advisors appointed.”

To read;

“A quorum for any meeting of the (*insert Working Group or Project Team*) shall be no less than three members one of whom shall be an Elected Member of the Town of Victoria Park.

This reduction to 3 members will assist in alleviating problems in obtaining a quorum which occurred on occasions with the previous advisory committee structure which was governed by the *Local Government Act 1995*. It is however considered good governance to make it compulsory that one of those 3 members be an Elected Member of the Town who would preside at meetings.

5. Notes:

In clause 6, the term “Minutes” has been changed to read “Action Notes” so as to provide a record of any decisions made and to remove the formal implications of recording minutes of meetings as required at committee meetings in accordance with the *Local Government Act 1995*.

6. Community Forums:

A new clause 9 has been inserted requiring each Working Group to convene at least one community forum each year to engage with the community in relation to its Annual Work Plan. The clause is as follows:

“9. Community Forums

9.1 The (*insert Working Group or Project Team*) is to conduct at least one Community Forum each year.

9.2 The Community Forum is to be advertised for wide participation to contribute to the agenda / planning of the Annual Work Plan.

9.3 The Forum is to be chaired by the Presiding Member.”

Whilst the above clause 9 has been inserted into the Generic Terms of Reference, it may not be relevant for all Project Teams, given that some projects may not require further community input as it has been endorsed by the Council and work has commenced such as a tender being awarded or a contractor engaged.

It should be noted that in the Generic Terms of Reference only 3 Elected Members are to be appointed to a Working Group or Project Team. Nevertheless, the Council at its meeting held on 8 November 2011 appointed four (4) Elected Members to both the Community Safety Working Group and the Multi-purpose Sports Facility Project Team. Consequently the total membership for the Community Safety Working Group and the Multi-purpose Sports Facility Project Team will be increased accordingly to nine (9).

The Terms of Reference for each Working Group and Project Team will in most circumstances be in accordance with the revised “Generic” copy contained within the Appendices. The “Aims and Objectives” for each will however vary and therefore these are presented hereunder for Council’s endorsement:

Proposed Working Group & Project Teams Aims & Objectives

Business Life Working Group

The strategic focus for the *Business Life Working Group* is aligned to the Plan for the Future.

The purpose of the *Business Life Working Group* is to contribute to the vibrant lifestyle of the Town by:

2.1 Assisting the Council in achieving good economic outcomes for the Town.

Culture and Local History Working Group

The strategic focus for the Culture and Local History Working Group is aligned to the Plan for the Future.

The purpose of the Culture and Local History Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing advice to the Council on promoting and celebrating the rich history and heritage of the Town.
- 2.2 Assisting the Council in developing, maintaining and promoting the Local History Collection as a significant resource.
- 2.3 Providing advice to the Council in developing, implementing and maintaining the Local History Plan.
- 2.4 Providing advice to Council regarding how to celebrate cultural diversity and promote cultural harmony.
- 2.5 Assisting the Council in developing and implementing a Local History and Culture Annual Work Plan.

Arts Working Group

The strategic focus for the Arts Working Group is aligned to the Plan for the Future.

The purpose of the Arts Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing advice to the Council on matters relating to the review, development and implementation of the Public Art Masterplan.
- 2.2 Providing advice to the Council regarding the creation of a vibrant Town that is a place of social interaction, creativity and vitality.
- 2.3 Assisting the Council to develop the Town of Victoria Park as a 'Living Canvas' through the creation of opportunities for a diverse range of creative endeavours and expressions (including fine arts, music, visual arts, literary arts, performing art) and forms of creative expression.
- 2.4 Assisting the Council in developing and implementing an Arts Annual Work Plan.

Healthy Life Working Group

The strategic focus for the Healthy Life Working Group is aligned to the Plan for the Future.

The purpose of the Healthy Life Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Supporting Council to connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.
- 2.2 Providing advice to the Council on matters relating to the development and implementation of the Healthy Life Plan.
- 2.3 Assisting the Council in developing and implementing a Healthy Life Annual Work Plan.

Community Safety Working Group

The strategic focus for the Community Safety Working Group is aligned to the Plan for the Future.

The purpose of the Community Safety Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing advice to the Council on matters relating to the development and implementation of the Town's Community Safety Plan.
- 2.2 Assisting the Council to connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.
- 2.3 Assisting the Council in developing and implementing a Community Safety Annual Work Plan.

Disability Access Working Group

The strategic focus for the Disability Access Working Group is aligned to the Plan for the Future.

The purpose of the Disability Access Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing advice to the Council on matters relating to the implementation of the Disability Access and Inclusion Plan.
- 2.2 Assisting the Council to promote access and equity in service provision for all members of the community.
- 2.3 Assisting the Council in developing and implementing a Disability Access Annual Work Plan.

Memorial Gardens Project Team

The strategic focus for the Memorial Gardens Project Team is aligned to the Plan for the Future.

The purpose of the Memorial Gardens Project Team is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing options to Council for further developing Memorial Gardens so that all conflicts that Australia has been involved in, and where local community members have fallen in service, being commemorated.

Multi-purpose Sports Facility Project Team

The strategic focus for the Multi-purpose Sports Facility Project Team is aligned to the Plan for the Future.

The purpose of the Multi-purpose Sports Facility Project Team is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing advice to Council on the possible form and usage of the Multi-purpose Sports Facility and extent of development.

Community Environmental Working Group

The strategic focus for the Community Environmental Working Group is aligned to the Plan for the Future.

The purpose of the Community Environmental Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Identifying and raising environmental issues of concern to the community as they relate to the Work Plan.
- 2.2 Providing input, from a community perspective, into key environmental policies, documents, plans, reports and programs developed by the Town as it relates to the Work Plan.
- 2.3 Providing leadership in the role of environmental education within the community.
- 2.4 Actively participating in actions resulting from the Work Plan

Integrated Movement Network Working Group

The strategic focus for the Working Group is aligned to the Plan for the Future.

The purpose of the Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Considering requirements of stakeholders and undertaking detailed studies on strategic issues related to Movement Network in order to complement critical information and knowledge base required by the Town's Administration.
- 2.2 Assessing movement network issues and proposals and providing justifications based on network wide information and recommending strategic directions to the Town's Administration to facilitate delivery of Strategic Movement Network projects.
- 2.3 Providing strategic advice to the Council on Movement Network related issues.
- 2.4 Drafting of Council Reports to include the relevant recommendations endorsed by the Working Group.

At its meeting held on the 8 November 2011 the Council formed the Integrated Transport Working Group. It is proposed to rename the Working Group to the Integrated Movement Network Working Group because it reflects the higher order purpose of moving people and goods in a safe and sustainable manner rather than just managing traffic issues and road safety matters. In addition, it is consistent with the new terminology used by various State Government agencies including the Department of Planning and Department of Transport.

Edward Millen Site Project Team

The strategic focus for the Edward Millen Project Team is aligned to the Plan for the Future.

The purpose of the Edward Millen Project Team is to contribute to the "Vibrant Lifestyle" of the Town by:

- 2.1 Providing guidance and input into the planning, development and usage of the Edward Millen site and its associated parcels of land.
- 2.2 Providing input into the future master planning of the site and associated parcels of land.
- 2.3 Determining likely users of the facilities - civic, community based and suitable commercial users.
- 2.4 Provide input into retention of heritage on the site.
- 2.5 Provide input into the conservation plans and utilisation of Nos. 6 to 14 Kent Street.
- 2.6 The Project Team will continue to operate until such time as the buildings' uses have been established and the premises occupied.

At its meeting held on the 8 November 2011 the Council formed the Edward Millen Working Group. Taking cognisance of clause 2.6 of the above Terms of Reference, it is proposed to replace the term Working Group with Project Team as this aligns with the definition of Project Team given that it has an end when the *"the buildings' uses have been established and the premises occupied"*.

Legal Compliance:

Nil

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 Council to consider making community membership appointments at its meeting to be held on 14 February 2012 and to progress with the roll-out of the new Working Group and Project Team structure, it is necessary for the Council to endorse the Terms of Reference for each Working Group and Project Team.

The Terms of Reference for each Working Group and project Team will essentially be in accordance with the revised “Generic” copy contained within the Appendices. The “Aims and Objectives” for each will however vary and therefore these have been presented for Council’s endorsement.

The endorsement of the Terms of Reference will then enable the Administration to develop selection criteria and advertise the community positions on each Working Group and Project Team in accordance with the Council’s decision except for the Memorial Gardens Project Team for which the membership has already been approved.

ADDITIONAL COMMENT:

It has been suggested that the Terms of Reference for the ‘Healthy Life Working Group’ be expanded to more directly outline its responsibility in addressing increased opportunities for physical activity within local neighbourhoods.

This approach would be consistent with the State Government’s Physical Activity Taskforce which has established an ‘Active Living’ strategy for Local Government as well as an ‘Active Transport’ focus which aims to encourage walking and cycling as a healthy transport option. It is anticipated the Healthy Life Working Group would deliver social programs (such as ‘Ride to Work Day’) that complement the efforts of the Integrated Movement Network Working Group which has a focus on the built environment and infrastructure.

The suggestion to include physical activity in the Terms of Reference is in keeping with the intention of the Healthy Life Working Group together with the Active Life Business Unit and a new point has been added to its draft Terms of Reference to reflect this detail as shown below:

“2.3 Assisting the Council to increase and improve opportunities for physical activity through the provision of programs and activities, including active transport initiatives.”

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Anderson

The Council:

1. Endorses the revised Generic Terms of Reference for Working Groups and Project Teams as contained within the Appendices;

2. Endorses the “Aims and Objectives” for the Working Groups and Project Teams as detailed hereunder:

2.1 Business Life Working Group

“The strategic focus for the Business Life Working Group is aligned to the Plan for the Future.

The purpose of the Business Life Working Group is to contribute to the vibrant lifestyle of the Town by:

2.1 Assisting the Council in achieving good economic outcomes for the Town.”

2.2 Culture and Local History Working Group

“The strategic focus for the Culture and Local History Working Group is aligned to the Plan for the Future.

The purpose of the Culture and Local History Working Group is to contribute to the vibrant lifestyle of the Town by:

2.1 Providing advice to the Council on promoting and celebrating the rich history and heritage of the Town.

2.2 Assisting the Council in developing, maintaining and promoting the Local History Collection as a significant resource.

2.3 Providing advice to the Council in developing, implementing and maintaining the Local History Plan.

2.4 Providing advice to Council regarding how to celebrate cultural diversity and promote cultural harmony.

2.5 Assisting the Council in developing and implementing a Local History and Culture Annual Work Plan.”

2.3 Arts Working Group

“The strategic focus for the Arts Working Group is aligned to the Plan for the Future.

The purpose of the Arts Working Group is to contribute to the vibrant lifestyle of the Town by:

2.1 Providing advice to the Council on matters relating to the review, development and implementation of the Public Art Masterplan.

2.2 Providing advice to the Council regarding the creation of a vibrant Town that is a place of social interaction, creativity and vitality.

- 2.3 *Assisting the Council to develop the Town of Victoria Park as a ‘Living Canvas’ through the creation of opportunities for a diverse range of creative endeavours and expressions (including fine arts, music, visual arts, literary arts, performing art) and forms of creative expression.*
- 2.4 *Assisting the Council in developing and implementing an Arts Annual Work Plan.”*

2.4 **Healthy Life Working Group**

“The strategic focus for the Healthy Life Working Group is aligned to the Plan for the Future.

The purpose of the Healthy Life Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Supporting Council to connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.*
- 2.2 *Providing advice to the Council on matters relating to the development and implementation of the Healthy Life Plan.*
- 2.3 *Assisting the Council to increase and improve opportunities for physical activity through the provision of programs and activities, including active transport initiatives.*
- 2.4 *Assisting the Council in developing and implementing a Healthy Life Annual Work Plan.”*

2.5 **Community Safety Working Group**

“The strategic focus for the Community Safety Working Group is aligned to the Plan for the Future.

The purpose of the Community Safety Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Providing advice to the Council on matters relating to the development and implementation of the Town’s Community Safety Plan.*
- 2.2 *Assisting the Council to connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.*
- 2.3 *Assisting the Council in developing and implementing a Community Safety Annual Work Plan.”*

2.6 **Disability Access Working Group**

“The strategic focus for the Disability Access Working Group is aligned to the Plan for the Future.

The purpose of the Disability Access Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Providing advice to the Council on matters relating to the implementation of the Disability Access and Inclusion Plan*
- 2.2 *Assisting the Council to promote access and equity in service provision for all members of the community*
- 2.3 *Assisting the Council in developing and implementing a Disability Access Annual Work Plan.”*

2.7 **Memorial Gardens Project Team**

“The strategic focus for the Memorial Gardens Project Team is aligned to the Plan for the Future.

The purpose of the Memorial Gardens Project Team is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Providing options to Council for further developing Memorial Gardens so that all conflicts that Australia has been involved in, and where local community members have fallen in service, being commemorated.”*

2.8 **Multi-purpose Sports Facility Project Team**

“The strategic focus for the Multi-purpose Sports Facility Project Team is aligned to the Plan for the Future.

The purpose of the Multi-purpose Sports Facility Project Team is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Providing advice to Council on the possible form and usage of the Multi-purpose Sports Facility and extent of development.”*

2.9 **Community Environmental Working Group**

“The strategic focus for the Community Environmental Working Group is aligned to the Plan for the Future.

The purpose of the Community Environmental Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 *Identifying and raising environmental issues of concern to the community as they relate to the Work Plan.*
- 2.2 *Provide input, from a community perspective, into key environmental policies, documents, plans, reports and programs developed by the Town as it relates to the Work Plan.*
- 2.3 *Provide leadership in the role of environmental education within the community.*
- 2.4 *Actively participate in actions resulting from the Work Plan.”*

2.10 **Integrated Movement Network Working Group**

“The strategic focus for the Integrated Movement Network Working Group is aligned to the Plan for the Future.

The purpose of the Integrated Movement Network Working Group is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Considering requirements of stakeholders and undertaking detailed studies on strategic issues related to Movement Network in order to complement critical information and knowledge base required by the Town's Administration.*
- 2.2 Assessing movement network issues and proposals and providing justifications based on network wide information and recommending strategic directions to the Town's Administration to facilitate delivery of Strategic Movement Network projects.*
- 2.3 Providing strategic advice to the Council on Movement Network related issues.*
- 2.4 Drafting of Council Reports to include the relevant recommendations endorsed by the Working Group."*

2.11 Edward Millen Project Team

"The strategic focus for the Edward Millen Project Team is aligned to the Plan for the Future.

The purpose of the Edward Millen Project Team is to contribute to the vibrant lifestyle of the Town by:

- 2.1 Providing guidance and input into the planning, development and usage of the Edward Millen site and its associated parcels of land.*
- 2.2 Providing input into the future master planning of the site and associated parcels of land.*
- 2.3 Determining likely users of the facilities - civic, community based and suitable commercial users.*
- 2.4 Provide input into retention of heritage on the site.*
- 2.5 Provide input into the conservation plans and utilisation of Nos. 6 to 14 Kent Street.*
- 2.6 The Project Team will continue to operate until such time as the buildings' uses have been established and the premises occupied."*

- 3. Renames the "Edward Millen Working Group" to the "Edward Millen Project Team" to align with its Terms of Reference.**
- 4. Renames the "Integrated Transport Working Group" to the "Integrated Movement Network Working Group" because it reflects the higher order purpose of moving people and goods in a safe and sustainable manner and it is consistent with the new terminology used by various State Government agencies including the Departments of Planning and Transport.**

CARRIED (8-0)

11.5 Metropolitan Local Government Review – Independent Panel

File Ref:	ADM0009	In Brief
Appendices:	Yes	
Date:	24 November 2011	
Reporting Officer:	Russ Fishwick	
Responsible Officer:	Arthur Kyron	

- An independent review of Perth metropolitan local government and broader governance structures is being undertaken
- An independent Metropolitan Local Government Review Panel has been appointed and is seeking submissions on its Issues Paper
- The Council is requested to give consideration on the questions raised in the Issues Paper and provide a response.

TABLED ITEMS:

- The “draft 2009 Structural Reform Submission”.

BACKGROUND:

On 24 June 2011 the Minister for Local Government, Hon John Castrilli MLA announced an independent review of Perth metropolitan local government and broader governance structures. The review panel’s terms of reference included an expectation that the panel would directly engage with the Perth community, local governments, peak bodies, and government agencies.

Terms of Reference:

The independent Metropolitan Local Government Review Panel has been asked by the Minister for Local Government to:

1. Identify current and anticipated specific regional, social, environmental and economic issues affecting, or likely to affect, the growth of metropolitan Perth in the next 50 years.
2. Identify current and anticipated national and international factors likely to impact in the next 50 years.
3. Research improved local government structures, and governance models and structures for the Perth metropolitan area, drawing on national and international experience and examining key issues relating to community representation, engagement, accountability and State imperatives among other things the panel may identify during the course of the review.
4. Identify new local government boundaries and a resultant reduction in the overall number of local governments to better meet the needs of the community.

5. Prepare options to establish the most effective local government structures and governance models that take into account matters identified through the review including, but not limited to, community engagement, patterns of demographic change, regional and State growth and international factors which are likely to impact.
6. Present a limited list of achievable options together with a recommendation on the preferred option.

The independent Metropolitan Local Government Review Panel has been asked by the Minister for Local Government to report on the above by June 2012.

DETAILS:

An independent panel has been appointed to examine the social, economic and environmental challenges facing metropolitan Perth. The panel will recommend appropriate boundaries and governance models for local governments in the Perth metropolitan area.

The panel is chaired by Professor Alan Robson, Vice Chancellor of The University of Western Australia. Other members are Dr Peter Tannock, former Vice Chancellor of the University of Notre Dame Australia and Dr Sue van Leeuwen, Chief Executive Officer of Leadership WA.

Two advisory groups provide expert advice to the panel. One consists of the Directors General of the Departments of Local Government and Planning, while the President and Vice-President of the Western Australian Local Government Association (WALGA) make up the other advisory group.

The Metropolitan Local Government Review Panel's Issues Paper entitled "*Towards more effective metropolitan governance*" has been prepared to assist those persons and organisations with making a submission.

The Panel have stated that it is important that a broad range of stakeholders - individuals, businesses, community groups, interest groups and local governments - provide input to this review.

The review will make potentially far-reaching recommendations to the Minister that could:

- Fundamentally affect the structure and operations of local governments in metropolitan Perth; and
- Enhance the liveability and economic well-being of the metropolitan Perth community.

The Issues Paper presents key questions that have been drafted to assist the submission process. The questions are not necessarily exhaustive; and those making submissions are invited to respond to as many questions as they wish, as well as providing comments on other issues relevant to the Panel's terms of reference. Other papers prepared for the Panel are available through the website metroreview.wa.gov.au.

A full copy of the Issues Paper is contained within the Appendices to provide Elected Members with background information and statistics to assist when answering the questions.

At a workshop on 29 November Elected Members provided responses to a series of questions selected from the report. The questions extracted from the Issues Paper and the responses provided by the Elected Members and Executive staff are as follows:

1. Do you think there is a need for better local government arrangements in metropolitan Perth? Why? Or why not?
 - a. The question assumes that arrangements at present are problematic. Local councils, as should all levels of government, should focus on continuous improvement and flexible arrangements in what they do. There appears to be no catalyst for the call for changes to boundaries from the community.
 - b. The assumption that the State government is frustrated with dealing with the numerous local councils assumes that responsibility rests with the local councils; the State needs to look at the performance of the State agencies and not just local councils.
 - c. The emphasis of the review panel should be on better State and Local government relationships and not be local government centric.
 - d. Local governments should be seen as local councils and not labelled as government.
 - e. Bigger councils may result in a loss of local focus.
 - f. Solutions to issues are multi-faceted and not the domain only of local councils.
 - g. The demands from the State on local government have been ad hoc and unconstructive; the local councils are seen more as revenue collectors or residual service providers where the state government no longer wishes to provide a service or where it can shift its costs.
 - h. In general there needs to be better governance relationships at all levels of government in this state.

2. If you think there is a need for a better local government system, what should the priorities of the new system be? What should its objectives be?
 - a. Keeping the local in local councils.
 - b. Enhancing local participation in the decisions of councils.
 - c. Reducing the barriers to participation in decisions of councils.
 - d. Maintaining a focus on sustainability at all levels of government.
 - e. The Local Government Act 1995 was supposed to give local government more independence but subsequent amendments have taken back the limited general competence. This has reduced the potential to respond to our community and increased the compliance factors which add to the cost of governance at our ratepayer's expense.

3. Do you think local government in metropolitan Perth is ready to face the demands and challenges of the next 50 years? If not, what do you think needs to be changed?
 - a. Local government is facing the challenges every day in a practical way.
 - b. Appropriately sized local councils are best placed to see the issues at a local level. We see the fine grain issues far better than larger organisations.
 - c. The focus of change should be at the level of the relationship between state and council organisations rather than the onus being on the councils alone.
 - d. Local government engages with the community over the large list of services that it delivers. The community has more dealings with this first front-line tier of government and has developed more trust in local government elected members than State and Federal politicians.

4. What do you think are the biggest issues facing metropolitan Perth?
 - a. The urban sprawl; increase in population; and the dependence on fossil fuels. In addition the concentration of a limited number of business sectors.

5. Do you think local government in metropolitan Perth is ready to face the demands and challenges of the next 50 years? If not, what do you think needs to be changed?
 - a. Local government alone cannot resolve the issues of metropolitan Perth. There needs to collaborate with State and Federal governments to deal with the population expansion resulting in the provision of infrastructure to service the needs of the greater metropolitan area

6. Do you think that local government in Perth will be able to deal with national and international issues such as climate change and growing populations?
 - a. Local councils are best able to look at national and global issues and act locally to address them.
 - b. Practical actions at the local level are the primary domain of local councils whose close links with the community are best able to determine support for programs.
 - c. National and international issues are not the primary domain of local councils but councils can be partners with Federal and State governments in addressing these issues.
 - d. It can respond to climate issues such as implementing water-wise programs and hydro-zoning parks and reserves. It can also implement the use of natural energy on community buildings. It can participate in assisting State and Federal Government developing policy. In relation to population it can increase housing density to reduce to cost of providing infrastructure to cater for the urban sprawl.

7. Do you think local government should be responsible for managing these issues, or should they be the responsibility of the State or Federal governments?
 - a. No. Local councils are partners with the two other levels of government.
 - b. Local responses to global and national issues are where local councils can be most effective but for this to occur local councils need a share of state and federal funds. The partnership should extend to a better share of funds and greater access to GST.
 - c. From a holistic view the State and Federal Government are best placed to implement legislation and policy but local government can assist with implementation.

8. Who should pay for the social and physical infrastructure and services required to cope with these issues?
 - a. Local councils are the principle suppliers of social infrastructure.
 - b. If the State and Federal governments want an equitable partnership with local councils then access to GST to fund the partnership is essential.

9. Is metropolitan Perth in a position to be an effective international competitor? If not, what would you change?
 - a. The question is unclear. What is the metropolitan area competing with? The question about the competitiveness of the state and country are for the State and Federal governments respectively.
 - b. Local government should not put unnecessary barriers in the way of the competitiveness of business performance. Local government laws have limited impact on business performance.
 - c. The State government should remove constraints from local governments so that they become competitive in attracting multi-national companies and off-shore investment in their local areas. Remove legislative constraints and allow local governments to offer incentives.

10. What do you think about the other governance models discussed here, such as those adopted in Auckland or Vancouver? Which aspects of these models would work in Perth? Which aspects would not work?
 - a. In the Auckland model New Zealand has two tiers of government. If State governments were abolished then this model could be considered to have some merit however this will never occur. As can be seen with the Auckland model a third level has been introduced which aligns with the Australian three tiered system.

11. Should more be done by local governments to engage with the community?
 - a. The simple answer is yes. There are always opportunities to better engage the community.
 - b. The emphasis here is what the state and federal levels are doing to be more meaningfully engaged with the community. There is a disconnect between the State and Federal levels of government and the community.
 - c. Local councils are closer to the community and have a direct impact on the quality of life experienced.

- d. Local governments consult on most of their major activities. The Plan for the Future, Strategic Plans and the introduction of the Integrated Planning and Reporting requirements compel local governments to engage with their communities.

12. Should voting be compulsory for local government elections?

- a. There are varying views about voting in local council elections. Advocates for it to be compulsory argue that there should be the same requirements for local as there are for State and Federal elections. Advocates for it to not be compulsory argue that the costs of compulsory elections are a burden on the community and in large councils would politicise the councils.
- b. Non-compulsory voting may be seen to encourage genuine and community minded electors to vote. Compulsory voting does not mean that all electors are aware of the best candidates but vote so they are not fined. With compulsory voting it is only a requirement to get your name struck off the roll it does not mean you have to fill in a ballot paper.
- c. Local Government elections every 4 years with all positions vacant which aligns with the State Government elections would also save costs. It is envisaged that not all sitting candidates would be defeated. It would also increase competition and also may well impact by increasing voter participation rates.

13. Does metropolitan Perth have too many local governments? What would be the advantages and disadvantages in reducing the number of local governments?

- a. It is not the intention of this council to get into the argument over the number of councils in the metropolitan area. The question that is more appropriate to ask is what the factors that influence local council effectiveness are? The answer should be derived from an empirical study rather than glib statements and hearsay.
- b. The view of this council is that effectiveness is influenced by but not limited to the following variable:
 - i. State government limitations.
 - ii. Capacity of Elected Members to perform their role.
 - iii. Clarity of roles and responsibilities of councils.
 - iv. Capacity to generate and diversify sources of revenue.
 - v. Remuneration of Elected Members and staff.
 - vi. Governance models and laws.
 - vii. Election of members.
 - viii. Appointment of officials, delegations and skill levels.
 - ix. Representation effectiveness.
 - x. Accountability
 - xi. Intergovernmental relationships.
 - xii. Resourcing of Elected Members

14. If the boundaries and or roles of Perth's local governments are changed, what should be the criteria for doing so? Are the LGAB's factors (cited above) the right criteria?
- a. Yes as they cover the most important elements relating to local government boundaries
15. Should local government boundaries be set by an independent body and reviewed at regular intervals?
- a. No.
16. If Perth's local government boundaries do not change how do you think services to communities could be improved?
- a. Service delivery effectiveness is not determined by local council boundaries. The question naively assumes boundary changes have an impact on effectiveness of local council services.
 - b. By the introduction of Regional Councils to provide a resource pool. For example if there is a shortage of Town Planners the Regional Council could provide the professional assistance required.
17. What do you consider are the main roles and responsibilities of local government?
- a. The question is more appropriately answered by listing the areas local councils should not be engaged in:
 - i. Waste collection and management
 - ii. Emergency services
 - iii. Security patrols
 - iv. Libraries
 - v. State government debt collecting
 - b. There may be an opportunity for local government to undertake the billing functions of State Agencies such as the Water Authority by sending out rate notices in a one stop shop approach (Similar to the FESA Levy) and charge the State Government for the service (make a profit rather than at cost)

Local; councils provide a wide array of functions. These are listed below:

Animal Control	Noise Control
Beach Management - (including lifeguards)	Parking Bays/Road Closures
Building Control	Parking Control
Bus Shelters	Parks & Reserves - Maintenance & Hire
Car Parks	Pedestrian Crossings
Citizenship Ceremonies	Pest Control
Club Development	Planning Controls
Community Arts	Playground Equipment
Community Donations and Subsidies'	Public Toilets
Community Information Service	Recreational/Sporting Facilities and Programmes
Crime Prevention and Community Safety	Recycling
Crossovers	Roads/Kerbing/Drainage
Cultural Activities	Rubbish Bins & Collection

Cycleways	Security Patrols
Demolition Permits	Senior Citizens centre
Disability Access and Inclusion	Signs; Parking, Street-names, Information, Directional and Traffic.
Dog Control	Stormwater Drainage
Environmental Health	Street Furniture
Events & Festivals	Street Lighting
Fire Prevention	Street Events Permits
Footpaths	Street Sweeping
Graffiti Removal	Street Trees
Immunisation for infants	Swimming Pool
Leisure Centres	Transport – Free CBD Buses
Library	Traffic Management
Litter Bins	Transport Planning
Local History	Youth Engagement and Programmes
Newsletters (information to community)	

18. Are there any State provided services that local government might be better placed to provide?

- a. Local Policing by giving police powers to local government officers such as Rangers who are trained by the Police Academy.

19. What do you consider to be the principles of good governance at a local level?

- a. Governance concerns the values, policies and procedures a Council and its staff adopt, to provide ethical, transparent and accountable local governance. Principles of good governance should relate to:
 - Elected Representation;
 - Community Participation;
 - Roles and Relationships;
 - Strategic Direction;
 - Policies and Procedures;
 - Accountability; and
 - Council and Committee Meetings.

20. Do you think there should be greater State government oversight of issues, such as key performance indicators and senior local government employee appointments and salaries?

- a. Local council effectiveness as should other levels of government be measured. However, there should be a balanced approach to what gets measured and reported. The current Compliance Audit Return is an example of how poorly the measurement of accountability has been measured by the Department of Local Government.
- b. The State government is too far removed to set KPIs. A generic set however could be developed in relation to common KPI's to be considered when undertaking performance reviews but these could be provided by WALGA and/or the LGMA.
- c. Senior local government employee appointments should be overseen by local councils.

21. If you could make a recommendation to the Minister for Local Government about the best way to organise local government in metropolitan Perth, what would you say?
- a. Set up Regional Local Governments to provide resource sharing of a larger scale.

The following supplementary questions were designed for local governments to respond to in addition to, or instead of, the above questions in the Issues Paper. Responses have not been provided to all the questions as they have been dealt with above.

Supplementary questions for local governments (optional)

1. What do you think are the biggest issues facing local government in metropolitan Perth?

See above

2. What changes or improvements in arrangements are needed between the State and local government sector for governing Perth?

The compliance requirements placed on local governments by the large number of State Acts and Regulations as listed hereunder:

- Builders Registration Act 1939
- Building Code of Australia 1996. Vol.1&2 – “plus annual updated versions”
- Building and Construction Industry Training Levy Act 1990
- Building and Construction Industry Training Fund and Levy Collection Act 1990
- Building and Construction Industry Training Fund and Levy Collection Regulations 1991
- Building Regulations 1989
- Bush Fire Regulations
- Bush Fires Act 1954
- Conservation and Land Management Act 1984
- Construction Safety Act 1972
- Contaminated Sites Act 2003
- Control of Vehicles (Off Road Areas) Act 1978
- Corruption and Crimes Commission Act 2003
- Liquor Licensing Act 1988
- Litter Act 1979
- Local Government (Miscellaneous Provisions) Act 1960
- Local Government Act 1995
- Local Government Regulations
- Local Government Grants 1978
- Local Government (Long Service Leave) Regulations
- Main Roads Act 1930
- Main Roads (Control of Advertisement) Regulations 1996
- Occupational Safety and Health Act 1984
- Occupational Safety and Health Regulations 1996
- Parks and Reserves Act 1895
- Parliamentary Commissioner Act 1971
- Planning and Development Act 2005
- Police Act 1892 – 1982
- Public Interest Disclosure Act 2003
- Public Works Act 1902

- Disability Services Act 1993
- Dividing Fences Act 1961
- Dog Act 1976
- Dog Act Regulations
- Dangerous Goods Safety Act 2004
- Environmental Protection Act 1986

- Equal Opportunity Act 1984
- Evidence Act
- Explosives and Dangerous Goods Act Amendment 1974
- Fair Work Act 2009
- Fair Work Regulations 2009
- Fire Brigades Act 1942
- Freedom of Information Act 1992
- Health Act 1911
- Heritage of Western Australia Act 1990
- Interpretation Act 1984
- Land Administration Act 1997
- Library Board of WA Act 1951
- Limitation Act 2005 (as well as Limitation Act 1935)

- Residential Design Codes of WA
- Road Traffic Act 1974
- Road Traffic Regulations
- State Planning Commission Act 1985
- State Transport Co-ordination Act 1966
- State Records Act 2000
- Strata Titles Act 1985
- Strata Titles General Regulations 1985
- Superannuation Guarantee (Administration) Act 1992
- Swan and Canning Rivers Management Act 2006
- Tobacco Products Control Act 2006
- District Planning Scheme
- Transfer of Land Act 1893
- Valuation of Land Act 1978
- Workers Compensation and Injury Management Act 1981
- Working with Children (Criminal Record Checking) Act 2004
- Working with Children Regulations 2005

3. What services should local government provide in the metropolitan area?

See above

4. How should local government be financed to provide those services?

Enable local government to charge cost recovery for services provided as some are limited by what is prescribed in the legislation.

The funding should be provided by:

- Fees & Charges for services
- Grants State & Federal
- Rates (not aligned to CPI as suggested by the Minister and Professor Robson)

5. Are there any State-provided services that local government might be better placed to provide? Conversely, are there any local government provided services which the State might be better placed to provide?

Local policing where police powers are given to local government officers

6. What are the limitations or restrictions on local government doing more or in delivering current services more effectively or efficiently?

Restrictive legislation

7. Bearing in mind the Panel's terms of reference in relation to improved structures and governance models to better meet the needs of the community, are there any major changes to key legislation which are essential or desirable?

Less compliance requirements which is becoming a fiscal impost.

8. Are there opportunities to streamline local government service delivery?

Regional Councils that could provide an array of services other than waste disposal using the EMRC as a model.

Legal Compliance:

The *Local Government Act 1995*

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Nil

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

Public submissions and responses to the Issues Paper are required by 23 December 2011.

The Panel intends to release its draft conclusions in March 2012 (further comments will be invited at that time).

The Panel reports back to the Minister by 30 June 2012.

The responses to the above questions are to form the basis of the submission from this council to the review panel.

It should also be noted that WALGA is developing a submission to the Metropolitan Local Government Review Panel under the guidance of a President's Advisory Group, comprised of a number of State Councillors, Local Government CEO's and professional staff.

WALGA has been granted a submission deadline extension until 31 January 2012 to enable its submission to be developed in consultation with the sector and assessed through a round of special zone meetings and at a special State Council meeting prior to lodgement. It is therefore recommended that the South East Metropolitan Zone convene a special meeting to consider the WALGA submission.

ADDITIONAL COMMENT:

At the Elected Members Briefing Session held on 6 December 2011 it was suggested that the Council includes in its submission to the independent Metropolitan Local Government Review Panel a copy of the Town's 2009 Structural Reform Submission to the Minister for Local Government.

The Council at its meeting held on 22 September 2009 resolved inter alia that:

"The draft 2009 Structural Reform Submission – as it appears in the Appendices (without its attachments) – be endorsed and forwarded to the Minister for Local Government."

A copy of the aforementioned document has been forwarded to Elected Members and is laid on the table. The document has also been referenced by being included in sub-clause 1.2 of the recommendation so that it can form part of the Town's submission to the independent Metropolitan Local Government Review Panel.

RESPONSIBLE OFFICER RECOMMENDATION:

Moved: Councillor Hayes

Seconded: Councillor Skinner

1. The Town makes a submission to the independent Metropolitan Local Government Review Panel by providing;
 - 1.1 Its answers and comments to the questions raised in the Issues Paper as outlined in the “Details” section of this report; and
 - 1.2 A copy of the its “draft 2009 Structural Reform Submission”.
2. Requests WALGA to convene a special meeting of the South Metropolitan Zone in order for WALGA’s submission to the independent Metropolitan Local Government Review Panel to be considered prior to it being presented to the WALGA State Council.

WITH THE FOLLOWING AMENDMENTS:

- That part (a) be added to 1.1 which reads Local Government should retain waste collection and forgo Waste Management.
- That part (b) be added to 1.1 which reads Local Government should retain Library Services.

CARRIED BY AN ABSOLUTE MAJORITY (8-0)

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Skinner

1. The Town makes a submission to the independent Metropolitan Local Government Review Panel by providing;
 - 1.1 Its answers and comments to the questions raised in the Issues Paper as outlined in the “Details” section of this report and that:
 - a) Local Government should retain Waste Collection and forgo Waste Management.
 - b) Local Government should retain Library Services.
 - 1.2 A copy of the its “draft 2009 Structural Reform Submission”.
2. Requests WALGA to convene a special meeting of the South Metropolitan Zone in order for WALGA’s submission to the independent Metropolitan Local Government Review Panel to be considered prior to it being presented to the WALGA State Council.

CARRIED BY AN ABSOLUTE MAJORITY (8-0)

12 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

12.1 Unit 4/1 (Lot 23, Strata Lot 4) President Street, Welshpool – Change of Use to Unlisted Use (Offices, Commercial Kitchen and Function Centre)

File Ref:	PRES1/4	In Brief <ul style="list-style-type: none"> • Application for a change of use to Unlisted Use (Offices, Commercial Kitchen and Function Centre). • Consultation undertaken for 21 days in accordance with Council Policy GEN3 'Community Consultation' with two (2) submissions received at the time of writing this report. • Recommended for Refusal based on the non-industrial nature of the use and parking shortfall.
Appendices:	No	
DA/BA or WAPC Ref:	11/0661	
Date:	8 December 2011	
Reporting Officer:	H Gleeson	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 31 October 2011;
- Plans dated received 31 October 2011;
- Applicant's statement dated received 31 October 2011 and 30 November 2011;
- Correspondence to applicant (advertising process letter) dated 10 November 2011;
- Consultation with adjoining owners & occupiers dated 17 November 2011; and
- Land Use and Zoning Enquiry response dated 30 May 2011.

APPLICATION:

Landowner: JV & AJ Rapattoni
 Applicant: MSA Group Pty Ltd
 Zoning: MRS: Industrial
 TPS: Industrial (2) Zone
 Precinct Plan P9 'Welshpool Precinct'

DETAILS:

An application has been received seeking to install a mezzanine level to an existing building to be used as a 'Function Centre'. A 'Function Centre' is not listed as a use under Town Planning Scheme No. 1.

The existing building is currently approved as a 'Commercial Kitchen' with an ancillary office and is occupied by a catering business. The owner now wishes to provide the function and entertaining service on site. The building is part of a site occupied by 14 strata units all used for industrial, showroom and warehouse purposes and a communal 69 bay car park.

The proposed hours of operation of the 'Function Centre' would be between 6:00pm to midnight during weekdays and on the weekend with a maximum number of 50 patrons at any one time. Access to the mezzanine floor would be via a stair case and proposed lift.

The applicant has submitted the following statement in support of the application:

"The use of the Function room which is entirely contained within unit 4 is proposed as an after-hours venue that will not impact on the use of the adjoining businesses owners and their allocated car parking bays.

Accordingly the owner will abide by any condition of approval that so restricts the operating hours to a time and day to the satisfaction of the Council. This will ensure that the use of the venue does not detrimentally affect surrounding business owners and their need for parking. The owner guarantees that Saturday Night and Sunday Lunch for example where the Strata complex is empty will not represent an issue for parking for the vacant surrounding businesses."

Community Consultation

In accordance with Clause 35 of Town Planning Scheme No. 1 and Council Policy GEN3 'Community Consultation', the applicant was requested to advertise the development in the Southern Gazette and Examiner newspapers for three consecutive weeks, and to erect signs on the President Street and Planet Street frontages of the site for the duration of the required 21 day advertising period. The applicant has conducted the necessary advertising.

Letters were also sent to surrounding owners and occupiers with a 21 day period to comment on the application, commencing on 17 November 2011 and closing on 9 December 2011. Two objections were received at the time of writing this report, both from tenants within the same strata complex, expressing concerns regarding :

- The incompatibility of the Function Centre with their business;
- Limited available car parking for the Function Centre;
- Limitations on the operation of their business if the Function Centre was approved;
- Conflict between patrons of the Function Centre and the use of forklifts moving items within the car park.
- There already being a Function Centre within the locality which is sufficient (Note – The Embassy Ballroom was approved by the City of Perth).

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

- Statement of Intent for Precinct P9 'Welshpool Precinct'
- Clause 16 'Unlisted Uses'
- Clause 36 'Determination of Applications – General Provisions'

- Clause 37 ‘Determination of Application for an Unlisted Use’
- Clause 38 ‘Determination of Non-Complying Applications’
- TPS 1 Policy Manual:
 - Policy 5.1 ‘Parking and Access’
 - Policy 5.2 ‘Loading and Unloading’

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

The parking requirements for the various uses of the subject building are as follows:

Activity / Use	Parking Requirement
Office	1 for every 40 square metres of net floor area
Industry (Commercial Kitchen)	1 for every 75 square metres of net floor area
Function Centre	1 for every 4.5 square metres of queuing area

The existing parking requirement for the site is 62.81 bays and the parking requirement for all other units other than the subject building is 58.94 bays.

The total proposed parking requirement for the site is as follows:

Total Parking Requirement	
<i>Unit and Activity/Use</i>	<i>Number of Parking Bays Required</i>
Units 1-3, 5-14 <u>Industry, Warehouse and Showroom</u>	58.94
Unit 4 <u>Office</u> 65.99m ² @ 1/40m ² of net floor area	1.65
<u>Industry</u> 167m ² @ 1/75m ² of net floor area	2.22
<u>Function Centre</u> 167m ² @ 1/4.5m ² of net floor area	<u>37.11</u>
	99.92
	Therefore: 100 bays (rounded to the nearest whole number) and a parking shortfall of 31 bays

Under Clause 5.1.6.5 of Policy 5.1 'Parking and Access' the Council can consider a reciprocal parking arrangement where Council is convinced demand for parking by the uses will not coincide. This matter will be discussed in the comments section of the report.

Sustainability Assessment:

External Economic Implications:

No impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

Non-Industrial Use

The Statement of Intent for Industrial (2) Zone of the Welshpool Precinct states the following:

'This section of the precinct will be consolidated and developed as well maintained general industrial area. Non-industrial uses may be permitted where they are to be incidental to the primary industrial use or where they are to serve the needs of the local industrial community'

The proposed 'Function Centre' is a non-industrial use and therefore may only be permitted if it is incidental to a primary industrial use or if it serves the needs of the local industrial community.

Excluding the ancillary office component of the use, the proposal would result in 50% of the building being occupied by an industrial use and 50% of the building being occupied by a non-industrial use. The applicant has stated that the approximate cost of development is \$100,000 which indicates the 'Function Centre' would be a significant component of the business in order for the owner to get a return on the investment and make a profit. Based on the information at hand it is considered the proposed 'Function Centre' would not be incidental to the industrial use of the property but would be a dominant component of the use. Accordingly it is considered the proposal fails to meet the first of the above criterion of the Statement of Intent.

With regard to the second criterion, it is considered the use would not serve the needs of the local industrial community. A 'Restaurant' or 'Fast Food Outlet' is a permitted use within the Industrial (2) Zone as this enables provisions of lunch bars throughout the locality to directly serve the needs of employees and customers in the area. However, a 'Function Centre' is different in character and would attract people outside the local industrial community and would fail to serve the needs of the local industrial businesses.

It is therefore considered that the proposed use would fail to meet the Statement of Intent for Industrial (2) Zone of the Welshpool Precinct and it is recommended that planning approval be refused on this basis.

It is also considered that the 'Function Centre' use would not be compatible with industrial uses. The 'General Industry' use is expressly permitted in this zone meaning a surrounding or adjacent property could be approved for this use and generate noise and emissions which may have an adverse impact on the operation of the 'Function Centre'. It is considered that this would not be in the interest of the proper and orderly planning of the locality and refusal is also recommended for this reason.

Car Parking

The proposed use would result in a total parking requirement of 100 bays resulting in a shortfall of 31 bays. Under Clause 5.1.6.5 of Policy 5.1 'Parking and Access' the Council can consider a reciprocal parking arrangement where Council is convinced demand for parking by the uses will not coincide.

The hours of operation of the other units are not restricted by way of a planning condition and the occupants can operate 24 hours a day. To date no information has been submitted to suggest that parking demand for the various uses on the site would not coincide. Furthermore two objections have been received objecting to the proposal and expressing the view that there is not sufficient parking available for the use of the patrons of the function Centre.

If planning approval were granted, a situation could arise whereby patrons would park vehicles in front of the roller doors of the other units preventing the efficient operation of the other uses on the site or park in areas not designated as parking bays which could result in traffic collisions, or park on the street or Council verge.

Based on the submitted information it is considered that the proposed use would result in parking congestion and injudicious parking conditions on the subject site and surrounding area to the detriment of the amenity of surrounding occupants and traffic safety.

Conclusion

In view of the above, the proposed change of use to Unlisted Use (Offices, Commercial Kitchen and Function Centre) at Unit 4/1 President Street, Welshpool is considered to be inconsistent and contrary to the provisions of Clauses 36, 37 and 38 of the Scheme and is therefore recommended for Refusal.

RESOLVED:

Moved: Councillor Skinner

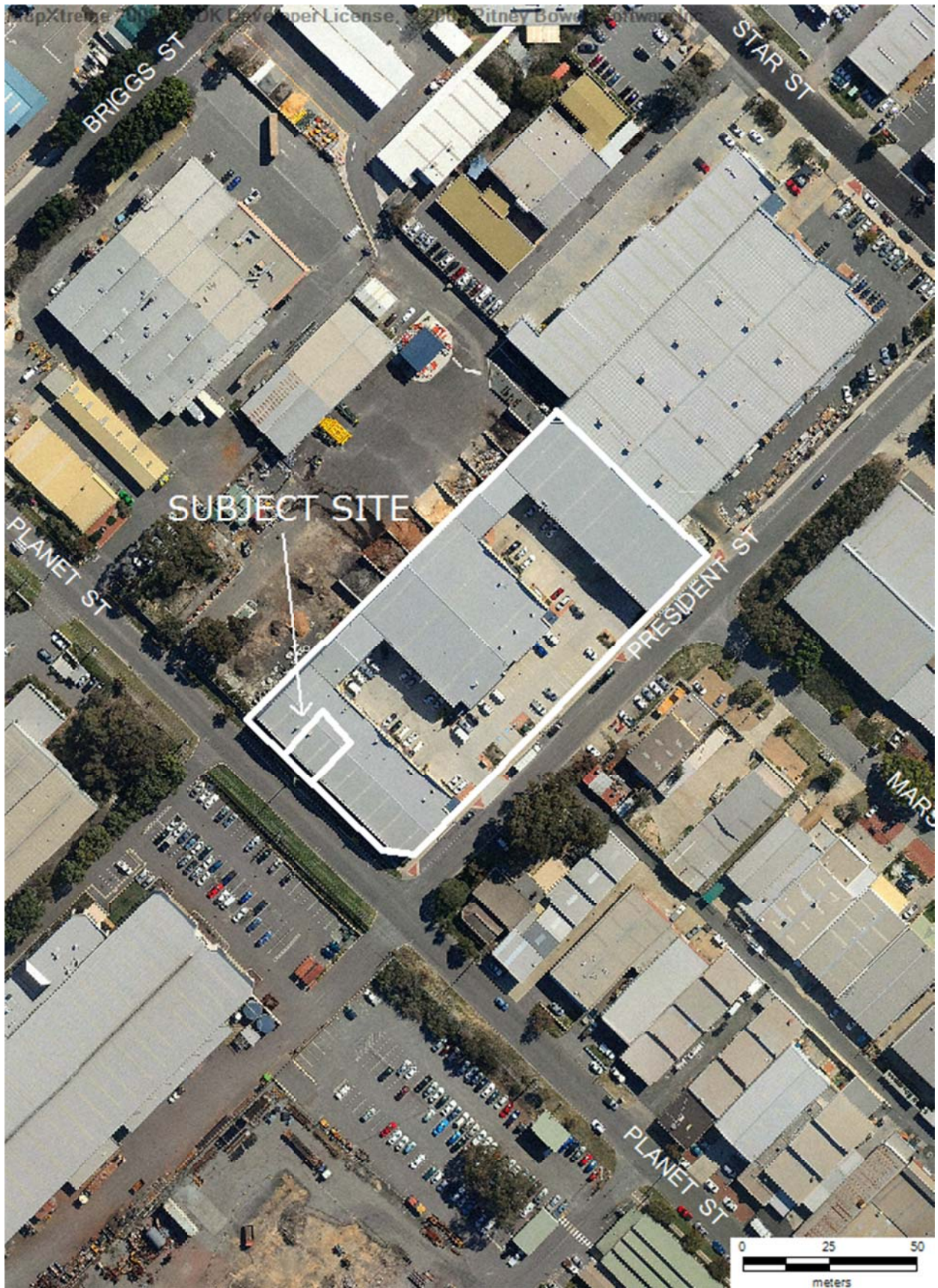
Seconded: Councillor Nairn

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 MSA Group Pty Ltd on behalf of JV & AJ Rapattoni (DA Ref: 11/0661) for Change of Use to Unlisted Use (Offices, Commercial Kitchen and Function Centre) at Unit 4/1 President Street, Welshpool as indicated on the plans and information dated received 31 October 2011 be Refused for the following reasons:
 - 1.1 The 'Function Centre' is a non-industrial use that would neither be incidental to the primary industrial use of the site nor serve the needs of the local industrial community contrary to Clause 36(5) of the Town Planning Scheme No. 1 and the Statement of Intent of Precinct Plan P9 'Welshpool Precinct'.
 - 1.2 The 'Function Centre' would be incompatible with the surrounding industrial uses contrary to Clause 36(5) of the Town Planning Scheme No. 1.
 - 1.3 The 'Function Centre' would generate a high parking demand that would overlap with the parking demand of other uses on the site resulting in congested and injudicious parking conditions to the detriment of the amenity of surrounding occupants and traffic safety contrary to Policy 5.1 'Parking and Access' of the Town Planning Scheme Policy Manual and Clause 36(5) of the Town Planning Scheme No. 1.

Advice to Applicant:

- 1.4 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
2. The owners and occupiers of surrounding properties who made submissions in respect of the application (if any) be advised of Council's decision.

CARRIED (8-0)



12.2 44 (Lot 483) Raleigh Street, Carlisle - Change of Use from Restaurant to Restaurant/Fast Food Outlet and Additions/Alterations

File Ref:	RALE44	In Brief <ul style="list-style-type: none"> • Proposal to include a 'Fast Food Outlet' component to an existing 'Restaurant', external alterations and a patio addition in front of the building. • Site is zoned 'Local Centre' but abuts residential land. • Five objections received. • Recommended for Approval subject to a condition omitting the 'Fast Food Outlet' component.
Appendices:	No	
DA/BA or WAPC Ref:	11/0525	
Date:	24 November 2011	
Reporting Officer:	H Gleeson	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 1 September 2011;
- Applicant's Statement of Operations dated received 30 September 2011;
- Traffic Statement from tenant dated received 24 November 2011;
- Plans dated 30 September 2011 and 1 September 2011;
- Consultation letter to surrounding owners and occupants; and
- Consultation responses.

APPLICATION:

Landowner: Yenislely Holdings Pty Ltd
 Applicant: Nam Nguyen
 Zoning: MRS: Urban
 TPS: Local Centre
 Precinct Plan P8 'Carlisle Precinct'

DETAILS:

The subject site is located on the edge of the Carlisle 'Local Centre' Zone and has approval for use as a 'Restaurant' for up to 76 seats. The property has a rear car park accessed via a right-of-way, a front car park comprised of three bays and a garage for staff parking comprised of two tandem bays. This section of Raleigh Street is a no through road and all but two of the properties are zoned Residential 'R30'.

This application proposes alterations to enable provision of a 'Fast Food Outlet' which would be separated from the existing 'Restaurant' component. It is proposed that the 'Fast Food Outlet' would operate between the hours of 10am to 2pm and 5pm to 9pm daily. The proposal also includes a patio structure in the front courtyard of the property to provide an outdoor dining area.

The tenant has submitted the following justification in response to the Council's concerns regarding parking:

"We are writing to appeal to council to approve our take away service which we believe will be a great service for the community at large. Since our opening on 9th Nov many people from the neighbourhood have been dropping in and calling to enquire about our take away service. We hope to receive approval as soon as possible.

IL Cammino Restaurant & Pizzeria's management is committed to pursue business excellence both to our customers and to our community. That is why our vision is "To create memorable dining platforms for people from all walks of life to experience and enjoy their time with their family, friends, relatives, colleagues or business associates". We understand that many of our customers will also be people from our neighbourhood and community. This means, not only do we pursue the need to take care of our customers but also our community.

With this in mind and pursuant to the issue of traffic concern pertaining to the take-away business that IL Cammino plans to embark on, the following measures should elevate some of the concerns. We hope you can take our actions into your consideration in approving at the soonest possible.

We already have ample parking lots at front and rear. The front and rear parking area will be lighted up during the night. We also plan to put lighting along the side walk. This should improve visibility for customers walking from the rear to the front entrance area for dine-in and take-away. We hope this will encourage customers to park at rear (when front parking is not available) and walk safely to front for take-away collection and dine-in instead of randomly parking along the street. Signs have been put up to channel customers to park at the rear.

- 1. We will discourage walk-in order for take-away customers. In our advertisement campaign, we plan to encourage customers to call and order in advance so that they can come and collect their order with staggered time slot and minimum waiting time, i.e 'Pick and Go'. This is another way of easing the traffic flow to our restaurant. In fact, we will soon be rolling out website to allow customer to order online, built in with staggered time slot for order collection.*
- 2. To encourage call in advance order we plan to offer discount or free drinks or garlic bread for take-away.*
- 3. We plan to roll out delivery service in the near future if we see that pick up is causing congestions in the area. This is another way for us to improve the traffic condition by reducing the take-away customer coming to us.*
- 4. All our staff will be allocated parking only at rear parking area. This should encourage our patrons to park at our designated front parking which can park 3 cars.*

5. *There are 4 extra parking lots at our next door Bakery Store. They are closed in the evening and we are seeking their approval to allow our customers to utilize their parking lots.”*

Consultation

In accordance with Council’s GEN3 ‘Community Consultation’ Policy the proposal was the subject of consultation for a 14 day period, with letters being sent to the owners and occupiers of surrounding dwellings. Five objections were received in relation to the ‘Fast Food Outlet’ component of the application which are summarised below:

Summary of Consultation Submissions from occupants and/or owner occupants of 38A Raleigh Street, 38B Raleigh Street, 2/40 Raleigh Street, 41C Raleigh Street and 2/42 Raleigh Street.	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> • ‘Fast Food Outlet’ would increase vehicle traffic and noise into Raleigh Street. • ‘Fast Food Outlet’ door faces Raleigh Street so customers would park on Raleigh Street. • Insufficient car parking for ‘Restaurant’ and ‘Fast Food Outlet’. • Raleigh Street is a no through road and driveways and verges would be used to turn around while attending the ‘Fast Food Outlet’. • Reduce parking for residents, family and guests. • Concerns regarding vehicles parking across driveways. • Lunch time service of proposed ‘Fast Food Outlet’ would coincide with Carlisle Bakery exacerbating already congested parking conditions on Raleigh Street. 	<ul style="list-style-type: none"> • Supported. Refer to Comments section below. • Supported. Refer to Comments section below. • The proposal complies with the total on-site parking requirement under Policy 5.1 ‘Parking and Access’ but it is considered that many customers would park on Raleigh Street. • Supported. Refer to Comments section below. • Supported. Refer to Comments section below. • Supported. Refer to Comments section below. • Supported. Refer to Comments section below.

<ul style="list-style-type: none"> • Already have to complete multiple vehicle maneuvers in order to exit my property and get access to Archer Street due to this congestion during peak hours. • Customers would not park in the rear car park as it is quick to walk to the entrance by parking on Raleigh Street. • Not totally against the idea but do have concerns regarding the parking situation. • When the previous restaurant was operating on busy nights cars were parked bumper to bumper on either side of the road heading up Raleigh Street making a quiet street busy and creating a bottleneck (width of one car) to drive making safety an issue. • Current uses result in parking congestion preventing two way access. 	<ul style="list-style-type: none"> • Supported. Refer to Comments section below. • Supported. Refer to Comments section below. • Supported. Refer to Comments section below. • Acknowledged. • Acknowledged.
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Legal Compliance:

Under the Council's Town Planning Scheme No.1, a 'Fast Food Outlet' is listed as an "P" (permitted) use within the Local Centre Zone. However, Precinct Plan 8 'Carlisle Precinct' states the following:

'Careful control will be exercised over the nature of any proposed new uses and their design and layout to ensure minimal impact on adjacent residential areas'

Relevant Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Clause 38 of the Scheme Text;

- Precinct Plan 8 ‘Carlisle Precinct’; and
- TPS 1 Policy Manual:
 - Policy 3.5 ‘Non-Residential Uses in or Adjacent to Residential Areas’
 - Policy 5.1 ‘Parking and Access’
 - Policy 5.2 ‘Loading and Unloading’

Town Planning Scheme No. 1 – Policy 5.1 “Parking and Access Policy”

The parking requirements for the various uses of the subject building are as follows:

Activity/Use	Required Number of Parking Bays
Restaurant	76 seats as per Development Approval 96/0355
Fast Food Outlet	1 for every 4.0 square metres of counter/queuing area

The total proposed parking requirement for the site is as follows:

Total Parking Requirement	
<i>Unit and Activity/Use</i>	<i>Number of Parking Bays Required</i>
<u>Restaurant</u> As per Development Approval 96/0355	19
<u>Fast Food Outlet</u> 3.6m ² @ 1 for every 4m ² of counter/queuing area	0.9 19.9
	Therefore: 20 bays (<i>rounded to the nearest whole number</i>)
	20 bays provided on-site. There are actually 21 bays but two are in a tandem arrangement and therefore only one of these can be credited.

Sustainability Assessment:

External Economic Implications:

No impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

Restaurant Component

The subject site benefits from planning approval for a 'Restaurant' with a maximum of 76 seats. A condition of this approval restricted the sit down dining area from being sited within the front courtyard in order to control the number of customers. However, this application proposes internal alterations including provision of a new cashier and bar that will reduce the internal sit down dining area by 20m². The application proposes a sit down dining area within the front courtyard but this would not exceed 20m² resulting in no increase to the total sit down dining area than that approved under Development Approval 96/0355. A condition is recommended that the maximum number of seats be limited to 76 as per Development Approval 96/0355 and there would be no additional impact to the surrounding residents in this regard.

Policy 3.5 'Non-Residential Uses in or Adjacent to Residential Areas' also requires Council to have regard to the noise or emissions generated by the use. It is considered that the outdoor dining area would not give rise to excessive noise to the detriment of the surrounding residents given this area is separated by a distance of some 16 metres from the nearest dwelling. Overall it is considered that provision of a dining area within the front courtyard would be acceptable.

The 'Restaurant' component can be accessed directly from the rear car park. However, there is no signage directing customers to the car park and the car park and right-of-way are poorly lit which may result in customers parking on Raleigh Street instead. In order to address this issue a condition is recommended that car parking signage and lighting be provided to the satisfaction of the Manager Urban Planning.

Fast Food Outlet Component

It is considered that the proposed 'Fast Food Outlet' would have an adverse impact on the amenity of the surrounding residents of Raleigh Street and compromise traffic safety by reason of generating an excessive number of frequent short trips resulting in congested on-street parking conditions.

Precinct Plan 8 'Carlisle Precinct' states the following:

'Careful control will be exercised over the nature of any proposed new uses and their design and layout to ensure minimal impact on adjacent residential areas'

In addition to this Policy 3.5 'Non-Residential Uses in or Adjacent to Residential Areas' states the following:

'Non-residential development on land which abuts land which is or may be used for residential purposes shall only be permitted where the nature of the non-residential use will not cause undue conflict through the generation of traffic and parking or the emission of noise or any other form of pollution which may be undesirable in residential areas.'

The tenant has stated that the front car park comprised of three bays would be reserved for the exclusive use of customers of the 'Fast Food Outlet' and that there are four on-street parking bays located outside the Carlisle Bakery which could be utilised during the evening service. The tenant has also stated that incentives will be provided to encourage customers to call up and order beforehand in order to manage pick up times to relieve congestion, that many of the local customers will walk to the premises and that they will implement a delivery service if the take away component results in on-street parking congestion.

Unlike the 'Restaurant' component, the 'Fast Food Outlet' component cannot be accessed from the rear car park and it is considered that the three bay front car park and four on-street parking bays would not accommodate customers during peak times. It is considered unlikely that customers would park in the rear car park and walk down the right-of-way to the front of the building when parking on Raleigh Street would be a shorter walking distance. During peak hours it is anticipated that parking would occur along Raleigh Street and there would be an excessive number of comings and goings which would be out of keeping with the intensity of a medium density residential suburban street.

Some of the actual impacts would be noise generated through slamming of car doors and nuisance caused by glare into dwellings when vehicles conduct three-point turns using the driveways of residential properties (this section of Raleigh Street is a no-through road). It is acknowledged that these impacts occur anyway, however, the 'Fast Food Outlet' would result in a higher number of vehicles using Raleigh Street which would be out of keeping with that of a typical residential suburban street and the proposed use would have an unreasonable impact on the residents of the street. Another impact would be congested on-street parking conditions and vehicles parking partially across crossovers to the detriment of the amenity of the residents and safe traffic conditions and reduce parking opportunities for residents and visitors.

It is acknowledged that the tenant has submitted some measures to address parking concerns, however, it is considered these measures would not mitigate the adverse impact to the residents of Raleigh Street. One such measure proposed to stagger pick up times of customers and encourage customers to call ahead with orders with discounts to manage pick times rather than have customers order on the premises. It is considered this would be hard to manage in practice and would be difficult to enforce as part of a planning condition. The tenant has also stated they intend to provide a delivery service in the future if the pick-up service results in congestion.

While it is noted that a delivery service would reduce the impact of the use there would be still be a pick-up service available and it is not possible to confirm how many customers would use the delivery service.

Given the above it is considered that the 'Fast Food Outlet' would have an unreasonable impact on the amenity of the residents of Raleigh Street and would compromise safe traffic conditions contrary to Clause 36(5) of the Scheme Text, Precinct Plan 8 'Carlisle Precinct', and Policy 3.5 'Non-Residential Uses in or Adjacent to Residential Areas' and it is recommended that this element be omitted from the planning approval. Given that the proposed 'Fast Food Outlet' requires substantial structural alterations it is considered inappropriate to grant a temporary planning approval for this component in order to give the tenant a 'trial run'.

Addition

Precinct Plan 8 'Carlisle Precinct' requires new development within the 'Local Centre' Zone to have a nil setback. The intent of this provision is for new development proposals to activate the streetscape and be in keeping with traditional shop fronts that typically have a nil setback. This application proposes a patio structure over the front courtyard which is setback 1.5 metres from the front boundary contrary to the above standard. The setback provision is somewhat of an anomaly in relation to this site as it is already developed with a building setback 7.6 metres from the front boundary. The proposed 1.5 metre setback of the patio would have less of an impact that if it were sited on the front boundary. Although the materials of the patio would not match the dwelling the majority of the structure would have a flat roof and would be partially obscured by the front fence and landscaping. It is also noted that the position of the building and established trees behind the structure would provide a backdrop behind the structure further reducing its prominence. Overall it is considered the proposed patio structure is acceptable.

Conclusion

In view of the above it is recommended that conditional planning approval be granted for the patio addition and provision of sit down dining area in the front courtyard and that a condition be imposed omitting the proposed 'Fast Food Outlet' and associated alterations to the 'Restaurant' at 44 Raleigh Street, Carlisle.

RESPONSIBLE OFFICER RECOMMENDATION:

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 Nam Nguyen on behalf of Yenislely Holdings Pty Ltd (DA Ref: 11/0525) for Change of Use from 'Restaurant' to 'Fast Food Outlet/Restaurant', Additions and Alterations as indicated on the plans dated received 1 September 2011 and 30 September 2011 be Approved subject to the following conditions:**
 - 1.1 **This approval does not include the proposed 'Fast Food Outlet' and associated external alterations as marked in red on the approved plans. Provision of a 'Fast Food Outlet' component on the site is not permitted.**

- 1.2 Lighting to be provided from the premises facing onto the right-of-way. Details to be provided of proposed lighting to the rear car park and right-of-way to the satisfaction of the Executive Manager Street Life within one month of the date of this approval with such lighting being installed within 60 days of this approval.
- 1.3 Signage shall be provided directing customers to use the rear car park. A sign licence application is to be obtained within one month of the date of this approval, with the approved signage to be installed within 30 days of a sign licence being obtained.
- 1.4 Provision shall be made for customers to enter the 'Restaurant' from the rear car park and this shall be sign posted to the satisfaction of the Manager Urban Planning. A sign licence application is to be obtained within one month of the date of this approval, with the approved signage to be installed within 30 days of a sign licence being obtained.
- 1.5 The total number of seats for the sit down dining areas of the 'Restaurant' being restricted to 76 seats. Any increase to the number of seats will require further Development Approval.
- 1.6 A minimum of 20 car bays to be line-marked in accordance with the design and layout approved under Development Approval 96/0355.
- 1.7 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 13 December 2011, attached with the approved plans.
- 1.8 Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.
- 1.9 The movement of delivery vehicles and activities outside buildings are to be limited to the hours of 7.00am to 7.00pm Monday to Fridays and 8.00am to 12 noon Saturdays.
- 1.10 During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.
- 1.11 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.12 The proposed development to comply with the following legislation (as amended), to the satisfaction of Council's Environmental Health Services at all times:

- Health Act 1911;
- Health Act (Laundries and Bathrooms) Regulations;
- Sewerage (Lighting, Ventilation & Construction) Regulations 1971;
- Town of Victoria Park Health Local Law 2003;
- Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste Regulations);
- Perth Metropolitan Region Sewerage Policy 1982; and
- Environmental Protection (Noise) Regulations 1997.

1.13 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.

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

Advice to applicant

1.15 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.

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

2. Those persons who made submissions be notified of Council's decision.

ALTERNATE MOTION:

Moved: Councillor Hayes

Seconded: Councillor Skinner

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 Nam Nguyen on behalf of Yenisley Holdings Pty Ltd (DA Ref: 11/0525) for Change of Use from 'Restaurant' to 'Fast Food Outlet/Restaurant', Additions and Alterations as indicated on the plans dated received 1 September 2011 and 30 September 2011 be Approved subject to the following conditions:

1.1 Approval of the Fast Food Outlet part of the business is for a period of 12 months only. The use of part of the premises as a Fast Food Outlet after this time is not permitted without a further planning approval from Council.

- 1.2 Approval of the Fast Food Outlet part of the business is subject to this part of the business operating between the hours of 5pm to 9pm only.
- 1.3 The Fast Food Outlet to operate on a pre-order system.
- 1.4 Lighting to be provided from the premises facing onto the right-of-way. Details to be provided of proposed lighting to the rear car park and right-of-way to the satisfaction of the Executive Manager Street Life within one month of the date of this approval with such lighting being installed within 60 days of this approval.
- 1.5 Signage shall be provided directing customers to use the rear car park. A sign licence application is to be obtained within one month of the date of this approval, with the approved signage to be installed within 30 days of a sign licence being obtained.
- 1.6 Provision shall be made for customers to enter the 'Restaurant' from the rear car park and this shall be sign posted to the satisfaction of the Manager Urban Planning. A sign licence application is to be obtained within one month of the date of this approval, with the approved signage to be installed within 30 days of a sign licence being obtained.
- 1.7 The total number of seats for the sit down dining areas of the 'Restaurant' being restricted to 76 seats. Any increase to the number of seats will require further Development Approval.
- 1.8 A minimum of 20 car bays to be line-marked in accordance with the design and layout approved under Development Approval 96/0355.
- 1.9 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 13 December 2011, attached with the approved plans.
- 1.10 Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.
- 1.11 The movement of delivery vehicles and activities outside buildings are to be limited to the hours of 7.00am to 7.00pm Monday to Fridays and 8.00am to 12 noon Saturdays.
- 1.12 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.
- 1.13 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

- 1.14 The proposed development to comply with the following legislation (as amended), to the satisfaction of Council's Environmental Health Services at all times:
- Health Act 1911;
 - Health Act (Laundries and Bathrooms) Regulations;
 - Sewerage (Lighting, Ventilation & Construction) Regulations 1971;
 - Town of Victoria Park Health Local Law 2003;
 - Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste Regulations);
 - Perth Metropolitan Region Sewerage Policy 1982; and
 - Environmental Protection (Noise) Regulations 1997.
- 1.15 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.
- 1.16 Compliance with Council's Building, Environmental Health and Renew Life requirements.

Advice to applicant

- 1.15 The applicant is encouraged to implemented a delivery service for the Fast Food Outlet component of the business.
- 1.16 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.
- 1.17 Any modifications to the approved drawings and other information forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.

2. Those persons who made submissions be notified of Council's decision.

CARRIED (8-0)

Reason:

The fast food outlet will add to the missed use in the area.



12.3 19 (Lot 708) Cadden Street, East Victoria Park – Family Day Care

File Ref:	CADD19	In Brief <ul style="list-style-type: none"> • Application for a Family Day Care on the subject property. • Consultation undertaken for 14 days with adjoining property owners and occupiers in accordance with Council Policy GEN3 'Community Consultation'. Over the comment period, one submission was received. • Recommended that the application be Approved subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/048408/0123	
Date:	25 November 2011	
Reporting Officer:	I Ahmad	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 12 August 2011;
- Plans and elevations dated 12 August 2011;
- Correspondence from applicant dated 12 August 2011, 12 September 2011 and 13 September 2011;
- Consultation with adjoining owners & occupiers dated 20 September 2011;
- Submissions from adjoining owners/occupiers dated 2 October 2011; and
- Photographs of the subject property.

APPLICATION:

Landowner: Nurarsi Hadi
 Applicant: Julie Avenita
 Zoning: MRS: Urban
 TPS: Residential R20
 Precinct Plan P12 'East Victoria Park Precinct'

DETAILS:

Council has received an application for a Family Day Care on the subject property. Family Day Care is classified as an 'AA' (discretionary use) within the 'Residential' zone under Council's Town Planning Scheme No. 1.

The subject site, which has a total area of 450m², is located at the corner of Cadden Street and Jarrah Road. To the south-west of Jarrah Road lies an existing educational institution (Polytechnic West) and commercial uses within 'Technology Park' Precinct whilst north-east of Jarrah Road comprises 'Residential' zoned area.

The operation of the Family Day Care will be contained within the existing dwelling and will be operated solely by the owner of the property. The Family Day Care service is for a maximum number of seven (7) children which includes three (3) children of the

service operator. The operator is the occupier/resident of the premises and no additional staff are proposed.

The Family Day Care will operate from 7.30am to 6.00pm on weekdays and may operate on weekends only upon request and the availability of the operator. In regards to the drop-off and pick-up of children, there will be a 10 minute interval between visits for the morning session (between 7.30 am and 8.45 am) and a 15 minute interval between visits for the afternoon session (between 4.30pm and 6.00pm). All drop-offs and pick-ups will be contained within the driveway of the subject property which is capable of accommodating up to two (2) vehicles at any one time.

Community Consultation

As Family Day Care is classified as an ‘AA’ (discretionary use) within the ‘Residential’ zone under Council’s Town Planning Scheme No. 1, the proposal is the subject of community consultation for a 14 day period in accordance with Council’s Policy GEN3 ‘Community Consultation’. This requires a sign to be placed on-site for the entire duration of the consultation period as well as notices to be mailed to surrounding property owners and occupiers inviting their comment. The consultation period commenced on 20 September 2011 and closed on 4 October 2011. Over the comment period, one objection was received as summarised and considered by Council’s Planning Services in the below table.

Consultation Submission	
<i>Objection from owner of 3 Cadden Street, East Victoria Park</i>	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> • Parents using the driveway may potentially obstruct walkways and will park over the designated public footpath during ‘drop-off’ and ‘pick-up’ of children. • The ‘drop-off’ and ‘pick-up’ of children may take more than 4 minutes up to 20 minutes depending on the amount of information or feedback that the operator convey to the parents. 	<ul style="list-style-type: none"> • Noted – A condition of planning approval will be imposed requiring any ‘drop-off’ and ‘pick-up’ of children in relation to the Family Day Care activity to be contained wholly on the driveway of the subject property. • Not supported – The operation of the Family Day Care will not generate significant amount of traffic given that the Family Day Care will only service for a maximum number of seven (7) children which includes three (3) children of the service operator. In addition, all vehicles are to be parked on the site and any visitations associated with the operation of the Family Day Care are to be of a minimum 15 minute interval between visits to avoid any overlapping of visits.

<ul style="list-style-type: none">• Lighting on Jarrah Road is poorly lit.• Given that Jarrah Road is frequently parked with vehicles belonging to students or workers from the adjacent Technology Park and the traffic volume along Cadden Street is already heavy during peak periods, the proposed Family Day Care will further create parking and traffic issues within the locality.	<ul style="list-style-type: none">• Not supported – Comments regarding lighting has no relevance to the operation of the Day Care. As mentioned previously, any 'drop-off' and 'pick-up' of children will be contained within the subject property only.• Not supported – The operation of the Family Day Care will not generate significant amount of traffic given that the Family Day Care will only service for a maximum number of seven (7) children which includes three (3) children of the service operator. In addition, all vehicles are to be parked on the site and any visitations associated with the operation of the Family Day Care are to be of a minimum 15 minute interval between visits to avoid any overlapping of visits.
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Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Policy 3.9 'Child Care Facilities within Residential Areas' of the Policy Manual; and
- Statement of Intent contained in Precinct Plan P12 'East Victoria Park Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan

Sustainability Assessment:

External Economic Implications:

No impact.

Social Issues:

Council recognises the need to ensure that issues which may be associated with the operation of Day Care Centre such as noise and traffic are appropriately addressed.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

The application proposes the establishment of Family Day Care on the subject property. In this regard, Council must be satisfied that the proposal meets the requirements listed under Clause 36(5) of the Scheme, in particular the following, if approval were to be granted. In this respect:

- **The orderly and proper planning of the locality**

Having regard to the location of the subject property (which features a corner lot with non-residential zoned area to south-west of the property) and that the Family Day Care service is only for four (4) children who are not related to the operator, the proposed Family Day Care is considered to be a compatible and small scale commercial use which will not result in an adverse impact on the amenity or undue interference to the surrounding locality. On the other hand, a Family Day Care located at a middle of a residential street block would have more impact on the amenity of the area or adjoining properties compared to a corner lot configuration.

With regards to parking and access, given that there is a wide driveway that is capable of accommodating up to two (2) vehicles at any one time on the subject site (in addition to the double garage available for the residents), it is considered that the proposed use will not exacerbate any car parking or traffic issues which may exist within the locality.

Notwithstanding this, conditions of planning approval will be imposed requiring any 'drop-off' and 'pick-up' of children in relation to the Family Day Care activity to be contained wholly on the driveway of the subject property and that any visitations associated with the operation of the Family Day Care are to be of a minimum 15 minute interval between visits. This is to ensure that sufficient car parking bays are always available on the site.

- **The conservation of the amenities of the locality**

Controls on the proposed Family Day Care are considered necessary so as to ensure that the proposed use on the subject property is small in scale and intensity, unobtrusive and compatible with surrounding dwellings. Given the nature of the business which comprises one operator (being the owner of the property) and minimal number of children being cared for (not belonging to the operator), the Family Day Care will not adversely affect the amenity of the neighbourhood or impose a load on any public utility greater than that ordinarily required by a typical residential dwelling.

- **The design, scale and relationship to existing buildings and surroundings of any proposed building or structure.**

As the operation of the Family Day Care is contained within the existing dwelling on the subject property and does not involve any modifications to the existing dwelling on the site and will have the same external appearance as a typical dwelling, the application is therefore considered acceptable in this regard.

Conclusion

Careful consideration has been given to the implications of supporting a Family Day Care within an established residential area. Council's Planning Services recognise the need to ensure that the amenity of surrounding residents is protected and that the issues such as access and parking are appropriately addressed. On this basis, given that the applicant has demonstrated that the use will operate with minimal adverse impact upon the amenity of surrounding and adjoining properties, it is considered that the proposal can be supported subject to conditions.

RESOLVED:

Moved: Councillor Potter

Seconded: Councillor Skinner

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 Julie Avenita on behalf of Nurarsi Hadi (BA/DA Ref: 11/0484) for Family Day Care at 19 (Lot 708) Cadden Street, East Victoria Park as indicated on the plans dated received 12 August 2011 be Approved subject to the following conditions:**
 - 1.1 **This approval is for the operation of a 'Family Day Care' from the subject dwelling by the applicant, Julie Avenita only. The operation of the premises as a 'Family Day Care' by any other person(s), or the use of the premises for any other purpose, will require a separate application for planning approval to be submitted to and approved by the Council.**
 - 1.2 **Operation of the proposed 'Family Day Care' to be in accordance with the applicant's written information dated 12 August 2011 and 12 September 2011, attached to the approved plans. Where there is an inconsistency between the applicant's information and the conditions of this planning approval, the conditions of this planning approval shall prevail at all times. Any changes to the approved operations or variation to the conditions of this planning approval will require an application for planning approval to be submitted to and approved by the Council.**
 - 1.3 **Operating hours of the premises as a 'Family Day Care' being restricted to 7.00am - 7.00pm on weekdays and weekends only.**
 - 1.4 **No advertising material or signage with respect to or in connection with the approved 'Family Day Care' is to be displayed or erected on the site.**

- 1.5 The on-site driveway to remain clear at all times to enable one (1) car to park on-site during operational hours for the purpose of dropping off and picking up of children associated with the 'Family Day Care' activity.
- 1.6 Customers/Clients/Visitors to the site associated with the operation of the 'Family Day Care' are to park on the site. Such visitations are to be a minimum of 15 minute interval between visits.
- 1.7 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.
- 1.8 Compliance with Council's Building, Environmental Health and Renew Life requirements.
- 1.9 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

- 1.10 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 the submission regarding the application be advised of Council's decision.

CARRIED (8-0)



12.4 55 (Lot 274) Bank Street, East Victoria Park - Confidential

This Report is issued under a separate cover. The Council Resolution is detailed in Part 19 on page 232.

12.5 3 (Lot 4) Claude Street, Burswood - Confidential

This Report is issued under a separate cover. The Council Resolution is detailed in Part 19 on page 229.

12.6 846-848 (Lot 2) Albany Highway, East Victoria Park – Change of Use to Unlisted Use (Gymnasium – Yoga Studio)

File Ref:	ALBA846-848	In Brief
Appendices:	No	
DA/BA or WAPC Ref:	11/0617	
Date:	8 December 2011	
Reporting Officer:	H Gleeson	
Responsible Officer:	R Cruickshank	<ul style="list-style-type: none"> • Application for a change of use to Unlisted Use (Gymnasium – Yoga Studio). • Consultation undertaken for 21 days in accordance with Council Policy GEN3 ‘Community Consultation’ with one objection received. • Recommended for Approval by Absolute Majority subject to conditions.

TABLED ITEMS:

- Development application form dated 7 October 2011 and 24 November 2011;
- Plans dated received 7 October 2011;
- Applicant’s ‘Details of Business’ statement dated received 7 October 2011;
- Correspondence to applicant (advertising process letter) dated 2 November 2011;
- Consultation with adjoining owners & occupiers dated 10 November 2011; and
- Letter of objection received 28 November 2011.

APPLICATION:

Landowner: Mr T.Q Ly
 Applicant: Ron Massey
 Zoning: MRS: Urban
 TPS: District Centre – East Victoria Park Shopping Area
 Precinct Plan P11 ‘Albany Highway Precinct’

DETAILS:

An application has been received seeking approval to change the use of the first floor of an existing building from an ‘Office’ to a ‘Gymnasium – Yoga Studio’. The applicant has stated that the form of yoga to be provided is Bikram yoga which is conducted in a room with a temperature of 40 degrees and a humidity level of 40%. This use is not listed under Town Planning Scheme No. 1.

The subject site is occupied by a 4 storey building and rear car park located approximately 50 metres from the Albany Highway – Mint Street intersection with vehicular access provided from a rear right-of-way which abuts the Hubert Street public car park.

The ground floor is approved for use as a ‘Shop’ and ‘Fast Food Outlet’ but is currently vacant. The basement level is used for storage and unloading and the second floor is approved for use as an ‘Office’.

The proposed hours of operation would be before or after normal business hours except for four sessions at either 9:30am or 4pm on Mondays and Wednesdays. Sessions would be run by one instructor and one additional staff member during peak times.

Access to the first floor would be via the existing door fronting Albany Highway and staff would also be able to obtain access via a door at the rear of the building. There is a four bay car park to the rear of the building requiring a short walk down the right-of-way to the entrance of the building on Albany Highway.

Community Consultation

In accordance with Clause 35 of Town Planning Scheme No. 1 and Council Policy GEN3 ‘Community Consultation’, the applicant was requested to advertise the development in the Southern Gazette and Examiner newspapers for three consecutive weeks, and to erect signs on the Albany Highway and rear right-of-way frontages of the site for the duration of the required 21 day advertising period. The applicant has conducted the necessary advertising.

Letters were also sent to surrounding owners and occupiers with a 21 day period to comment on the application, commencing on 10 November 2011 and closing on 2 December 2011. One response was received which is summarised below.

Consultation Submission	
<i>Submission from property manager of 889 Albany Highway</i>	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> • Lessee operate a ‘Curves’ gym and a second gym in the area will negatively impact the business. 	<ul style="list-style-type: none"> • Not supported – Competition is not a material planning consideration. Notwithstanding the above, it should be noted that the proposed gym will only provide Bikram yoga which is not provided at ‘Curves’ gym.

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

- Statement of Intent for Precinct P11 ‘Albany Highway Precinct’
- Clause 16 ‘Unlisted Uses’
- Clause 36 ‘Determination of Applications – General Provisions’
- Clause 37 ‘Determination of Application for an Unlisted Use’
- TPS 1 Policy Manual:
 - Policy 5.1 ‘Parking and Access’
 - Policy 5.2 ‘Loading and Unloading’

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

Activity / Use	Parking Requirement
Health Studio	1 for every 30 square metres of net floor area
Office / Administration	1 for every 40 square metres of net floor area

Current Parking Requirement	
Activity/Use	Number of Parking Bays Required
First Floor <u>Office</u> 271.6m ² @ 1/40m ² of net floor area	6.79 Therefore: 7 bays (rounded to the nearest whole number)
Proposed Parking Requirement	
Activity/Use	Number of Parking Bays Required
First Floor <u>Health Studio</u> 224.9m ² @ 1/30m ² of net floor area	7.49 Therefore: 7 bays (rounded to the nearest whole number)

Although the proposed use has a higher parking requirement than the current 'Office' use the proposed floor plan incorporates a larger area of bathroom, toilet and amenity facilities which do not attract a parking requirement and this has resulted in no increase to the total on-site parking requirement or parking shortfall.

Sustainability Assessment:

External Economic Implications:

The proposed yoga studio will utilise a currently vacant tenancy and attract visitors to the Town being one of only a few Bikram yoga centres in Perth. The business will contribute to the level of activity and vibrancy of this portion of Albany Highway outside normal business hours.

Social Issues:

The proposal will increase the range of recreation/leisure activities within the Town to the benefit of the community.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

The proposed 'Gymnasium – Yoga Studio' is consistent with the intent for the 'District Centre' zone which seeks to redevelop this portion of Albany Highway by *'offering a wide range of retail as well as community attractions including leisure and recreation uses, public/civic uses, community and social services'* and also to ensure that the commercial uses are compatible with the adjoining residential areas. The proposal will increase the range of recreation/leisure activities within the Town and it is considered this use would not have an adverse impact on any future residents in the immediate locality.

Given that the proposal would not increase the total parking requirement or existing parking shortfall on the site it is considered the use would not increase parking congestion in the locality and it considered acceptable in this regard. It should also be noted that there is a public car park at 55-63 Hubert Street directly behind the subject building, which can be accessed from the same right-of-way as the subject site and that the proposed use would be mostly operated outside normal office hours.

It is not anticipated that Bikram yoga would have an adverse impact on the ground floor tenancy with regard to noise attenuation issues. However, it is noted that a traditional gym could have an adverse noise impact with issues such as loud music and weights dropping on the floor. Therefore, a condition is recommended that planning approval be required for a change to any other type of gym other than a yoga studio.

It is noted that the tenancy does not have stair-free access. A building requirement is recommended that the applicant engage a specialist Access Consultant to certify compliance with disabled access requirements under the Building Code of Australia. The applicant has been advised of this requirement and has already engaged a consultant who has indicated the proposal will meet the disabled access requirements under the Building Code of Australia without the need to provide a lift.

Conclusion

In view of the above, the proposed change of use to Unlisted Use (Gymnasium – Yoga Studio) at 846-848 Albany Highway, East Victoria Park is considered to be consistent with the proper and orderly planning of the locality and the requirements and matters that the Council is required to have regard to in its determination of the application by Clauses 36 and 37 of the Scheme and all other Scheme provisions and is therefore recommended for Approval by Absolute Majority.

RESOLVED:

Moved: Councillor Nairn

Seconded: Councillor Anderson

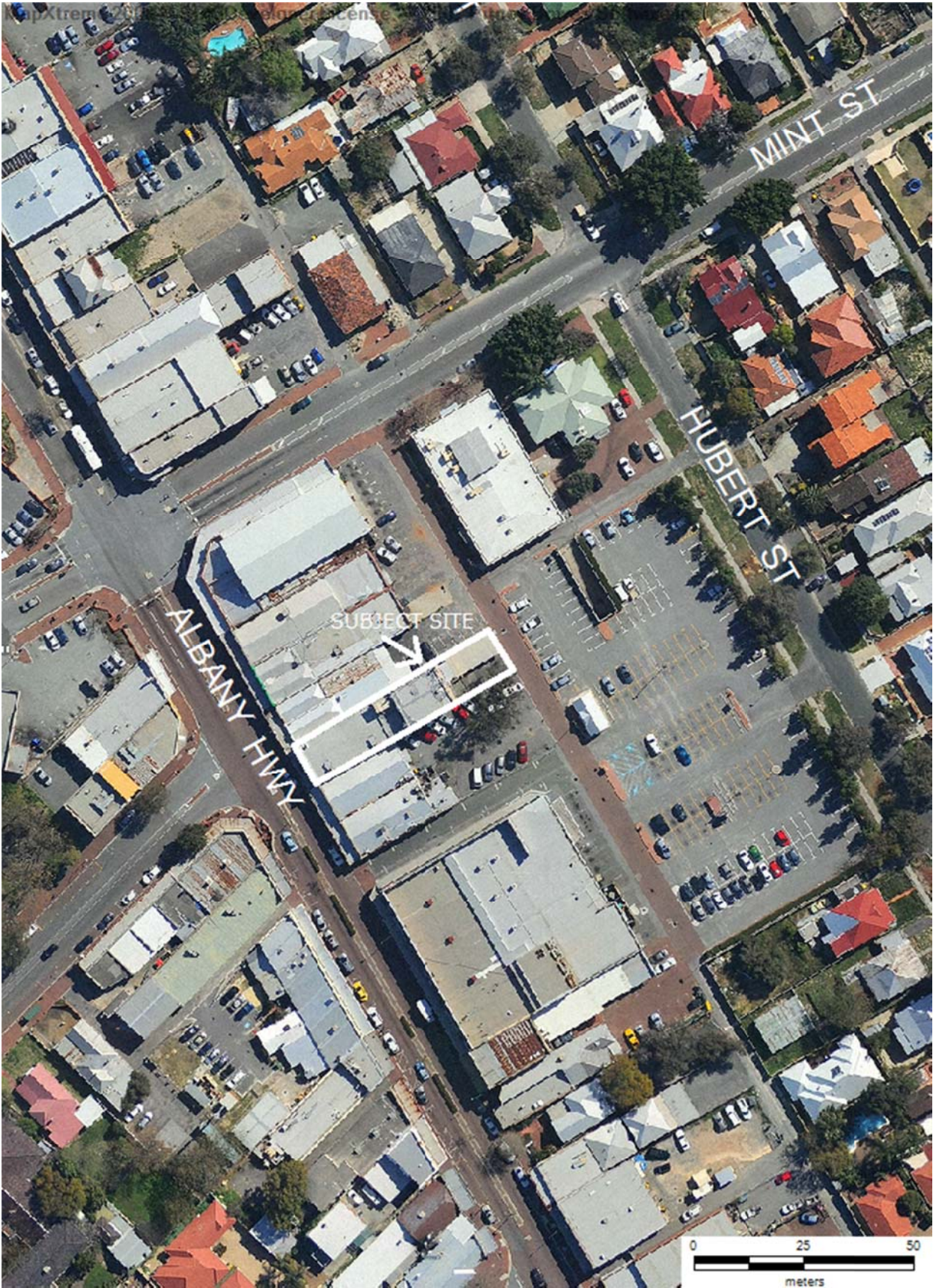
- 1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Ron Massey (BA/DA Ref: 11/0617) for a Change of Use to Unlisted Use (Gymnasium – Yoga Studio) at No. 846-848 (Lot 2) Albany Highway, East Victoria Park as indicated on the plans dated received 7 October 2011 and 24 November 2011 be Approved by Absolute Majority subject to the following conditions:**
 - 1.1 This approval is for use of the first floor of the building as a ‘Gymnasium – Yoga Studio’ only. Any alternative use or use for any other form of gymnasium other than a yoga studio will require submission of a Development Application and further planning approval prior to commencement.**
 - 1.2 Before the subject use commences operation, a minimum of 4 on site car bays being provided, lined-marked and designed in accordance with AS2890.1. All bays and access aisles shall be maintained clear of obstructions for use as car parking at all times.**
 - 1.3 Development to operate in accordance with the written information dated received 7 October 2011 accompanying the development application, except as otherwise altered by the approved plans or conditions of this approval, or any subsequent application for planning approval approved by the Council.**
 - 1.4 The movement of delivery vehicles and activities outside buildings are to be limited to the hours of 7:00am to 7:00pm Monday to Friday and 8:00am to 12 noon Saturday.**
 - 1.5 Prior to the submission of a building licence application, details being provided of any mechanical plant or equipment proposed in order to maintain the temperature and humidity conditions associated with the business. Such mechanical plant or equipment shall not result in undue emissions of noise, fumes etc to the satisfaction of the Manager Urban Planning.**
 - 1.6 The development to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 at all times.**
 - 1.7 This approval does not include any modifications to the external appearance of the building. Any changes to the external appearance of the building are subject to a separate application for planning approval.**

- 1.8 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application.
- 1.9 This approval is valid for a period of twenty four months only. If the use is not commenced within this period, a fresh approval must be obtained before commencing or continuing the use.
- 1.10 Compliance with Council's Building, Environmental Health and Technical Services requirements.

Advice to Applicant:

- 1.11 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.
 - 1.12 Any modifications to the approved drawings or information forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
2. The owners and occupiers of surrounding properties who made submissions in respect of the application (if any) be advised of Council's decision.

CARRIED BY AN ABSOLUTE MAJORITY (8-0)



12.7 936 (Lot 553) Albany Highway, East Victoria Park – Eight Multiple Dwellings and Offices

File Ref:	ALBA936	In Brief <ul style="list-style-type: none"> • Application for a mixed use development which consists of eight (8) Multiple Dwellings and Offices. • Non-compliant with Town Planning Scheme No. 1 and Residential Design Codes with regard to plot ratio, building height, primary street setback, boundary setback, boundary wall and fill requirements. • Consultation undertaken for 14 days with adjoining property owners and occupiers in accordance with Council Policy GEN3 'Community Consultation', with no submissions received. • Recommended that the application be Approved by Absolute Majority subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0670	
Date:	25 November 2011	
Reporting Officer:	I Ahmad	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 2 November 2011;
- Plans and elevations dated 2 November 2011;
- Consultation with adjoining owners & occupiers dated 18 November 2011; and
- Minutes of previous Council decisions dated 3 November 2009.

APPLICATION:

Landowner: T Danh and B Noun
 Applicant: Perth Residential Developments
 Zoning: MRS: Urban
 TPS: Residential/ Commercial
 Precinct Plan P11 'Albany Highway Precinct'

BACKGROUND:

On 22 June 2006, a demolition licence was issued for the demolition of a dwelling on the subject property. The dwelling has since been demolished and the site is now vacant.

On 3 November 2009, a mixed use development comprising of eight (8) Multiple Dwellings and Offices was approved at the Ordinary Council Meeting. This approval expired on 3 November 2011.

On 2 November 2011, the proponent lodged an application for planning approval for a mixed use development which is identical to the proposal that was previously approved on 3 November 2009.

DETAILS:

Council has received an application for a mixed use development comprising eight (8) Multiple Dwellings and Offices to be constructed on the subject property. The proposed development is identical to the previous application that was approved by Council on 3 November 2009. However, this approval expired on 3 November 2011 and hence the applicant has lodged a new application for determination by Council.

The site, which is currently a vacant lot, has a total area of 1018m² and abuts an existing 4.0m wide right-of-way at the rear of the property. In regards to the topography of the subject site, there is a significant rise in natural ground level from the Albany Highway frontage to the rear right-of-way.

The application proposes the construction of a four storey building at the Albany Highway frontage which consists of two office units on the ground floor and three levels of residential units above. The residential units comprise two bedroom units. The fourth floor of the building is setback at 5.8m from the Albany Highway boundary and behind the lower floors. The building is then stepped from four storeys to three storeys towards the rear of the site facing the right-of-way to respect the natural ground levels of the subject property.

A total of 16 on-site car parking bays have been provided at the rear of the site with vehicular access taken from the right-of-way. Eight (8) of the 16 car parking bays which are provided for the exclusive use of the residents are accommodated in a garage which abuts the second storey residential units. Residential and bin storage areas are also incorporated into the garage. The remaining eight (8) car bays which are designated for office and visitor use are confined at an open car parking area which is located forward of the garage and abutting the rear right-of-way.

Access for commercial tenants and customers is provided via the office Albany Highway entry and from the rear car parking area. The foyer entry at Albany Highway is designated for the exclusive use of residents. Residents can also gain access via the rear residential car parking area. The building features a lift and staircase secured at ground level for the access of residents to the upper floors of the building.

Community Consultation

As there are several variations proposed to the requirements of the Town of Victoria Park Town Planning Scheme No. 1 and the Residential Design Codes, the proposal was the subject of consultation for a 14 day period in accordance with Council Policy GEN3 "Community Consultation". This included letters to the owners and occupiers of adjoining properties that may be affected by the development. The consultation period commenced on 21 November 2011 and closed on 5 December 2011, with no submissions received.

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Clause 38 of the Scheme Text;
- Policy 3.7 ‘Mixed Residential/ Commercial Development’ of the Policy Manual;
- Policy 4.8 ‘Albany Highway Residential/Commercial Design Guidelines’ of the Policy Manual;
- Policy 5.1 ‘Parking & Access Policy’ of the Policy Manual; and
- Statement of Intent contained in Precinct Plan P11 ‘Albany Highway Precinct’.

Compliance with Development Requirements

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

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

Town Planning Scheme No. 1 Precinct Plan 11 ‘Albany Highway Precinct’

ITEMS	PERMITTED	PROPOSED	COMPLIANCE
Plot Ratio	(i) 1.0 maximum (1018m ²)	(i) 1.03 maximum (1047.05m ²)	Non-compliant
	(ii) Commercial floor area not to exceed 33% of the maximum plot ratio: - 335.94m ² maximum	(ii) Commercial floor area: 246.14m ²	Compliant
Setback	3.0m minimum setback from Albany Highway	Nil setback from Albany Highway	Non-compliant
Building Height	3 storeys (11.5m) maximum	4 storeys (11.9m) maximum	Non-compliant

	<p><u>Boundary Walls</u> For R80 coding</p> <p><u>Wall height</u> - 7.0m maximum - 6.0m average</p> <p><u>Wall length</u> - 2/3 x 49.67m = 33.28m max on N/W boundary - 2/3 x 51.68m = 34.45m max on S/E boundary</p>	<p><u>boundary:</u></p> <ul style="list-style-type: none"> - 9.32m maximum - 8.6m average <p><u>At the south-eastern boundary:</u></p> <ul style="list-style-type: none"> - 9.99m maximum - 9.49m average <ul style="list-style-type: none"> - 16m maximum at N/W boundary - 16.5m maximum at S/E boundary 	<p>Non-Compliant</p> <p>Non-Compliant</p> <p>Compliant</p>
Outdoor living areas	Each unit is to be provided with at least one balcony with a minimum area of 10m ² .	Balconies ranging from 17.50m ² (minimum) to 22.05m ² (maximum).	Compliant
On-site parking -Location A Albany Highway being a high frequency public transport route			
Medium (75-110m ²)	1 bay x 8 units = 8 car bays	Total exclusive residential bays = 8 bays	Compliant
Visitor bays (0.25 bay/dwelling)	0.25 bay x 8 units = 2 bays	2 bays	Compliant Note: Visitor bays to be marked
Office bays (1 bay/ 40m ²)	246.14m ² / 40m ² = 6 bays	6 bays	Compliant Note: Office bays to be marked

Site works	Filling behind a street setback line and within 1 metre of a common boundary not exceeding 0.5m.	Fill of 1.286m maximum at north-western and south-eastern property boundaries.	Non-compliant
Visual Privacy	Visual privacy requirement only for development that abuts an adjoining property coded up to R60 only.	<p>North-western and south-eastern adjoining properties being a 'Residential/Commercial' zoned area with residential development conforming with the provisions of the R80 standards.</p> <p>Note: Balconies of Units 5,6,7 & 8 facing the right-of-way being setback at 3.8m in lieu of 7.5m from the common boundaries within a cone of vision. North-western adjoining property currently used as commercial premises. South-eastern adjoining property currently is a vacant lot.</p>	Not affected

Sustainability Assessment:

External Economic Implications:

The proposed development will increase the existing residential population in the area and provide an impetus for further investment and residential development as envisaged for the Precinct.

Social Issues:

The development provides two bedroom units which are designed to cater for the increasing trend in smaller household sizes namely, for singles and couples who wish to live in close proximity to the city.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

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

Plot ratio

Under the provisions of the Precinct Plan, a maximum plot ratio of 1.0 (1018m²) is permitted. The development proposes a plot ratio of 1.03 (1047.05m²), which equates to 29.05m² (3%) of excess floor area.

It is acknowledged that in recent years, Planning Services and the Design Review Committee have typically been supportive of plot ratio variations up to 1.10 (or 10%) where an application demonstrates a high quality of design and provides an excellent level of amenity for both prospective occupants and surrounding properties.

Based on the advice of the Design Review Committee for the previous application, the proposed plot ratio variation is deemed to be minimal and acceptable given the design merit of the proposed building. The façade is well articulated through the incorporation of balconies and detailing to provide visual interest to the building form. 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. As such, it is considered that the proposed plot ratio variation can be supported.

Building Height

Under the provisions of the Precinct Plan, a maximum building height of 3 storeys (11.5m) measured from the natural ground level is permitted. The proposal, however, is for a four storey (11.9m) high building.

Notwithstanding the proposed building height exceeds the height limit by one storey, the development only exceeds the height limit by 0.4m which is considered to be minimal given the context of the site. The portion the building that exceeds the height limit is confined to the lift shaft and roof top deck only. It is important to note that the fourth floor façade of the building is setback at least 5.8m from the Albany Highway boundary and behind the lower floors, and therefore the additionally storey is not prominent from the street and the building still maintains a pedestrian scale.

In addition, the fourth storey is only confined to the Albany Highway frontage with the building height being stepped from four storeys to three storeys towards the rear of the site facing the right-of-way to respect the natural ground levels of the subject property.

Primary Street Setback

In regards to the street setback, the Scheme states that a minimum front setback distance of 3.0m is required from Albany Highway. The plans, however show a minimum setback of 1.0m to the Office at ground floor level and a 0.3m minimum setback to balconies of the first and second floor residential units.

The reduction in the street setback is deemed to be acceptable in order to assist in achieving an active commercial street frontage and will reinforce the urban character of the locality by providing a defined edge to Albany Highway. The Albany Highway façade is highly articulated and providing greater interest and variety to Albany Highway and it is considered that the reduced setback will enhance the positive contribution that the design of the building will make to the existing streetscape.

It is particularly worth noting that the proposed development will respect the likely future form of development along this portion of Albany Highway. Given that the adjoining lots such as 938, 942 and 930 Albany Highway are vacant lots, it is envisaged that any proposed development on these lots will be encouraged to have reduced front setback from Albany Highway to enhance the street interface. Recent approvals of mixed use development along this portion of Albany Highway at 964 and 966 Albany Highway which features nil front setback further reinforce Council's intention to create an active street frontage and inject vibrancy into public streets.

Boundary Setback

The proposal also seeks variations to the boundary wall height and boundary setback provisions of the Residential Design Codes.

The north-western adjoining property (932-934 Albany Highway) of the subject lot lies a two storey building originally built in 1937 as a residential dwelling and recognised by the Council as a Category 'C' building on the Municipal Heritage Inventory. This former dwelling, which is now operating as a commercial premises, is not orientated parallel to the proposed building due to the subject lot being at the bend of Albany Highway.

Having regard to the siting and orientation of this building and a setback of 6.0 minimum from the common boundary of 936 Albany Highway, it is considered that the proposed building setback and boundary wall height variations at the north-western common boundary will not have a significant impact on the adjoining property in terms of building bulk. In addition, the proposed variations will not have an adverse impact on the amenity of the north-western adjoining property in regards to solar access and visual privacy.

The south-eastern adjoining property (938 Albany Highway) is currently a vacant lot. As such, the proposed building setback and boundary wall height variations at the south-eastern common boundary will not have any impact on the adjoining property in terms of building bulk.

It is worth noting that a planning approval was granted on 28 November 2006 for a mixed use development on this lot. Notwithstanding that this approval has since expired, having regard to the building form which was deemed to be acceptable at the time, it is envisaged that any future development on the south-eastern adjoining lot may be developed in a similar building form at a future time.

In view of the above, the proposed boundary setback and boundary wall height variations satisfy the relevant Performance Criteria of the Residential Design Codes and thus can be supported.

Retaining walls

Given the significant level difference of the subject lot, the proposed building requires the construction of a retaining wall along the north-western and south-eastern common boundaries, with a varying height of up to 1.286m above the natural ground level. These retaining walls are required to ensure that pedestrians have an external access via the side of the building.

In addition, the extent of fill required will not have any adverse impact on the visual impression of the natural level of the site as it is contained only at the middle portion of the common boundaries and thus, satisfying the relevant Performance Criteria of the Residential Design Codes.

Town Planning Scheme No. 1 – Clause 38

As the proposed development is non-compliant with the requirements of Town Planning Scheme No. 1, Council must be satisfied that the proposal meets the requirements listed under Clause 38(3) of the Scheme if approval were to be granted. In this respect:

- **the orderly and proper planning of the locality**

The form, quality and appearance of the development is consistent with the desired character of the area outlined in the Precinct Plan P11 “Albany Highway Precinct”. The proposed development is considered to have the potential to become a catalyst for the future redevelopment of the Precinct with high quality commercial development, residential and mixed use developments.

In addition, the proposal introduces a mixed use development which is designed to cater for the increasingly common smaller household size of singles and couples who wish to live in close proximity to the Albany Highway commercial strip and with easy transport access to Perth Central Business District.

- **the conservation of the amenities of the locality**

The proposal is not considered to have a negative impact on the amenity of the locality as the proposal has achieved a high quality design and internal layout of the units, making it functional for residents and visually attractive from the street and adjoining properties.

The proposed development is considered to make a positive contribution to the street environment through its vibrant design and well-designed internal layout of the individual units. 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.

- **the Statement of Intent set out in the relevant Precinct Plan**

The Statement of Intent contained in the Precinct Plan encourages any future development on the subject site to be of a high quality development. The proposal achieves a high quality design and internal layout of the units, making it functional for residents and visually attractive from the street and adjoining properties. The extent of the variations are considered appropriate on the basis of providing a high standard of amenity to prospective residents and the intended future character of the Precinct.

- **the non-compliance issues would not have undue adverse effect on the occupiers or users of the development**

It is considered that the non-compliance issues will not adversely affect the future occupiers of the development.

- **the non-compliance would not have any undue effect on the property in, or the inhabitants of the locality.**

It is considered that the non-compliance issues will not adversely affect the inhabitants of the locality.

- **the non-compliance would not have any undue effect on the likely future development of the locality.**

The proposal is consistent with the likely future development within this portion of Albany Highway Precinct and will not interrupt the intended pattern of the development within the locality. The proposal is considered to be a positive example of a development within the 'Residential/ Commercial' zone and will set a positive precedent for further similar development within the locality.

Design Review Committee

Given that the current proposal is identical to the previous proposal that was approved by the Council on 3 November 2009 and that the previous proposal had been considered by the Design Review Committee (DRC) at a formal DRC meeting, it is therefore determined that this application would not require any further consideration by the DRC.

At a formal DRC meeting held on 14 October 2009, the DRC resolved to recommend support of the application. Notwithstanding this, the Committee has expressed concerns regarding disabled access to the ground floor offices, ground level difference within the car parking area, location of air-conditioning units and noise implications of having lifts within close proximity to adjoining bedrooms. These concerns can be addressed via imposition of appropriate conditions.

Conclusion

In regard to the matters raised above, it is considered that the proposed mixed use development will positively contribute to the street environment in terms of function, quality and appearance and is in keeping with the high standard of development expected within the 'Residential/ Commercial' zone of the 'Albany Highway Precinct'. In view of the above, it is recommended that the application be Approved by Absolute Majority subject to conditions.

RESOLVED:

Moved: Councillor Vilaca

Seconded: Councillor Potter

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 Perth Residential Development on behalf of T Danh and B Noun (BA/DA Ref: 11/0670) for Eight Multiple Dwellings and Offices at 936 (Lot 553) Albany Highway, East Victoria Park as indicated on the plans dated received 2 November 2011 be Approved by Absolute Majority subject to the following conditions:**
 - 1.1 **All development is to be setback 1.0m from the right-of-way for the length of the common boundary with the right-of-way to allow for the future widening of the right-of-way.**
 - 1.2 **This approval is for the use of the ground floor as Offices 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.**
 - 1.3 **Prior to the submission of an application for a Building Licence for this development, details of acoustics between the lift and the bedrooms and around the lift shall be submitted to and approved in writing by the Manager Urban Planning and shall be to the satisfaction of the Building Services Engineer of the Design Review Committee. The lift shall be installed in accordance with the approved details and thereafter maintained.**
 - 1.4 **Prior to the submission of an application for a Building Licence for this development, details of compliance with Disabled Access Regulations, including any alterations required to the finished floor or ground levels and/or elevations of the building, shall be submitted to and approved in writing by the Manager Urban Planning and shall be to the satisfaction of the Design Review Committee. Construction shall take place in accordance with the approved details and shall be thereafter maintained.**

- 1.5 Prior to the submission of a Building Licence for this development, a full soft landscaping plan detailing size, location and type of planting, including shade trees shall be submitted to and approved in writing by the Executive Manager Park Life. Landscaping is to be completed in full prior to occupancy and thereafter maintained to the satisfaction of the Executive Manager Park Life.
- 1.6 Prior to the submission of a Building Licence for this development, a full hard landscaping plan detailing all external surfacing colours and materials to be submitted to and approved in writing by the Manager Urban Planning. Hard landscaping in accordance with the approved details shall be completed prior to the first occupation of the development and shall be thereafter maintained.
- 1.7 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 13 December 2011, attached with the approved plans.
- 1.8 Prior to the submission of a Building Licence for this development, specifications and elevations shall be submitted to and approved in writing by the Manager Urban Planning which demonstrate what material(s), colour(s) and pattern of detailing will be incorporated into the boundary walls proposed on the north western (side) and south eastern (side) boundaries of the site. The side elevations shall be completed in accordance with the approved details prior to the first occupation of the development and shall thereafter be maintained to the satisfaction of Manager Urban Planning.
- 1.9 Prior to the submission of a Building Licence for this development, a plan detailing the location of all external lighting and carpark lighting shall be submitted to and approved in writing by the Director Renew Life. The lighting plan and subsequent lighting installed must demonstrate that any light spill to adjoining properties is minimised to acceptable levels. Lighting in accordance with the approved plan is to be installed prior to first occupation of the building.
- 1.10 Prior to the submission of a Building Licence for this development, full details of screening and the design and location of any air conditioning units proposed on the external face of the building, including the roof, shall be submitted to and approved in writing by the Manager Urban Planning. The air conditioning units shall be installed and screened in accordance with the approved details, prior to the first occupation of the building.

- 1.11 A final Resource Efficiency Report including a Management Plan being submitted to the satisfaction of the Building Services Engineer of the Design Review Committee and Executive Manager Built Life prior to the submission of an application for building licence.
- 1.12 Proposed development complying with setbacks, fencing, driveways, landscaping and other details and amendments as shown in red on the approved site plan.
- 1.13 A zero lot gutter to be provided for the boundary walls adjoining the common boundaries with 938 Albany Highway and 932-934 Albany Highway, unless otherwise approved in writing by the Manager Urban Planning.
- 1.14 The surface of the boundary walls on the common boundaries with 938 Albany Highway and 932-934 Albany Highway to be the same finish as the approved external wall finish for the remainder of the dwelling, unless otherwise approved.
- 1.15 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.
- 1.16 The existing boundary fencing shall not be removed, until such time as the required new fencing is to be erected.
- 1.17 Fencing to the right-of-way to be open style fencing. Details of fencing to the right-of-way to be submitted to the satisfaction of the Manager Planning Services, 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.
- 1.18 Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge shall be reinstated to the satisfaction of the Director Renew Life.
- 1.19 Before the subject development is first occupied or commences operation, 16 car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Director Renew Life in accordance with the plans hereby approved.

- 1.20 A minimum of two (2) car parking bays to be provided on site for the exclusive use of visitors. These bays shall be marked for the exclusive use of visitors prior to the first occupation or commencement of the development.
- 1.21 A minimum of six (6) car parking bays to be provided on site for the exclusive use of commercial tenants. These bays shall be marked for the exclusive use of the commercial tenants and their visitors prior to the first occupation or commencement of the development.
- 1.22 A minimum of three (3) residential bicycle spaces and one (1) visitor bicycle space to be provided on-site for the exclusive use of residents and visitors.
- 1.23 All car bay and vehicular access dimensions to be provided to the satisfaction of the Director Renew Life.
- 1.24 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.
- 1.25 External fixtures, including but not restricted to air conditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the Primary Street, Secondary Street or right-of-way.
- 1.26 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 issue of Building Licence.
- 1.27 The movement of delivery vehicles and activities outside buildings are to be limited to the hours of 7.00am to 7.00pm Monday to Fridays and 8.00am to 12 noon Saturdays.
- 1.28 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 right-of-way that the building faces.
- 1.29 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign license application.
- 1.30 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

- 1.31 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.32 During building operations, the right-of-way to be maintained clear of obstructions & building materials, and in a trafficable condition at all times. If the surface of the right-of-way is disturbed or damaged, it is the responsibility of the owner/builder to reinstate the right-of-way to its original condition.
- 1.33 Compliance with Council's Building, Environmental Health and Technical Services requirements.
- 1.34 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

- 1.35 The applicant is advised that the levels at the front of the site will not provide disabled access into the offices. This could be addressed by a reduction in the finished floor level of the offices. The levels associated with the parking bays at the rear of the site will also not be compliant. To comply with Condition No. 1.4 above details of finished floor levels will need to be submitted, along with plans as appropriate which illustrate any amendments to the external design of the building to ensure disabled access compliance. Any alterations to the proposed colours and materials schedule as a result of any changes in this regard will also require approval as part of this condition.
- 1.36 In accordance with No. 1.10 above details of air-conditioning unit systems and locations shall be submitted to the Manager Planning Services for approval. The applicant is advised that any roof-top systems should be located such that they are not viewed from the streetscape. The air-conditioning units for the residential apartments should also be located on the secondary balconies towards the centre of the building, to minimise their impact on the streetscape.
- 1.37 With regards to Condition No. 1.24 the following are minimum requirements of the Town of Victoria Park: a) Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone; or b) Brown Lateritic Asphalt: 30mm on a 200mm compacted crushed rockbase or limestone base.
- 1.38 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.

- 1.39 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.
- 1.40 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.
- 1.41 The applicant should liaise with Western Power regarding the possible need to incorporate a transformer into the building design. Any modifications to the development to incorporate a transformer is likely to require the submission of an application for Modification of Approval.

CARRIED (8-0)



12.8 1 (Lot 106) Watts Place, Bentley – Research and Development Facility

File Ref:	WATT1	In Brief <ul style="list-style-type: none"> Application for a Research and Development Facility. Non-compliant with Town Planning Scheme No. 1 with regard to plot ratio and building height requirements. Consultation undertaken for 14 days with adjoining property owners and occupiers in accordance with Council Policy GEN3 ‘Community Consultation’, with one submission received. Recommended that the application be Approved by Absolute Majority subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0594	
Date:	30 November 2011	
Reporting Officer:	I Ahmad	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 30 September 2011;
- Plans and elevations dated 30 September 2011;
- Correspondence from applicant dated 21 October 2011; and
- Consultation with adjoining owners & occupiers dated 10 November 2011
- Submission from Department of Environment and Conservation dated 28 November 2011.

APPLICATION:

Landowner: Wenro Holdings ATF Comsource Superannuation Fund
 Applicant: Meyer Shircore and Associates
 Zoning: MRS: Urban
 TPS: Special Use ‘Technology Park’
 Precinct Plan P13 ‘Curtin Precinct’

BACKGROUND:

On 7 July 2005, an application for a Research and Development Facility on the subject property was approved by the Council. This approval has since expired.

On 30 September 2011, the applicant submitted an application for a Research and Development Facility on the subject property. The design and built form of the proposed building is different and much improved from the building that was previously approved in 2005.

DETAILS:

Council received an application for a Research and Development Facility on the subject property. The site, which is currently a vacant lot, has a total area of 1390m² and is located at Technology Park.

The application proposes the construction of a two storey building which consists of a product assembly area and warehouse on the ground floor whilst the first floor comprises offices. The total plot ratio floor area for the subject building is approximately 746m². A total of 19 on-site car parking bays have been provided with vehicular access taken from Watts Place.

The façade of the building is articulated through the introduction of detailing, indentation and balcony to create visual interest in the building form. Generous amounts of landscaping have also been incorporated as part of the development, particularly within the front setback area, to enhance its interface with the street.

According to the applicant's correspondence dated 21 October 2011, the proposed building will be operated by 'Swift Networks' and 'EITS Global Pty Ltd' which deal with research and development of digital information and entertainment systems and software for resource industry. The main operation of research and development of digital information will be contained within the first floor 'Offices' whilst the production and assembly of products associated with that research is confined at the 'Electronic Assembly' on the ground floor.

Community Consultation

As there are several variations proposed to the requirements of the Town of Victoria Park Town Planning Scheme No. 1, the proposal was the subject of consultation for a 14 day period in accordance with Council Policy GEN3 "Community Consultation". This included letters to the owners and occupiers of adjoining properties that may be affected by the development. The consultation period commenced on 10 November 2011 and closed on 29 November 2011. One (1) submission has been received being from the Department of Environment and Conservation advising that there are Carnaby's Cockatoo roost trees on the site and in the surrounding environment, and given that these birds are an endangered species that liaison with the relevant Federal Department will be required. Accordingly a condition of the planning approval is that clearance is to be obtained from the Commonwealth Department of Sustainability, Environment, Water, Populations and Communities, prior to the submission of a building licence for the development.

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Clause 38 of the Scheme Text;
- 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

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

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

Town Planning Scheme No. 1 Precinct Plan 11 'Albany Highway Precinct'

ITEMS	PERMITTED	PROPOSED	COMPLIANCE
Plot Ratio	0.50 maximum (695.15m ²)	0.54 maximum (745.5m ²)	Non-compliant
Building Height	2 storeys or 7.5m (whichever is the lower) above the natural ground level.	2 storeys or 8.05m above the natural ground level.	Non-compliant
Car Parking (1 bay for every 40m ²)	19 on-site car bays minimum	19 on-site car bays	Compliant
Boundary Setback	(i) Building shall be setback not less than 7.5m from any street boundary.	(i) 7.5m minimum	Compliant
	(ii) Building shall be setback not less than 4.5m from any boundary other than a street boundary.	(ii) - 4.5m minimum to northern boundary - 14.4m minimum to eastern boundary - 11.42m minimum to southern boundary	Compliant

Sustainability Assessment:

External Economic Implications:

No impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

The proposal seeks variations to the Council's Town Planning Scheme No. 1 as outlined above. The proposed variations will be considered as follows:

Plot ratio

Under the provisions of the Precinct Plan, a maximum plot ratio of 0.50 (695.15m²) is permitted. The development proposes a plot ratio of 0.54 (745.50m²), which equates to 50.35m² (4%) of excess floor area.

It is acknowledged that in recent years, Council's Planning Services have typically been supportive of plot ratio variations up to 10% where an application demonstrates a high quality of design and provides an excellent level of amenity for both prospective occupants and surrounding properties.

For this application, the proposed variation to the maximum plot ratio is deemed to be minimal and acceptable given the design merit of the proposed building. The building façade is articulated by a series of projections and recesses and employing a range of different materials and finishes to create visual interest to the building form.

The space surrounding the building also allows for soft landscaping to complement the appearance of the building and contributes positively to the streetscape. In addition, a staff outdoor recreation area which is located at the northern portion of the lot has also been incorporated as part of the development in the interest of providing a high standard of amenity to prospective occupants. In this regard, the plot ratio variation can be supported.

Building Height

Under the provisions of the Precinct Plan, a maximum building height of 2 storeys or 7.5m (whichever is the lower) measured from the natural ground level is permitted. The proposal, however, is for a two storey building at a height of 8.05m above the natural ground level.

It should be noted that the proposed building height exceeds the height limit by 0.55m which is considered to be minimal given the context of the site. The overheight portion of the building is only confined to the roof ridge that runs along the length of the building whilst the remaining portion of the building complies with the height requirement.

As mentioned previously in the report, the proponent has taken due diligence to reduce the perceived impact of building bulk by incorporating building articulation devices such as indentation and projections. In addition, given that the building is substantially setback from the street and common boundaries, the proposed building height will not

have any adverse impact on the amenity of the adjoining properties in regards to solar access and building bulk. In this regard, the proposed building height variation can be supported.

Town Planning Scheme No. 1 – Clause 38

As the proposed development is non-compliant with the requirements of Town Planning Scheme No. 1, Council must be satisfied that the proposal meets the requirements listed under Clause 38(3) of the Scheme if approval were to be granted. In this respect:

- **the Statement of Intent set out in the relevant Precinct Plan**

The proposed development is consistent with the intent for the ‘Special Use – Technology Park’ zone which states that *‘the main use will be scientific and technological research and development; production, manufacture and assembly of products will be permitted provided it relates and is ancillary to the technological research and development activities on each site.’*

As indicated by the applicant, the proposed building will be operating solely for the purpose of research and development of digital information and entertainment systems and software. The main operation of research and development of digital information will be contained within the first floor ‘Offices’ whilst the production and assembly of products associated with that research is confined at the ‘Electronic Assembly’ on the ground floor.

Notwithstanding this, a condition of planning approval will be imposed to ensure that the operation of the proposed building is for the purpose of a research and development facility as defined under the Town Planning Scheme No. 1, and that this be registered as a Notification on the title for the property.

- **the orderly and proper planning of the locality**

The form, quality and appearance of the development is consistent with the desired character of the area outlined in the Precinct Plan P13 “Curtin Precinct”. The extent of the plot ratio and building height variations are considered minimal and appropriate on the basis of achieving a high quality of design and providing a high standard of amenity to prospective occupiers.

- **the conservation of the amenities of the locality**

The proposal is not considered to have a negative impact on the amenity of the locality due to its design merit. In addition, the development is considered to provide a high level of amenity for prospective occupiers by providing generous outdoor recreation area.

- **the non-compliance issues would not have undue adverse effect on the occupiers or users of the development**

It is considered that the non-compliance issues will not adversely affect the future occupiers of the development.

- **the non-compliance would not have any undue effect on the property in, or the inhabitants of the locality.**

It is considered that the non-compliance issues will not adversely affect the inhabitants of the locality.

- **the non-compliance would not have any undue effect on the likely future development of the locality.**

The proposal is consistent with the likely future development within this portion of Precinct and will not interrupt the intended pattern of the development within the locality. The proposal is considered to be a positive example of a development within the 'Special Use – Technology Park' zone and will set a positive precedent for further similar development within the locality.

Conclusion

In regards to the matters raised above, the proposal exhibits a high standard of design which contributes positively to the streetscape in terms of function, quality and appearance and is consistent with the desired future character of the Precinct. Furthermore, it has the potential to set a positive precedent for further similar development within the Precinct. In view of the above, it is recommended that the application be Approved by Absolute Majority subject to conditions.

RESOLVED:

Moved: Councillor Vilaca

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 Meyer Shircore and Associates on behalf of Wenro Holdings ATF Comsource Superannuation Fund (BA/DA Ref: 11/0594) for Research and Development Facility at 1 (Lot 106) Watts Place, Bentley as indicated on the plans dated received 30 September 2011 be Approved by Absolute Majority subject to the following conditions:**

1.1. **The building being used for the purpose of Research and Development and incidental uses as defined under the Town of Victoria Park Town Planning Scheme No 1, with the exception of those areas being provided as amenities. This is to be registered as a Notification on the title prior to the submission of a building licence application.**

1.2. **Operation of the proposed 'Research and Development Facility' to be in accordance with the applicant's written information dated 21 October 2011, attached to the approved plans. Where there is an inconsistency between the applicant's information and the conditions of this planning approval, the conditions of this planning approval shall prevail at all times. Any changes to the approved operations or variation to the conditions of this planning approval will require an application for planning approval to be submitted to and approved by Council.**

- 1.3. Operation of the proposed 'Research and Development Facility' is not to adversely affect the amenity of the locality by reason of noxious emissions which include but not limited to smoke, fumes, vapour, steam, smell, noise, vibration, light, dust, soot, ash or waste products.
- 1.4. Prior to the submission of a Building Licence, the applicant is to provide written approval for the development from the Commonwealth Department of Sustainability, Environment, Water, Populations and Communities, given that the development may have an impact on the Canarby's Cockatoo habitat.
- 1.5. Prior to the submission of a Building Licence for this development, full details of screening and the design and location of any air conditioning units proposed on the external face of the building, including the roof, shall be submitted to and approved in writing by the Manager Urban Planning.
- 1.6. A full landscaping plan including verge and detailing size, location and type of planting to be provided to the satisfaction of the Director Renew Life prior to submission of an application for building licence. Landscaping is to be completed prior to occupancy and thereafter maintained to the satisfaction of the Director Renew Life.
- 1.7. A minimum of one shade tree per four parking bays to be provided on site. The shade trees are to be established prior to occupancy of the building and thereafter maintained to the satisfaction of the Director Renew Life. Landscaping to be protected by kerbing or similar barrier at least 150mm high.
- 1.8. 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. (Refer related Advice Note)
- 1.9. This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application.
- 1.10. A separate planning application is required for any fence forward of the building line.

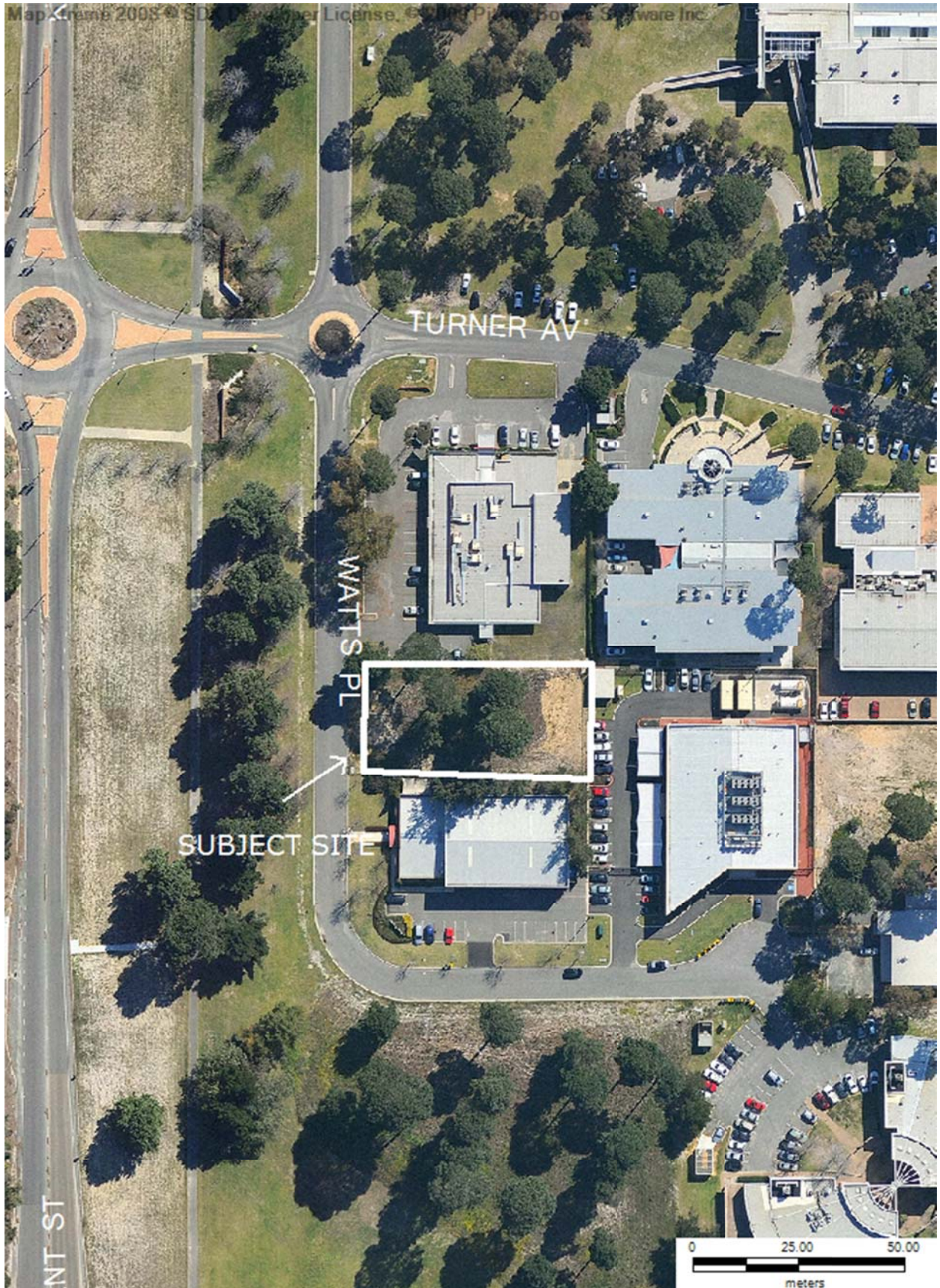
- 1.11. Any letterbox, structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the front property boundary, is not to exceed a height of 750mm with the exception of:
 - (i) one brick pier (maximum dimensions 350mm by 350mm); and/or
 - (ii) wrought iron or similar metal tubing style infill fencing.
- 1.12. Before the subject development is first occupied or commences operation all car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Director Renew Life.
- 1.13. All car parking bays to be lined-marked and designed in accordance with AS2890.1.
- 1.14. A minimum of 19 car parking bays to be provided on site for the exclusive use for staff and visitors. These bays shall be marked accordingly.
- 1.15. 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.
- 1.16. Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge shall be reinstated to the satisfaction of the Director Renew Life.
- 1.17. 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.
- 1.18. 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 13 December 2011, attached with the approved plans.
- 1.19. Proposed development complying with setbacks, landscaping and other details and amendments as shown in red on the approved plan.
- 1.20. External fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street, secondary street or right-of-way.
- 1.21. 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.

- 1.22. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.23. The proposal to comply with Council’s Building, Environmental Health and Renew Life requirements.
- 1.24. 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

- 1.25. With regards to Condition No. 1.1, a ‘Research and Development’ as defined under Town Planning Scheme No. 1 “*means scientific and industrial research and the development, production and assembly of products associated with that research.*” Any activities involving the production and/or assembly of products are to be related to scientific research and development.
- 1.26. With regards to Condition No. 1.14, 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. Brown Lateritic Asphalt: 30mm on a 200mm compacted crushed rockbase or limestone base.
- 1.27. 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.
- 1.28. 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.
- 1.29. 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.

CARRIED (8-0)



12.8

110

12.8

12.9 11 (Lot 303) Leigh Street, Burswood – Four Grouped Dwellings

File Ref:	LEIG11	In Brief <ul style="list-style-type: none"> • Application to demolish a Pre-1945 dwelling and replace with four Grouped Dwellings. • Non-compliant with the Local Planning Policy – Streetscape with regard to demolition of the existing dwelling. • Recommended that the application be Approved subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0523	
Date:	25 November 2011	
Reporting Officer:	J Gonzalez	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 31 August 2011;
- Plans and elevations dated 31 August 2011;
- Amended plans and elevations dated 27 October 2011;
- Correspondence from applicant dated 13 October 2011;
- Consultation with adjoining owners & occupiers dated 17 October 2011;
- Submissions from adjoining owners/occupiers dated 18 October 2011 and 31 October 2011; and
- Correspondence requests for information from Council dated 10 October 2011.

APPLICATION:

Landowner: W Braithwaite, J Braithwaite and C Eaton
 Applicant: Amano Homes
 Zoning: MRS: Urban
 TPS: Residential R40
 Precinct Plan P6 – ‘Victoria Park Precinct’

DETAILS:

The application proposes four Grouped Dwellings and involves demolition of an existing ‘original dwelling’ built before 1945. No records have been found of the original approval of the existing dwelling. The subject property is located within the Residential Character Study Area and it is hard to determine its style, character or era of construction due to the original dwelling been substantially modified with additions at the front and rear; its original roof has been replaced with fake aluminium tiles. Approval was granted in 1961 for additions of kitchen and laundry. The existing verandah appears to be added but no record of approval has been found.

The front of the dwelling has been rendered and painted in a yellow colour and the rest of the dwelling is face brick painted of the same yellow colour. On each side of the dwelling there is a gable infill with different treatment being one side imitation weatherboard and the other side asbestos sheeting with timber battens.

Along this section of Leigh Street between Burswood Road and Kitchener Avenue, of the seven original properties, three remain as original dwellings with some additions; and four have been redeveloped. On the opposite side of Leigh Street the two properties facing Leigh Street have been developed mainly as offices. The building on 6 Leigh Street was approved as '3 storey office' and the property at 10 Leigh Street was approved as 'showroom and warehouse'. The property at 168 Burswood Road corner with Leigh Street is a 'warehouse' facing Burswood Road.

It should be noted that the streetscape has an inconsistent character comprising three dwellings pre 1945 and four dwellings post 1945.

Address	Year of Construction	Materials
15 Leigh Street	No record found	Brick and tile dwelling and rear dwelling facing Kitchener Avenue.
13 Leigh Street (original dwelling)	No record found	Brick and zincalume dwelling with addition of carport in 1966
11 Leigh Street (original dwelling)	No record found	Brick and fake aluminium tiles dwelling modified with front verandah, rear additions and garage on the side.
9 Leigh Street	1982	Brick and tile two storey dwelling
5 Leigh Street (original dwelling)	No record found	Weatherboard and zincalume dwelling with rear shed addition in 1952
3 Leigh Street	1989	Two brick and tile dwellings
1 Leigh Street	2010	Two storey prefabricated weatherboard school addition

The application proposes four Grouped Dwellings of two storeys each with access from a driveway for vehicular access nominated as common property, in accordance with the Town of Victoria Park Town Planning Scheme No. 1 R40 coding for that area.

The four dwellings are proposed of brick with zincalume roof. To reduce the scale and bulk of the two storeys, the front dwelling that faces Leigh Street proposes a stepping of the upstairs bedroom 2, a two storey portico with balcony and gable ends and a verandah which goes around the side of the dwelling.

The proposal in general complies with the Residential Design Codes (R-Codes), with the exception of some minor issues as follows:

- Unit 1, second storey side setback proposes 1.0m setback in lieu of 1.1m.
- Unit 4, second storey rear setback proposes 1.23m setback in lieu of 1.5m.
- Common driveway proposes a retaining wall up to a maximum height of 790mm in lieu of 500mm.

The applicant has submitted correspondence with justification of the application as follows:

“Although the existing residence must have been built around 1940, it is not of any specific character of value being quite generic in its shape and finish. It’s been poorly maintained and appears to have significant structural & damp problems. The walls are rendered and painted a bland orange colour and the sides are just painted brickwork. The original roof material has been replaced with fake aluminium roof tiles at some point. The front verandah poles are spindly steel not of any good proportion. The original timber windows have been removed and replaced with anodised aluminium frames. There are no feature window sills. The gable infill to the sides is cheap James Hardie Hardiplank with visible joining strips.”

“It should also be considered that the area in question is not a particularly important area for conservation. The streetscape is a hodgepodge of styles from various era’s with nothing of any real consequence and a portion of the street on both sides are commercial properties.

Basically there is no redeeming character existing that would dictate the house has any merit to be retained and the applicant requests that the City grant permission to demolish and replace with a quality development that will offer significantly improved family homes that will complement the surrounding neighbourhood.”

Due to the above non-compliance issues the proposal was the subject of consultation for a 14 day period in accordance with Council Policy GEN3 “Community Consultation” and the Residential Design Codes, between the 17 October 2011 and 31 October 2011, with letters sent to owners/occupiers of the affected properties. During the consultation period two submissions were received, however none objected to the above non-compliance issues.

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

- Clause 36 of the Scheme Text.
- Clause 39 of the Scheme Text.

Compliance with Development Requirements

1. TPS 1 Scheme Text, Policy Manual and Precinct Plan;
2. Policy Manual, Policy 3.1 – Residential Design Guidelines.
3. Local Planning Policy – Streetscape (LPPS); and
4. Residential Design Codes (R Codes).

Proposal does not comply in relation to demolition of an existing ‘original dwelling’ built prior to 1945. However the proposal in general complies with the requirements of the Council’s Local Planning Policy – Streetscape and the Residential Design Codes.

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Street Setback	Clause 3.2.1 of LPPS	Minimum 3.0m Average 6.0m	3.0m 6.0m	Compliant
Boundary Setback Unit 1 Ground Floor	Clause 6.3.1 of R Codes	Minimum 1.0m/1.5m	1.0m/1.5m	Compliant
Boundary Setback Unit 1 First Floor	Clause 6.3.1 of R Codes	Minimum 1.1m/1.5m	1.0m/1.5m	Non-compliant (refer to Comments section below)
Boundary Setback Unit 4 Ground Floor	Clause 6.3.1 of R Codes	Minimum 1.0m/1.5m/nil	1.5m/4.0m/nil	Compliant
Boundary Setback Unit 4 First Floor	Clause 6.3.1 of R Codes	Minimum 1.2m/1.5m/1.5m	1.5m/4.0m/1.23m	Non-compliant (refer to Comments section below)
Open Space	Clause 6.4.1 of R Codes	Minimum 45%	49%	Compliant
Building Height (measured from the natural ground level)	Clause 6.7.1 of R Codes	Maximum 6.0m to walls Maximum 9.0m to roof	5.5m 7.7m	Compliant
Visual Privacy	Clause 6.8.1 of R Codes	4.5m minimum to bedrooms; 6.0m minimum to living areas; 7.5m minimum to balconies	Minimum of 4.5m to bedrooms; Minimum of 6.0m to living areas; Minimum of 7.5m to balconies	Compliant

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

Proposed variations

In general the proposal complies with the requirements of the R-Codes, however Unit 1 proposes a variation to the side setback to the second storey being 1.0m setback from the common boundary with 13 Leigh Street, in lieu of 1.1m required under the R-Codes. No objection in this regard was received from the affected property owner and it is considered that the proposed variation of 0.1m will not have any adverse impact on the affected property. It should be noted that the abutting property is approximately 800mm higher than the subject property.

Unit 4 proposes a variation to the rear setback to the second storey being 1.23m setback from the common boundary with 12B Egham Street, in lieu of 1.5m required under the R-Codes. No submission was received from the affected property owner and it is considered that the proposed variation of 0.27m will not have any adverse impact on the affected property.

The second half of the common driveway proposes a retaining wall with a maximum height of 790mm along the common boundary with 9 Leigh Street, in lieu of the maximum of 500mm in height required under the R-Codes. No objection in this regard was received from the affected property owner and it is considered that the proposed variation of 290mm in height will not have any adverse impact on the affected property.

Demolition of the Existing Dwelling

The existing dwelling does not have any architectural features that may be typical of its era and does not form part of a traditional streetscape pattern. The only other two original dwellings on that section of Leigh Street are each of a different style, being one of brick with zincalume roof and the other one of whole weatherboard with metal roof and narrow front façade.

It is therefore considered that loss of the existing dwelling would not have an adverse impact on the character and appearance of the streetscape.

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

Criteria	Comment
(a) The architecture of the existing building; and	The dwelling does not have any architectural features considered relevant to the streetscape.
(b) The degree of intactness of the original building fabric of the dwelling; and	Original building fabric of the dwelling has been modified. Rear kitchen and laundry approved in 1961 have been added and a front verandah has been added with no records found of its approval. All windows and doors have been replaced with aluminium frames. The original roof has been replaced with fake aluminium tiles. Roof gable ends have been modified and front façade has been rendered. A brick garage with aluminium roller door was approved in 1962 and built on a lower side of the property in a completely different style of the dwelling.
(c) The condition of the existing dwelling; and	Although no evidence has been submitted by an engineer that certifies the building as structurally unsound the applicant has stated that the dwelling appears to have significant structural and damp problems.
(d) The streetscape context and in particular the importance to the streetscape of retaining the existing dwelling; and	The streetscape along that section of Leigh Street does not have a traditional character. The three original dwellings are each of a different style. Across the road from the subject property is a commercial area.
(e) The location of the existing dwelling on the site; and	The existing dwelling is located over two of the proposed four lots.
(f) The effect of retention of the existing dwelling upon the development potential of the site; and	It would be not possible to develop three dwellings to the rear and retain the existing dwelling, without significant concessions.
(g) Whether retention of the existing dwelling could be achieved through the granting of variations to development requirements; and	The site could accommodate three dwellings to the rear of the existing dwelling requiring variations far beyond those development requirements permitted under the Residential Design Codes.
(h) Whether the proposed new development contributes positively to the character of the streetscape in which the development is set and is an appropriate replacement for the original dwelling proposed to be demolished.	The proposed dwelling incorporates some traditional design elements such as front verandah, zincalume roof and windows with a vertical emphasis. It is considered this design would enhance the appearance of the streetscape.

Given the context of the streetscape and the lack of character of the building it is considered that demolition of the existing dwelling would not have an adverse impact on the character and appearance of the streetscape and would meet the relevant Performance Criteria.

Replacement of the Existing Dwelling

In accordance with Council's Local Planning Policy – Streetscape, where demolition is proposed, the subsequent development must comply with the relevant provisions of Town Planning Scheme No. 1, must contribute positively to the streetscape and must represent an appropriate replacement for the character dwelling being demolished.

The proposed replacement dwelling complies with the Council's Local Planning Policy - Streetscape. As discussed above the dwelling incorporates some traditional design elements such as a front verandah, 25 degree zincalume roof and windows with a vertical emphasis. The proposed front dwelling has a section of the second storey proposed 1.0 metre behind the ground floor and verandah, which reduces the perceived bulk and visual impression of the upper floor. The application also proposes an open style fence.

The proposed replacement development is considered as a good standard and it is considered to be acceptable within the context of the streetscape along this section of Leigh Street. Given the proposed design and the lack of character of the existing dwelling it is considered that the replacement dwelling would result in a development of an acceptable appearance within the existing streetscape.

Conclusion

In view of the above, it is considered that the demolition of the existing dwelling would not have an adverse impact on the appearance of the streetscape and that the replacement dwelling would be of an appropriate standard. Accordingly, it is recommended that the application for Four Grouped Dwellings involving demolition of the existing dwelling at 11 (Lot 303) Leigh Street, Burswood be Approved subject to conditions.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Potter

- 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 Amano Homes on behalf of W Braithwaite, J Braithwaite and C Eaton (DA Ref: 11/0523) for Four Grouped Dwellings at 11 (Lot 303) Leigh Street, Burswood as indicated on the amended plans dated received 27 October 2011 be Approved subject to the following conditions:**
 - 1.1. A photographic record of the existing dwelling to be prepared by a registered Heritage Architect and submitted for the Town's approval prior to the issue of a demolition license for the existing dwelling or a building license for the subsequent development, whichever occurs first.**

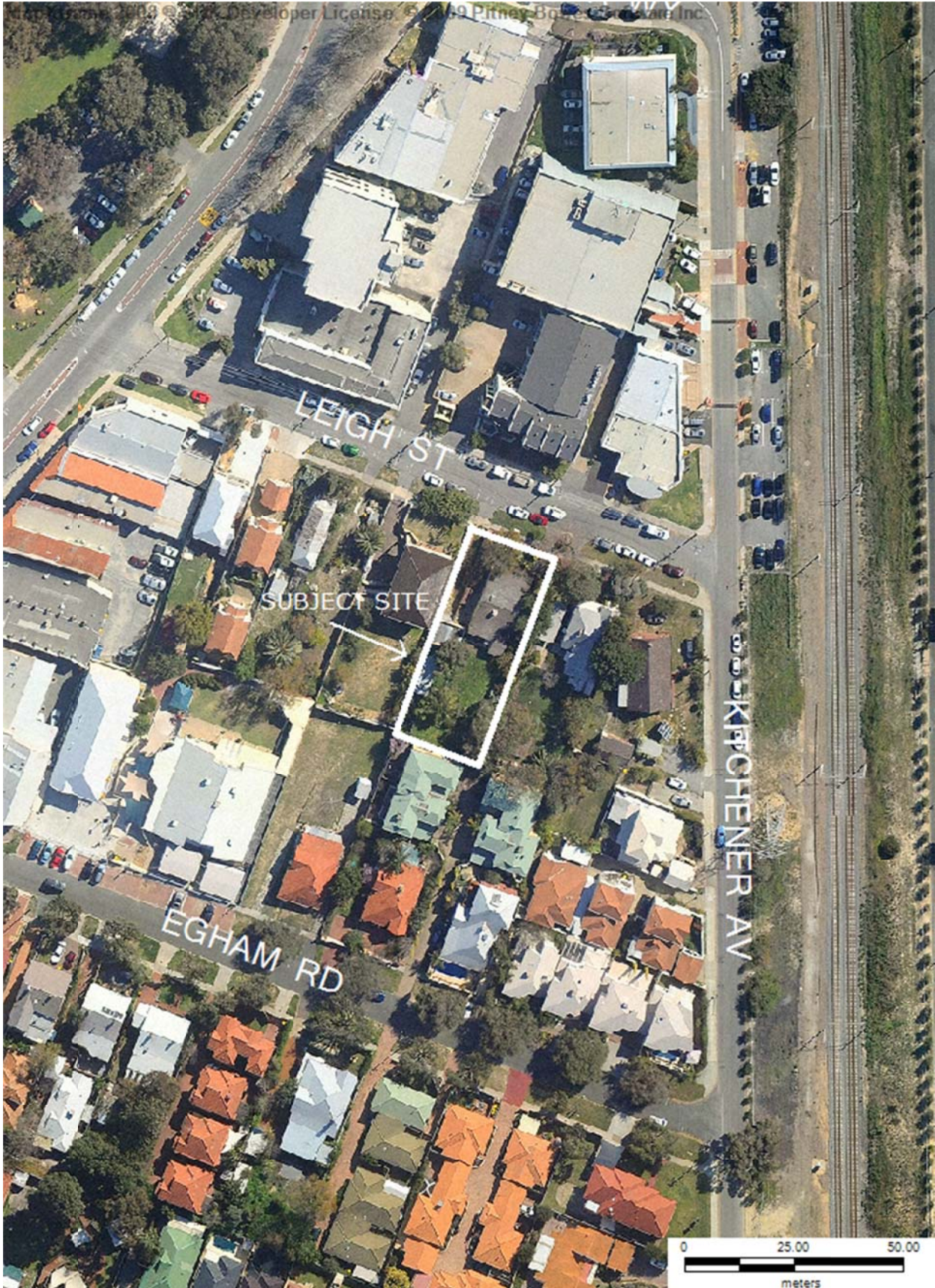
- 1.2. External colours, finishes and materials to be used in the construction of the building are to be in accordance with the colour schedule date stamped approved 13 December 2011, attached with the approved plans.
- 1.3. All windows visible from the street to be either of timber frame construction or wide frame powder coated aluminium. Details are to be submitted to the satisfaction of the Manager Urban Planning prior to the submission of an application for a building licence.
- 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. (Refer related Advice Note)
- 1.5. Fencing forward of the building line to Leigh Street to be 'open style' construction in accordance with the approved drawings.
- 1.6. The use of sheet fencing, such as colorbond or fibro cement sheeting, in front of the building line is not permitted.
- 1.7. 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.
- 1.8. The existing boundary fencing shall not be removed, until such time as the required new fencing is to be erected.
- 1.9. 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);
 - (ii) wrought iron or similar metal tubing style infill fencing; and/or
 - (iii) pickets of a maximum width of 80mm, a maximum thickness of 20mm, and being spaced a minimum gap of 40mm and a maximum gap of 80% of the width of the picket
- 1.10. During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.

- 1.11. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Planning Services.
- 1.12. All roof pitches to be a minimum of 25 degrees.
- 1.13. Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.
- 1.14. External fixtures, including but not restricted to air conditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the Primary Street, Secondary Street or right-of-way.
- 1.15. 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.
- 1.16. In order to comply with Clause 6.8.1(A1) of the Residential Design Codes, the Study and Bedroom 2 windows of Units 2 and 3, as shown in red on the approved plans, being either:
 - (i) fixed obscure glazing to a minimum height of 1.65 metres above the finished floor level; or
 - (ii) a minimum sill height of 1.65 metres above the finished floor level; or
 - (iii) an obscure awning type window.
- 1.17. A zero lot gutter to be provided for the boundary walls adjoining the common boundary with 12B Egham Road.
- 1.18. The surface of the boundary wall on the common boundary with 12B Egham Road to be the same finish as the approved external wall finish for the remainder of the dwelling, unless otherwise approved.
- 1.19. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.20. Compliance with Council's Building, Environmental Health and Technical Services requirements.
- 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. Landscaping of the verge requires approval from Council’s Technical Services (except lawn planting only). The applicant/owner should obtain a copy of Council’s Sustainable Landscaping Guide 1 “Your Street Verge”.
 - 1.24. With regards to Condition No. 11 above, the following are minimum requirements of the Town of Victoria Park: Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone.
 - 1.25. 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.
 - 1.26. 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. Those persons who made a submission in relation to the application be advised of this decision.

CARRIED (8-0)



12.10 62 (Lot 7) Langler Street, East Victoria Park – Single Dwelling

File Ref:	LANG62	In Brief <ul style="list-style-type: none"> Application to construct a single storey dwelling. Non-compliant with the boundary setback and site works Acceptable Development standards of the R-Codes. One objection received. Recommended that the application be Approved subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0469	
Date:	25 November 2010	
Reporting Officer:	H Gleeson	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form dated 9 August 2011;
- Amended plans and elevations dated 14 November 2011;
- Photos of the subject and adjoining property;
- Consultation Letters dated 9 November 2011 and 15 November 2011; and
- Letter of objection received 25 November 2011.

APPLICATION:

Landowner: AVI Developments Pty Ltd & Alpha Consulting Engineers & Managers P/L
 Applicant: Alexander Ioannidi
 Zoning: MRS: Urban
 TPS: Residential R20
 Precinct Plan P12 'East Victoria Park Precinct'

DETAILS:

Council has received an application for a split level single storey dwelling on a currently vacant site with a steep slope of some 4.7 metres from the rear boundary to Langler Street. The site is not located within the Residential Character Study Area or a Weatherboard Streetscape.

The site has approval for a two lot survey strata subdivision in a battleaxe configuration but an application to clear these conditions has not been submitted and new titles have not been issued. This dwelling has been designed to be accommodated on the front lot without any implications in relation to the potential future subdivision of the land.

The application proposes fill and retaining within 3.0 metres of the front boundary up to a height of 1.285 metres above the corresponding natural ground level. The Acceptable Development standards of the R-Codes permit fill and retaining up to a height of 0.5 metres above the natural ground level.

The application also proposes a wall over 9.0 metres in length setback 1.1 metres from the south-western side boundary shared with No. 64 Langler Street. The Acceptable Development standards require a setback of 1.5 metres.

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. One objection was received which is summarised below:

Consultation Submission	
<i>Submission from owner/occupant of No.64 Langler Street</i>	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> • Objection regarding the 1.1 metre setback. Wall should be setback 1.5 metres as per Clause 6.3.1 A1. 	<p>Not supported – The proposed finished floor and site levels of the subject site would be some 1.5 metres below the floor level of the dwelling at 64 Langler Street. Given this site circumstance the proposal would not inhibit solar access or ventilation to the adjoining dwelling nor would it appear overbearing or obtrusive or result in overlooking.</p>

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.
- 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	Traditional Design apart from full height windows in front elevation. A condition is recommended that the lower window pane be removed. The obscure glazed window in the front elevation would be largely obscured from the streetscape and is considered acceptable.	Complies
Open Space	Clause 6.4.1 of R-Codes	50% Open Space	73.2% Open Space	Complies
Access and Parking	Clause 6.5.1 of R-Codes	2 Bays and maximum 18% driveway gradient	2 Bays and maximum 18% driveway gradient	Complies
Building Height	Clause 6.7.1 of R-Codes	6m wall height 9m roof height	2.4m wall height 4.75m roof height	Complies
Visual Privacy	Clause 6.8.1 of R- Codes	Setbacks apply if habitable rooms are higher than 0.5 metres above the corresponding natural ground level.	No habitable rooms higher than 0.5 metres above the corresponding natural ground level.	Complies
Design for Climate	Clause 6.9.1 of R- Codes	Maximum shadow of 25% over adjoining site	Shadow cast would be less than 25% of the adjoining site area.	Complies

Sustainability Assessment:

External Economic Implications:

No Impact.

Social Issues:

No impact.

Cultural Issues:

No impact.

Environmental Issues:

No impact.

COMMENT:

Boundary Setbacks

As discussed above, given the level difference between the subject site and No. 64 Langler Street the proposed dwelling would not inhibit sunlight or ventilation to the dwelling on this property or appear overbearing or unduly obtrusive. Due to the level difference the retaining wall and dividing fence would obscure any view from the major openings within this wall to the adjoining property. Overall it is considered the proposal meets the relevant Performance Criteria.

Site Works

The proposal involves provision of an outdoor area in front of the dwelling to be landscaped such that it would be one course below the adjacent floor level of the dwelling. This has resulted in fill and retaining up to 1.285 metres above the lowest corresponding natural ground level within 3.0 metres of the front boundary. The application also proposes an open style front fence on top of this retaining wall with a height of 1.286 metres and a solid portion with a height of 0.6 metres. This would result in a combined height up to 2.571 metres and a combined solid portion of up to 1.885 metres. It is considered this would segregate the property from the streetscape which would not be a positive outcome. Overall it is considered this aspect would not retain the impression of the natural slope of the land and would fail to meet the relevant Performance Criteria.

A condition is recommended that this aspect of the proposal be amended at the Building Licence stage to provide a split level of retaining or a sloping front garden whereby the maximum height of retaining shall not exceed 0.6 metre when measured

from the corresponding natural ground level and the front fence infill and piers shall not exceed a height of 1.2 metres above the retaining wall. The applicant has verbally agreed to this condition being imposed.

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 Single Dwelling at No. 62 Langler Street be Approved subject to conditions.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Vilaca

- 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 Alexander Ioannidi on behalf of AVI Developments Pty Ltd & Alpha Consulting Engineers & Managers P/L (BA/DA Ref: 11/0469 for a Single Dwelling at No. 62 (Lot 7) Langler Street, East Victoria Park be Approved subject to the following conditions:**
 - 1.1 Retaining walls within the front setback area shall not exceed a height of 0.6 metres when measured from the corresponding natural ground level and the front fence infill and piers shall not exceed a height of 1.2 metres above the retaining wall as marked in red on the approved plans. This amendment shall be shown on the plans submitted as part of the Building Licence for the development to the satisfaction of the Manager Urban Planning and constructed accordingly.**
 - 1.2 The window to Bedroom 2 in the front elevation shall be amended as marked in red on the approved plans. This amendment shall be shown on the plans submitted as part of the Building Licence for the development to the satisfaction of the Manager Urban Planning and constructed accordingly.**
 - 1.3 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.**
 - 1.4 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.****
 - 1.5 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.**
 - 1.6 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.
- 1.10 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 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.
- 1.13 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.14 Compliance with Council's Building, Environmental Health and Renew Life requirements.

Advice to Applicant

- 1.15 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty \$100.
- 1.16 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.
- 1.17 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.

CARRIED (8-0)



12.11 Change of Use from Non-Conforming Use of Shop to Non-Conforming Use of Shop and Fast Food Outlet at 46 (Lot 346) Cargill Street, Victoria Park

File Ref:	CARG46	In Brief <ul style="list-style-type: none"> Application to be submitted for change of use from non-conforming use of Shop (with 8 seats) to non-conforming use of Shop and Fast Food Outlet (maximum 20 seats). Recommended that Council delegate authority to the CEO to determine the application subject to no objections being received.
Appendices:	No	
DA/BA or WAPC Ref:	N/A	
Date:	7 December 2011	
Reporting Officer:	R Cruickshank	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Email correspondence from applicant dated 5 December 2011;
- Correspondence from Council to applicant dated 19 February 2010.
- Email correspondence from applicant dated 4 December 2011.

APPLICATION:

Landowner: M Mancuso
 Applicant: I Lawrence
 Zoning: MRS: Urban
 TPS: Residential R30
 Precinct Plan P5 'Raphael Precinct'

BACKGROUND:

A search of Council's records has revealed that development approval was granted by the City of Perth in 1953 to extend a small corner shop attached to the original dwelling on the site. Further approval was then given in 1972 for this original residence and shop to be used for retail purposes and extended, and for a new residential dwelling (44A Cargill Street) to be erected behind the existing building on the site. Further approval was then given in 1985 for the further extension of the shop up to the rear of the original dwelling to which it is attached. Acknowledgement of the delicatessen use occurring on the site was given at this time, including the use of both the original dwelling (mainly storage) and corner shop building for this use.

Council's records indicate that the premises has previously been issued with Eating House Licences and that the description of the Eating House was noted as being of a Takeaway nature. Several Alfresco Dining Licences were also issued to allow for the placement of two tables and chairs beneath the tree on the Washington Street verge for the use of customers consuming goods sold at the site (a maximum of two (2) tables and eight (8) chairs. It should be noted that a condition of the Alfresco Licence was that no meals were to be served to the tables.

Council's records do not indicate any approval for the use of the courtyard/car parking area behind the delicatessen building for use as sit down dining area or for any sit down dining area within the building itself. The subject Eating House and Alfresco Dining Licences were also required to be renewed on an annual basis. Council's records indicate that an Alfresco Dining Licence has not been issued for the premises since 1994 and that a certificate for its registration as an Eating House (Takeaway) was last issued in 1999.

The applicant wrote to Council on 2 February 2010 concerning the current zoning of the property and the permissibility of operating a delicatessen offering a selection of European gourmet smallgoods, coffee and continental rolls for takeaway and a potential breakfast service to customers. The applicant was advised of the above information in relation to previous approvals for the site, and that Council's Planning Services have no objection to the continued operation of the delicatessen and proposed sale of takeaway food and beverages as follows:

1. The primary source of revenue and sales for the business constitutes foodstuffs and retail goods of domestic nature to be consumed and used by persons living or working in the local area;
2. All prepared food and beverages are to be packaged suitably for takeaway from the premises regardless of whether they are to be consumed at the site;
3. A combined maximum number of two (2) tables and no more than eight (8) chairs shall be available for the use of customers within the delicatessen or any alfresco dining area, for which the relevant licences have been obtained from Council's Environmental Health Services;
4. No service of food or beverages to tables is provided;
5. All necessary approvals and licences have been obtained from Council's Environmental Health Services for the proposed use.

In email correspondence dated 4 December 2011, the applicant provided the following comments :

- They took over the lease of a very rundown old deli in March 2010 (it had been vacant for approximately eight months) and then spent four months renovating and repairing the building, we opened in July 2010.
- Acknowledge receipt of letter from Planning Services dated 19 February 2010 outlining restriction of 8 seats.
- Discussed seating numbers with an Environmental Health Officer in March 2010 and subsequent occasions, and was advised that they could have a maximum of 20 seats for the business (without the need for patrons toilets).
- In the past 17 months the applicant and his wife have built up a very successful business. Currently they work their themselves with one or two family members when it is busy. They have turned a building that was an eye sore and a social issue for residents of the area into something that enhances and improves the area.
- They are open from Monday through to Saturday and our latest opening time is 4PM.

They provide a service to local residents (still selling the paper and bread and milk plus lollies and drinks for the local school kids) and to people who work or travel through the area. Their main business is in take away coffee and food, we provide coffee and tea at half price for older people and have a big customer base from the aged care facilities in the area. They also do a large trade on Saturday's from the sporting activities at Raphael Park.

They currently have seating for 17 people (including the alfresco area) and this comprises of mainly couches where people can buy a coffee and drink it while reading the paper.

- Approximately 80% of customers are take away, this includes a large number during the week from businesses (including Monadelphous) in the area.
- They have made the decision to sell the business and the applicant will be returning to work in January 2012.
- Over the past week they have had a potential purchaser who appears keen to buy. However after contacting Council and being advised that the business is only permitted to operate with 8 seats, this purchaser believes the business will not be viable.
- If they are unable to sell the business as it is, then they will have no option but to close the doors in January.
- They would like to increase the number of seats – currently it is at eight, however they would like 'less than 20'. They would also like the provision to be able to serve customers in cups etc rather than take away containers if they are dining in. They do not do meals, only sandwiches, wraps, Panini and the like.

At the time of writing this report, the applicant has not lodged a formal application to change the use of the premises and to correspondingly increase the number of seats. However this application is expected to be received prior to the Ordinary Council Meeting.

DETAILS:

An application for planning approval is to be submitted for a change of use from non-conforming use of Shop to non-conforming use of Shop and Fast Food Outlet. As part of the proposal, the application will seek approval for a maximum of 20 seats for patrons in lieu of the previous approval for 8 seats. The premises is currently provided with no on-site car bays.

While the business has been operating in this manner for 17 months, the applicant contends that based upon advice provided by an Environmental Health Officer of the Town, they believed that they were permitted to operate with a maximum of 20 seats, and have therefore done so since the premises commenced its current use. While a maximum of 20 seats may be permitted from an Environmental Health perspective without the need to provide toilets for patrons, only a maximum of 8 seats are permitted under the previous planning approval for the site. Therefore while the current planning

approval for the site does not authorise more than 8 seats, it appears that the applicant genuinely believed that a maximum of 20 seats were permitted and they proceeded on this basis.

The applicant now intends to return to work, and given that his wife is not able to continue operating the premises on her own, they have been forced to sell the business. Accordingly the applicant now seeks Council's approval for the change of use to now also include a Fast Food Outlet in addition to the approved Shop component, with a corresponding increase in the permitted number of seats from 8 seats to 20 seats.

Legal Compliance:

Clause 18 of Scheme Text - Non-conforming use provisions

The subject property is zoned 'Residential' under Town Planning Scheme No. 1. The premises has been approved for use as a Shop since 1953. Notwithstanding that a Shop is a prohibited use on Residential zoned land under Town Planning Scheme No. 1, as a Shop was lawfully approved under a previous Scheme, the premises has non-conforming use rights.

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

Scheme Policy 5.1 'Parking Policy'

The premises has operated for some time without the provision of any on-site car parking. As the application involves the inclusion of a take-away food component, there will be an increase in the car parking requirement for the site under the Scheme. The extent of additional required bays can only be determined once an application and drawings are received.

Council Policy GEN3 'Community Consultation'

In accordance with Council Policy GEN3 'Community Consultation', an application for planning approval for an application involving a non-conforming use is to be advertised for public comments for a period of not less than 14 days.

Sustainability Assessment:

External Economic Implications:

No Impact.

Social Issues:

The business has made an excellent contribution to the surrounding community in terms of turning a disused and poorly maintained building, into an attractive place providing convenience goods for local residents and a social meeting point.

Cultural Issues:

No impact

Environmental Issues:

No impact.

COMMENT:

An application for planning approval is to be submitted for a change of use from non-conforming use of Shop to non-conforming use of Shop and Fast Food Outlet. As part of the proposal, the application will seek approval for a maximum of 20 seats for patrons in lieu of the previous approval for 8 seats. The premises is currently provided with no on-site car bays.

While the application is yet to be assessed, the operation of the business for the last 17 months has proven to be particularly successful and has provided a convenience service and meeting place for residents, visitors and workers within the immediate area. Importantly, no complaints have been received from surrounding residents regarding the business.

In accordance with Council Policy GEN3 'Community Consultation' an application for a non-conforming use is to be advertised for public comments for a minimum of 14 days. In view of the business having operated for 17 months without any complaints, in this instance it is recommended that Council exercise discretion to reduce the consultation period to a minimum of 7 days. Council could determine that no consultation be undertaken on the application if it was considered that this was appropriate.

In view of Council not being able to make a decision on the application at the Ordinary Council Meeting on 13 December 2011, and the next Ordinary Council Meeting not being until early February, there would otherwise be a significant delay in the determination of the application. In view of the Council's desire to promote the operation of viable corner stores as a benefit to the immediate community, it is recommended that Council provide delegated authority to the CEO to determine the application as soon as possible, should no objections be received.

It is anticipated that the application will result in an increased on-site car parking requirement, which will not be able to be met on-site. However in view of there being no on-site car bays for the previously approved Shop and the Council's desire to promote the operation of viable corner stores, it is recommended that in this instance Council accept no on-site car bays for the premises, and that parking for the premises be accepted on-street.

RESPONSIBLE OFFICER RECOMMENDATION:

1. That in relation to an application for planning approval for a Change of Non-Conforming Use from Shop to Non-Conforming Use of Shop and Fast Food Outlet at 46 (Lot 346) Cargill Street, Victoria Park, Council :
 - 1.1 Approve a reduced consultation period of a minimum of 7 days;
 - 1.2 Not require the provision of any on-site car parking to serve the use of the premises; and
 - 1.3 Delegate authority to the CEO to determine the application subject to no objections being received.

AMENDMENT:

That recommendation 1.1 changes to state 5 days instead of 7 days.

Reason:

To allow for possible approval of the change of use prior to the Christmas break in Council Business.

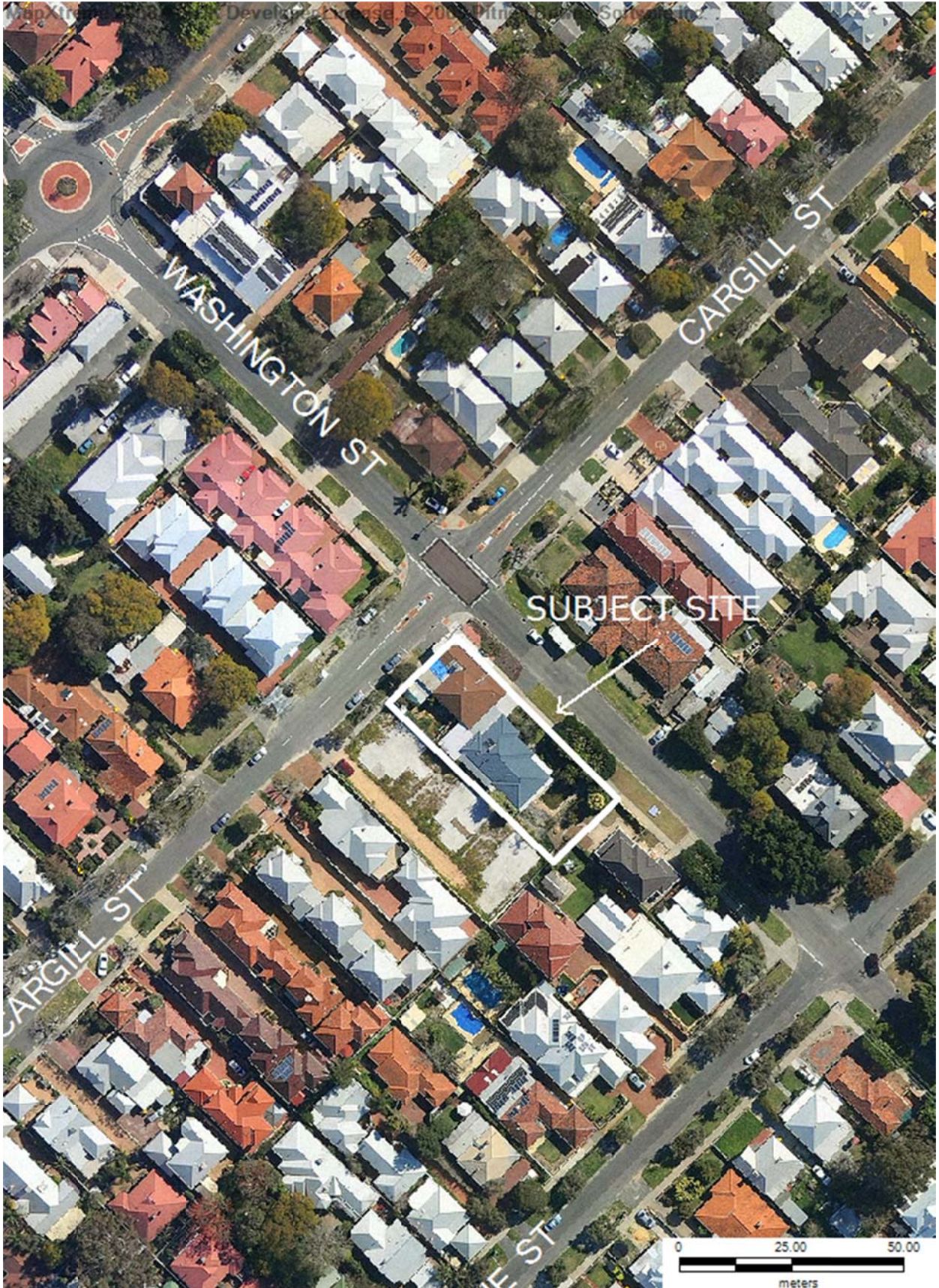
RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Ashton

1. That in relation to an application for planning approval for a Change of Non-Conforming Use from Shop to Non-Conforming Use of Shop and Fast Food Outlet at 46 (Lot 346) Cargill Street, Victoria Park, Council :
 - 1.1 Approve a reduced consultation period of a minimum of 5 days;
 - 1.2 Not require the provision of any on-site car parking to serve the use of the premises; and
 - 1.3 Delegate authority to the CEO to determine the application subject to no objections being received.

CARRIED (8-0)



13 RENEW LIFE PROGRAM REPORTS

13.1 Tender TOVP 11/15 – Fletcher Park Grounds Maintenance Contract

File Ref:	TVP/11/15	In Brief <ul style="list-style-type: none">• Tenders have been called for the provision of grounds and cricket wicket maintenance at Fletcher Park, Carlisle.• Evaluation of submitted tenders against prescribed criteria has been completed.• Recommended to accept the tender from Perth Cricket Club Inc.
Appendices:	Nil	
Date:	18 November 2011	
Reporting Officer:	W Bow	
Responsible Officer:	A Vuleta	

TABLED ITEMS:

- Tender submissions
- Tender evaluation documentation

BACKGROUND:

Fletcher Park is a four hectare park located across Lots 953, 954, 945, 100 and 4767 on Weston and Marchamley Streets, Carlisle within the Town of Victoria Park. Fletcher Park is recognised as an A-grade regional recreation facility for cricket and hockey use and is used all year round, for Hockey WA affiliated divisional matches and for West Australian Cricket Association (WACA) grade cricket. The site has turf cricket wickets as well as turf and hard wicket synthetic practice nets.

The grounds and clubrooms at Fletcher Park are occupied under Licence arrangement with the Town of Victoria Park by the Xavier Victoria Park Hockey Club (Inc) for hockey and Perth Cricket Club (Inc) for cricket. The clubrooms at Fletcher Park recently underwent a \$1.2 million dollar upgrade.

Fletcher Park site is also used extensively for passive recreation and boasts a strong connection with the local community.

Historically the maintenance of the Fletcher Park grounds has been undertaken via a maintenance contract agreement between the Town and the Perth Cricket Club; who in turn have a sub-contract arrangement and separate cost-sharing arrangement with Xavier Victoria Park Hockey Club.

The value of the indexed maintenance contract has exceeded \$100,000 and accordingly the Town has sought tenders to undertake the maintenance requirements at Fletcher Park.

This tender (TVP/11/15) is proposed to operate for a minimum three (3) year period commencing in November 2011, with prescribed performance based criteria enabling two twelve month contract extensions thereafter. Tenders were advertised in the West Australian newspaper on 1 October 2011, with a closing date of 31 October 2011.

DETAILS:

Tenderers were required to complete and submit a monthly pricing schedule for the first three years, with the requirements of the maintenance contract divided into two separate areas being –

- Maintenance of turf cricket pitches and turf practice cricket pitch areas.
- Maintenance of all other areas including mowing, spraying, watering, litter control etc.

One submission was received for the tender TVP/11/15 Fletcher Park Grounds Maintenance Contract, this being from the Perth Cricket Club Inc.

	TURF CRICKET MAINTENANCE	WICKET	GENERAL MAINTENANCE	GROUND
TENDERER	YEARLY AVERAGE	MONTHLY AVERAGE	YEARLY AVERAGE	MONTHLY AVERAGE
<i>Perth Cricket Club</i>	\$53,369.67	\$4,447.33	\$80,054.33	\$11,118.33

The total contract (general grounds plus turf wicket) value for each year is –

YEAR ONE	YEAR TWO	YEAR THREE
\$129,500	\$133,385	\$137,387

The average total contract value (general grounds plus turf wicket) across the three years is **\$133,424**.

All prices exclude GST.

The submitted tender was assessed based on the Assessment Criteria provided as part of the tender documentation.

Tender Evaluation Outcome – TVP/11/15 Fletcher Park Grounds Maintenance

ASSESSMENT CRITERIA	WEIGHTING
<p>Relevant Experience Provide details of similar work; Provide scope of the Tenderer's involvement including details of outcomes; Provide details of issues that arose during the project and how these were managed; Demonstrate sound judgement and discretion; and Demonstrate competency and proven track record of achieving outcomes.</p>	25%
<p>Key Personnel skills and experience Their role in the performance of the Contract; Curriculum vitae; Membership to any professional or business association; Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and Any additional information.</p>	15%
<p>Tenderer's Resources Plant, equipment and materials; and Any contingency measures or back up of resources including personnel (where applicable).</p>	15%
<p>Demonstrated Understanding A project schedule/timeline (where applicable); The process for the delivery of the goods/services; Training processes (if required); and A demonstrated understanding of the scope of work.</p>	15%
<p>Tendered Price/s The price to supply the goods or services in accordance with the Request; and Rates or prices for variations</p>	30%
TOTAL	100%

Evaluation has been undertaken according to the tender evaluation criteria included in the tender documents by a panel of three staff members being the Reserves Supervisor, Parks Coordinator and Executive Manager Park Life as per the below tables -

Assessment 1.

TENDERER	QUALITATIVE CRITERIA	WEIGHTING (%)	SCORE	WEIGHTED SCORE
Perth Cricket Club Inc.	Relevant experience	25	9	2.25
	Key personnel skills and experience	15	9	1.35
	Tenderer's resources	15	8	1.2
	Demonstrated understanding	15	10	1.5
	Price	30	10	3
	TOTAL			

Assessment 2.

TENDERER	QUALITATIVE CRITERIA	WEIGHTING (%)	SCORE	WEIGHTED SCORE
Perth Cricket Club Inc.	Relevant experience	25	8	2.0
	Key personnel skills and experience	15	8	1.2
	Tenderer's resources	15	5	0.75
	Demonstrated understanding	15	8	1.2
	Price	30	10	3
	TOTAL			

Assessment 3.

TENDERER	QUALITATIVE CRITERIA	WEIGHTING (%)	SCORE	WEIGHTED SCORE
Perth Cricket Club Inc.	Relevant experience	25	8	2
	Key personnel skills and experience	15	9	1.35
	Tenderer's resources	15	8	1.2
	Demonstrated understanding	15	8	1.2
	Price	30	7	2.1
	TOTAL			

A raw score between 1-10 was allocated to each of the assessment criteria, with such score then being multiplied by the weighting assigned to the criteria. A final score out of 10 was then derived by adding the weighted scores.

In circumstances where more than one tender is received, the tenderer having the highest score would be the preferred tenderer.

The Perth Cricket Club's tender scored a final score, averaged against the three assessments undertaken by the panel, of 8.4 out of 10.

To enable a service comparison and to examine the "value for money" provided to the Town by the tenderer, a cost estimate was developed by Park Life staff whereby the Town would undertake the terms of the tender.

In year one the Town would incur the capital purchase cost of the specialised equipment such as triplex mower, reel mower, outfront mower, wicket roller and other small plant required to undertake the requirements of the contract, and depreciation of such equipment thereafter.

Below is a table which provides the estimated cost over a three year period for the Town to undertake the requirements of the contract of tender TVP/11/15 –

	YEAR ONE	YEAR TWO	YEAR THREE
STAFF (including overheads and on-costs)	\$103,120	\$107,244	\$111,534
PLANT (purchases)	\$85,000	Nil	Nil
PLANT (operations)	\$11,500	\$12,075	\$12,678
MAJOR RENOVATIONS	\$16,400	\$17,220	\$17,908
TOTAL	\$216,020	\$136,539	\$142,120

Legal Compliance:

The Town has complied with Section 3.57 of the Local Government Act 1995 and the relevant clauses of Division 2 Part 4 of the Local Government (Functions and General) Regulations 1996 relating to tenders.

Policy Implications:

Staff have complied with Council Policy FIN4 Purchase of Goods and Services.

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Funding for the requirements of grounds maintenance at Fletcher Park was included in the 2011/2012 budget with an allocation of \$120,000.

Commitments to this account until December 2011 are \$55,886, leaving \$64,114 available for the remainder of the 2011/2012 financial year.

Total Asset Management:

The specification in the tender document was developed to ensure preservation of the Town's assets at Fletcher Park by requiring maintenance and renewal works that maintain amenity and present facilities at an optimum standard.

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Proper management and maintenance of Fletcher Park is essential for the provision of active sporting fields, passive open spaces and recreation areas for the well-being of residents and visitors to the Town as well as delivering an aesthetically pleasing and liveable environment and enhancing the streetscape.

Cultural Issues:

Nil

Environmental Issues:

"Green" parkland spaces provide a range of environmental benefits including being a food source and natural habitat for numerous fauna, thermal insulation and temperature modification, humidification of the air, filtration of polluted air, interception of rainfall and reduced water runoff, reduced soil erosion, shade and cooling, carbon dioxide and oxygen exchange, visual and noise screening etc.

COMMENT:

The maintenance of the grounds at Fletcher Park is currently managed by the Perth Cricket Club. The arrangement ensures substantial buy-in by the primary facility users and ensures all issues are managed at source by the Clubs that use the facility. The Town is rarely involved in operational matters at the ground and has historically received minimal complaints in relation to the maintenance of Fletcher Park; the benefits of which, given the nature of the semi-professional cricket and hockey undertaken at the ground, are difficult to quantify.

The tender submitted by Perth Cricket Club presents the best value for money and achieves an averaged point score of 8.4 out of 10 when assessed against the qualitative criteria. The Perth Cricket Club will employ the current curator whose knowledge, first-hand experience and close working relationship with the Perth Cricket Club will ensure the facility continues to be maintained at the optimum standard for the benefit of sports participants, passive recreators and the Town.

A condition of the tender was for a site meeting prior to the submission of the tender documents. One other contractor, Landscape Developments, attended the site meeting but did not submit a tender.

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Nairn

That Council award Tender TVP/11/15 Fletcher Park Grounds Maintenance Contract to the Perth Cricket Club Inc. for a three year period commencing 1 January 2012 in accordance with the following table, exclusive of GST –

YEAR 1	YEAR 2	YEAR 3
\$129,500	\$133,385	\$137,387

CARRIED (8-0)

13.2 Electricity Supply Contract – Perth Energy

File Ref:		In Brief <ul style="list-style-type: none"> The Town engaged a consultant to review its contestable energy supply to identify potential cost savings. Consultant recommends the Town engage Perth Energy as its electricity supplier. Recommend that Council endorse the Consultant's recommendation.
Appendices:	Nil	
Date:	19 November 2011	
Reporting Officer:	W. Bow	
Responsible Officer:	A. Vuleta	

TABLED ITEMS:

- Electricity Tariff Analysis Report – Energy Response Pty Ltd

BACKGROUND:

Since 2006, sites where the consumption of electricity exceeds 50,000 units are deemed to be “contestable” enabling owners to choose their electricity supplier.

The Town engaged EnerNoc (previously known as Energy Response Pty Ltd) to investigate potential cost savings at three sites where the consumption of electricity exceeds 50,000 units. EnerNoc undertook this via the Council Purchasing Service provided by the West Australian Local Government Association (WALGA) under their preferred supplier panel contract arrangements. The three sites are listed below –

SITE

Administration building
Aqualife Centre
Leisure Life Centre

ADDRESS

99 Shepperton Rd, Victoria Park WA 6100
8 Somerset St, Victoria Park WA 6100
Lot 12 Gloucester St, Victoria Park WA 6100

13.2.1 DETAILS:

Three responses were submitted by electricity suppliers.

COMPANY	ENERGY COST			DAILY CHARGE c/Day	NETWORK COST
	PEAK c/KWh	OFF PEAK c/KWh	ESCALATION		
Synergy	28.68	8.16	No	307.75	Included
Perth Energy	25.85	7.85	Fixed until 30 September 2013	Nil	Included
Landfill Gas and Power	33.77	10.44	Yes	177.45	
Alinta	34.22	8.93	Yes		
Existing	28.46	8.76	New State Govt tariffs will apply	162.57	Included

Legal Compliance:

The purchase of goods and services exceeding \$100,000 in value is exempt from the requirements to go to public tender under clause 11(2) of the Local Government (Functions and General) Regulations 1996, where such goods and services are procured via the WALGA Council Purchasing Service.

Policy Implications:

Notwithstanding the WALGA preferred supplier panel contract arrangements with the energy suppliers, the matter of expenditure exceeding \$100,000 is not formally covered via policy and accordingly is referred to Council for endorsement.

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Current 2011/2012 budget allocations for electricity across the three sites are –

- Administration building - \$102,000
- Aqualife Centre - \$289,081
- Leisurelife Centre - \$76,784

Based on the sample of electricity bills for the relevant sites provided to undertake the assessment, EnerNoc advised that Perth Energy provide the best value to the Town and suggest an estimated saving in electricity charges of approximately \$50,000 per annum or 10%.

Further interrogation of the figures based on annual electricity consumption, including a comparison based on the peak/off-peak consumption delivered the following results –

LOCATION	ANNUAL PEAK CONSUMPTION (KWh)	ANNUAL CURRENT CHARGES	PERTH ENERGY CHARGES	ANNUAL OFF-PEAK CONSUMPTION (KWh)	ANNUAL CURRENT CHARGES	PERTH ENERGY CHARGES
AQUALIFE CENTRE	693,434	\$196,384	\$179,252	664,959	\$57,965	\$52,199
LEISURE LIFE CENTRE	167,606	\$47,445	\$43,326	126,284	\$10,996	\$9,913
	PEAK SAVINGS	COST	\$21,251	OFF-PEAK SAVINGS	COST	\$6,849
TOTAL SAVINGS						\$28,100

The Town's administration building's electricity account is a group account with Synergy and could not be properly interrogated, however based on the above mentioned across the board savings of approximately nine per cent (9%), it is expected that the Perth Energy could save the Town over \$9,000 on the electricity account for this site.

The Town's Business Support Sub-Program have been consulted in relation to this matter. The transfer of the billing function for the accounts of the three facilities will be attended to by the service provider.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

The Town has the ability to purchase a percentage of its electricity via Perth Energy from renewable energy sources. A "green power premium" of 6.5c/kWh is applied to both the peak and off-peak tariffs.

Using the combined electricity consumption figures at the Aqualife and Leisurelife centres, the following table has been developed –

Renewable Energy %	Total electricity consumption (kWh)	Green Power Premium (c/kWh)	Additional Cost
5	82,614	6.5	\$5,370
10	165,228	6.5	\$10,740
20	330,456	6.5	\$21,480

Based on the above, it is recommended that the Town maintains a 10% proportion of renewable energy within its energy supply contract.

COMMENT:

The proposal for the Town to switch its electricity supplier to Perth Energy will deliver savings, based on previous year's electricity consumption data of approximately 37,000.

Given the proposal to retain 10% of renewable energy the savings are more likely to be in the vicinity of \$27,000.

Perth Energy obtains energy from various sources, predominantly however from Verve Energy.

“Green Power” provided by Perth Energy is sourced from landfill power generation and via the purchase of Renewable Energy Certificates (REC’s).

Perth Energy has a rapidly growing customer base and supplies electricity to some of WAs largest Energy users such as Department of Defence, large Mining and Mineral Processing companies including Tiwest, Catalpa Gold Resources, Integra Gold etc, Institutes such as Curtin University, CSIRO, Local Governments and their associates such as City of Perth, Shire of Busselton, Busselton Water Board, AQWEST Bunbury and have also been recommended for a few other local councils (City of Stirling, City of Kalgoorlie-Boulder).

Perth Energy’s Green Power product “PE GreenPower” is accredited under the National Green Power Accreditation Program.

The below table further examines the cost implications of purchasing an additional percentage of renewable energy -

Renewable Energy %	Total electricity consumption (kWh)	Green Power Premium (c/kWh)	Additional Cost
5	82,614	6.5	\$5,370
10	165,228	6.5	\$10,740
20	330,456	6.5	\$21,480
30	413,070	6.5	\$26,849
38	569,230	6.5	\$37,000

RESPONSIBLE OFFICER RECOMMENDATION:

That Council engage Perth Energy to supply electricity, with 10% of the supply to be from renewable energy sources, to the Town’s Administration Building, Leisurelife Centre and Aqualife Centre as per the WALGA preferred supplier panel contract terms at the following rates, with immediate effect until 30 September 2013 –

PEAK c/KWh	OFF PEAK c/KWh	GREEN POWER PREMIUM c/KWh	ESCALATION	DAILY CHARGE c/Day
25.85	7.85	6.5	Fixed until 30 September 2013	Nil

ALTERNATE MOTION:

Moved: Councillor Hayes

Seconded: Councillor Skinner

1. Council engage Perth Energy to supply electricity to the Town's Administration Building, leisurelife centre and Aqualife Centre as per the WALGA preferred supplier panel contract terms for the following rates, with immediate effect until 30 September 2013

PEAK c/KWh	OFF PEAK c/KWh	ESCALATION	DAILY CHARGE c/Day
25.85	7.85	Fixed until 30 September 2013	Nil

2. That, in accordance with the provisions of the Local Government Act 1995, Council create a "Renewable Energy Projects" reserve as part of the 2012/2013 budget process, for the purposes of investigating and funding renewable energy projects within the Town of Victoria Park such as the installation of photo voltaic cells on Council-owned facilities.
3. That the estimated savings of \$64,000 derived from the engagement of Perth Energy to supply electricity to Council facilities for the period 1 January 2012 – 30 September 2013 be transferred to the "Renewable Energy Projects" reserve.

CARRIED BY AN ABSOLUTE MAJORITY (8-0)

13.3 Perth Football Club Lease – Request to amend the schedule of the Lease Document

File Ref:	RES0008	In Brief <ul style="list-style-type: none"> • Request by Perth Football Club to amend Item 8 of the Schedule of the Lease relating to purpose for which the premises may be used. • Recommendation that the request in its current form be refused. • Recommendation that administration commence dialogue with the Perth Football Club to review the current wording of Item 8 of the Lease.
Appendices:	No	
Date:	24 November 2011	
Reporting Officer:	T. McCarthy	
Responsible Officer:	A. Vuleta	

TABLED ITEMS:

- Perth Football Club Lease document.
- Letter dated 7 November 2011 from Perth Football Club.

BACKGROUND:

Perth Football Club (PFC) currently occupies part of Lathlain Park (Brownes Stadium) under the terms and conditions of a Lease which expires 30 June 2015. Item 8 of the Lease Schedule states:

“8. Purpose for which Leased Premises to be Used (Clause 4.10(b))

An Australian Rules Football Club including social activities and the playing of other sports which could reasonably be expected to be associated with the operation of an Australian Rules Football Club.”

PFC has written to the Town requesting that Item 8 of the current Lease document be amended to state:

“8. Purpose for which Leased Premises to be Used (Clause 4.10(b))

(1) An Australian Rules Football Club including social activities and the playing of other sports which could reasonably be expected to be associated with the operation of an Australian Rules Football Club.

(2) Any other community-based activities which may reasonably be expected to benefit the Lessee and the community of the Lessor.”

PFC included, with its request letter, a letter from a lawyer acting on behalf of PFC stating that PFC had instructed that the reasons for the requested amendment are:

- (1) *“to reflect the PFC’s focus on generating community benefits by facilitating the community hub;*
- (2) *to provide a positive experience that generates a significant community benefit to PFC and TVP;*
- (3) *to build the strong community relationships of PFC and TVP;*
- (4) *to develop a shared initiative with local government in delivering positive social outcomes for the community, in particular, for youth;*
- (5) *to ensure that the facilities are a benefit to all of the community of TVP; and*
- (6) *to raise revenue for PFC to assist in maintaining the existing facilities on the Premises.”*

Also included with the PFC letter was a detailed proposal to hold the “Big Day Out” festival at Lathlain Park between 11.00am and 11.00pm on Sunday 5 February 2012. The proposal stated that the Big Day Out is the “world’s premier touring festival” and would feature music, market stalls, food and drink stalls, sideshow type rides, merchandising outlets, public information stalls (such as Amnesty International, Cancer Council, Canteen, Greenpeace etc.) general exhibitions, St John Ambulance stations plus a licensed bar area. The event will be open to all ages.

DETAILS:

The PFC Lease of Lathlain Park expires 30 June 2015. The use of the Premises described in the Lease is as defined in Item 8 of the Lease Schedule, and it is very clear that the intended use is primarily for the operation of an Australian Rules football club. Any use of the Premises outside the prescribed use requires the approval of the Council as Lessor.

Legal Compliance:

PFC and Council can modify or cancel the Lease document if both parties are agreed.

Policy Implications:

Nil

Strategic Plan Implications:

The Plan for the Future identifies the Lathlain Park Precinct Master Plan as a major project within the Town. The Plan aims to rationalise and use open space in and around Lathlain Park and to reactivate the area for community benefit and enjoyment, and to deliver the Town’s vision of *Vibrant Lifestyle*.

Financial Implications:

Internal Budget:

A maintenance contribution of \$50,000 is allocated in the 2011/2012 budget for the Perth Football Club, of which \$25,000 is conditional upon completion of a building maintenance schedule by the PFC.

An amount of \$18,500 for general building maintenance allocation at Brownes Stadium is contained in the 2011/2012 budget.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Tourism is an important aspect of economic development for the Town. Holding large-scale public events in the Town has the potential to encourage visitors to the Town, raise the profile of the Town and contribute to it becoming a more vibrant and exciting location.

Social Issues:

If the Lease document were to be amended as requested, PFC could interpret the reworded clause such that it would not require separate and specific approval from Council to hold events such as the Big Day Out; notwithstanding the requirements for obtaining statutory approval for large public events.

Cultural Issues:

Nil

Environmental Issues:

Events such as music festivals tend to generate amplified noise levels above acceptable limits, which generally also require exemption from the Town under the provisions of the Environmental Protection (Noise) Regulations 1997. When such events are held at venues located in a predominantly residential area, the duration and level of the noise levels can often be unacceptable to nearby residents, as can the detrimental impact on the general amenity of the area due to large crowds, vehicular movements, traffic management, litter and anti-social behaviour.

COMMENT:

PFC has requested that Item 8 of the current Lease document be amended to include additional wording as part (2), such that Item 8 will read:

“8. Purpose for which Leased Premises to be Used (Clause 4.10(b))

- (1) *An Australian Rules Football Club including social activities and the playing of other sports which could reasonably be expected to be associated with the operation of an Australian Rules Football Club.*
- (2) *Any other community-based activities which may reasonably be expected to benefit the Lessee and the community of the Lessor.”*

On the face of it, this may appear to be a relatively simple addition to the Lease document. It would, however, allow PFC to hold events which PFC considers to be “*community-based activities*” without the need to seek the Town’s approval, and without the need to consult with or consider the impact on nearby residents in respect to noise pollution, anti-social behaviour, parking and traffic behaviour. The term “*community-based activities*” is considered to be too loose and open to interpretation.

To this end there has been no evidence provided of the extent, if any, of the community consultation undertaken by the PFC in relation to this matter. Should Council entertain agreeing to the request from the PFC, it is strongly suggested that a substantial public consultation process be undertaken prior to finalising such a decision.

During the course of community consultation in the development of the Lathlain Park Precinct Master Plan neither the Perth Football Club nor other respondents suggested that Lathlain Park become a venue for large, non-sport related public events. The general response was that the use of Lathlain Park remains for leisure and sport activities, which accords with the Master Plan objective to rationalise useable open space and community facilities in the area to improve utilisation and accessibility within the Lathlain Park area.

Under the terms of the current Lease, PFC has the ability to hire out facilities at Lathlain Park for fund-raising purposes, provided that such activities are reasonably associated with the operation of the PFC. Proposed events, such as the Big Day Out, are considered to be outside the realm of fund-raising activities which could normally be associated with the operation of PFC. PFC has had discussion with the Chief Executive Officer and accepts that the proposed Big Day Out event is not an automatically approved event under the terms of the current Lease, and that separate Council approval is required in order to hold such an event.

PFC has provided 6 reasons in support of amendment to the Lease:

- (1) *“to reflect the PFC’s focus on generating community benefits by facilitating the community hub;*
- (2) *to provide a positive experience that generates a significant community benefit to PFC and TVP;*
- (3) *to build the strong community relationships of PFC and TVP;*
- (4) *to develop a shared initiative with local government in delivering positive social outcomes for the community, in particular, for youth;*
- (5) *to ensure that the facilities are a benefit to all of the community of TVP; and*
- (6) *to raise revenue for PFC to assist in maintaining the existing facilities on the Premises.”*

It would appear that a significant reason is the generation of income for PFC. According to

reports in community newspapers, PFC has stated that there would be huge benefits to the community if the Big Day Out were to be staged at Lathlain Park. PFC is also quoted as stating that it could be a real boost for the community and that local groups would be invited to set up stalls at the Big Day Out. It was also reported that PFC stated that businesses would stand to profit from the extra people and that PFC is prepared to provide \$20,000 in grants to local community groups if the event goes ahead at Lathlain Park.

At its Ordinary Meeting held 25 June 2010, Council resolved:

“The Perth Football Club be provided an additional \$25,000 per annum, commencing 1 July 2010 to the end of the current lease period, subject to the agreement of an annual prioritised works program being endorsed by the Town and appropriately acquitted to the Towns satisfaction.”

In accordance with Council’s resolution, PFC now receives from the Town an annual contribution towards maintenance (subject to conditions of Council’s resolution) of \$50,000. It is understood that PFC would benefit financially from holding events such as the Big Day Out, and that an increase in revenue to PFC may permit PFC to no longer require an annual maintenance subsidy of \$50,000 from the Town. Some community groups may benefit from the holding of such an event; however the benefit to the wider community, particularly nearby residents, may not be positive.

There is merit in opening dialogue with PFC in respect to possible amendment to the Lease to enable certain events to be held at Lathlain Park that are currently not permitted under the existing Lease terms. Any proposed amendment would require Council approval, and before the matter is considered by Council, some in-principle agreement should be reached between PFC and the administration, including, but not limited to:

- The type of events which could be considered
- The frequency of such events
- Patronage numbers
- Financial benefit to PFC and to the Town
- Hours of operation of such events
- Impact on the playing surface of the oval
- Security arrangements
- Consultation with nearby residents
- Management of noise levels

It appears that the proposed Big Day Out event was publicised without approval from the Town, and without any consultation with nearby residents. The proposed event is considered incompatible with the terms of the current Lease, and it is recommended that the request for it to occur on 5 February 2012 is not approved.

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Skinner

- 1. The Chief Executive Officer commence negotiation with Perth Football Club with a view to reaching in-principle agreement to amend the Perth Football Club Lease in order to permit certain community events to occur at Lathlain Park.**
- 2. A further report be presented to Council for consideration after the Chief Executive Officer has carried out negotiation with Perth Football Club with a view to reaching in-principle agreement to amend the Perth Football Club Lease in order to permit certain community events to occur at Lathlain Park.**
- 3. The Perth Football Club be advised that the proposed Big Day Out event to be held 5 February 2012 is not permitted given the event does not accord with the terms of the lease, in particular Clause 8 of the Schedule contained in the lease between the Town of Victoria Park and the Perth Football Club.**

CARRIED (8-0)

13.4 Strategic Asset Review - Status of Disposal of Various Properties

File Ref:	RUTL86 RUTL90 GREA214 SHEP340	In Brief <ul style="list-style-type: none"> • Status of disposal of various properties. • Recommend to progress the disposal of various properties.
Appendices:	Site plans of the various properties	
Date:	28 November 2011	
Reporting Officer:	T. McCarthy	
Responsible Officer:	A. Vuleta	

BACKGROUND:

At its Ordinary Meeting held 17 May 2011, Council resolved:

- “2. *The administration investigates the potential to dispose of the following properties in accordance with the requirements of Section 3.58 of the Local Government Act 1995:*

LOT 700 RUTLAND AVENUE (CNR BISHOPSGATE STREET), LATHLAIN. Vacant land 1010m² in area, zoned Residential R40/60.

90 RUTLAND AVENUE, LATHLAIN. Vacant land 154m² in area, zoned Residential R40/60.

214 GREAT EASTERN HIGHWAY, LATHLAIN. Vacant land 272m² in area, currently used as a pocket park. Zoned Residential R20.

Portion of 340 SHEPPERTON ROAD, EAST VICTORIA PARK. Dry landscape area 722m² in area, at corner of Oats Street. Zoned Residential R40. Portion to be retained as buffer area.

3. *The administration present a further report to Council outlining the findings and methodology for disposal of the items as outlined in 2 above.*
4. *A reserve account entitled “Strategic Investment Reserve” be established to hold revenue created from the utilisation or disposal of assets as part of the Strategic Asset Review and other revenue gained from the sale of assets. The purpose of the reserve be defined as “To fund projects and property purchases that diversifies Council’s revenue streams”.*

DETAILS:

Properties identified for possible disposal are:

- Lot 700 Rutland Avenue (cnr Bishopsgate Street), Lathlain
- 90 Rutland Avenue, Lathlain.
- 214 Great Eastern Highway, Lathlain.
- Portion of 340 Shepperton Road, East Victoria Park.

Legal Compliance:

Any disposal of Council properties must be carried out in accordance with the requirements of in accordance with Section 3.58 of the *Local Government Act 1995*.

Policy Implications:

Nil

Strategic Plan Implications:

The current Plan for the Future indicates a requirement to fund major projects in the Town through alternate sources of funding including asset sales.

Financial Implications:

Internal Budget:

Disposal of the nominated properties will create income to be placed in the Strategic Investment Reserve.

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil.

Cultural Issues:

Nil

Environmental Issues:

Nil.

COMMENT:

The proposed property disposals must be carried out in accordance with Section 3.58 of the *Local Government Act 1995*.

Of the four properties proposed to be disposed of, only Lot 700 Rutland Avenue is capable of being developed as a standalone property. It is proposed to dispose of Lot 700 Rutland Avenue by public auction. It is not a requirement of Section 3.58 of the Act that valuation of the property be obtained where the property is to be disposed of by public auction. It is, however, prudent to obtain valuation prior to disposal in order to ensure that fair market value is received for the property. Valuation is currently being obtained for the property. It is recommended that the Chief Executive Officer be authorised to dispose of the property after consideration of the valuation received and setting an appropriate reserve price.

The property at 90 Rutland Avenue is 154m² in area and is too small to be developed as a standalone property. It is considered that the only appropriate disposal of the property is to an adjoining owner. Owners of adjoining properties have been contacted in respect to possible sale of the land, but to date no response has been received. If the land is to be disposed of to an adjoining owner by private treaty, the disposal must be carried out in accordance with Section 3.58 of the *Local Government Act 1995*. A procedure is required to be followed in respect to advertising the proposed sale; providing details of the proposed transaction, and inviting public submissions prior to Council resolving to proceed with the disposal of the property. Valuation is currently being obtained for the property, and contact with the owner of the adjoining property is being pursued with a view to attempting to negotiate a potential disposal of the property.

The property at 214 Great Eastern Highway is 272m² in area and is too small to be developed as a standalone property. It is considered that the only appropriate disposal of the property is to an adjoining owner. Owners of adjoining properties have been contacted in respect to possible sale of the land, and have expressed an interest in purchasing the property. If the land is to be disposed of to an adjoining owner by private treaty, the disposal must be carried out in accordance with Section 3.58 of the *Local Government Act 1995*. A procedure is required to be followed in respect to advertising the proposed sale; providing details of the proposed transaction, and inviting public submissions prior to Council resolving to proceed with the disposal of the property. Valuation is currently being obtained for the property, and when received negotiation with the interested party will be commenced.

It is proposed to dispose portion of the property at 340 Shepperton Road, and to retain portion as a buffer. The property is 722m² in area and the portion to be disposed of is approximately 406m² in area. It is considered impractical to dispose of the 406m² as a standalone lot due to the difficulty in obtaining vehicle access from Shepperton Road. Main Roads Western Australia has indicated that vehicle access from Shepperton Road at the subject location to a new dwelling would not be supported. If the land were to be disposed of to the adjoining owner, alternative vehicle access could be utilised from a Right of Way located at the rear of the adjoining property. It is considered that the only appropriate disposal of the 406m² portion of the property is to the adjoining owner. The owner of the adjoining property has been contacted in respect to possible sale of the land,

and has expressed an interest in purchasing the 406m² portion of the property. If the land is to be disposed of to an adjoining owner by private treaty, the disposal must be carried out in accordance with Section 3.58 of the *Local Government Act 1995*. A procedure is required to be followed in respect to advertising the proposed sale; providing details of the proposed transaction, and inviting public submissions prior to Council resolving to proceed with the disposal of the property. Valuation is currently being obtained for the 406m² portion of the property, and when received negotiation with the interested party will be commenced.

RESOLVED:

Moved: Councillor Anderson

Seconded: Councillor Nairn

1. **The Chief Executive Officer be authorised to dispose of the property at Lot 700 Rutland Avenue (Cnr Bishopsgate Street), Lathlain, by public auction after obtaining a valuation from a licensed valuer and setting a confidential reserve price for the property after consideration of the valuation.**
2. **The Chief Executive Officer negotiate with the owner of the property adjoining 90 Rutland Avenue, Lathlain, with a view to obtaining agreement for disposal by private treaty of the property at 90 Rutland Avenue, Lathlain.**
3. **The Chief Executive Officer negotiate with the owner of the property adjoining 214 Great Eastern Highway, Lathlain, with a view to obtaining agreement for disposal by private treaty of the property at 214 Great Eastern Highway, Lathlain.**
4. **The Chief Executive Officer negotiate with the owner of the property adjoining 340 Shepperton Road, East Victoria Park, with a view to obtaining agreement for disposal by private treaty of a 406m² portion of the property at 340 Shepperton Road, East Victoria Park.**

CARRIED (8-0)

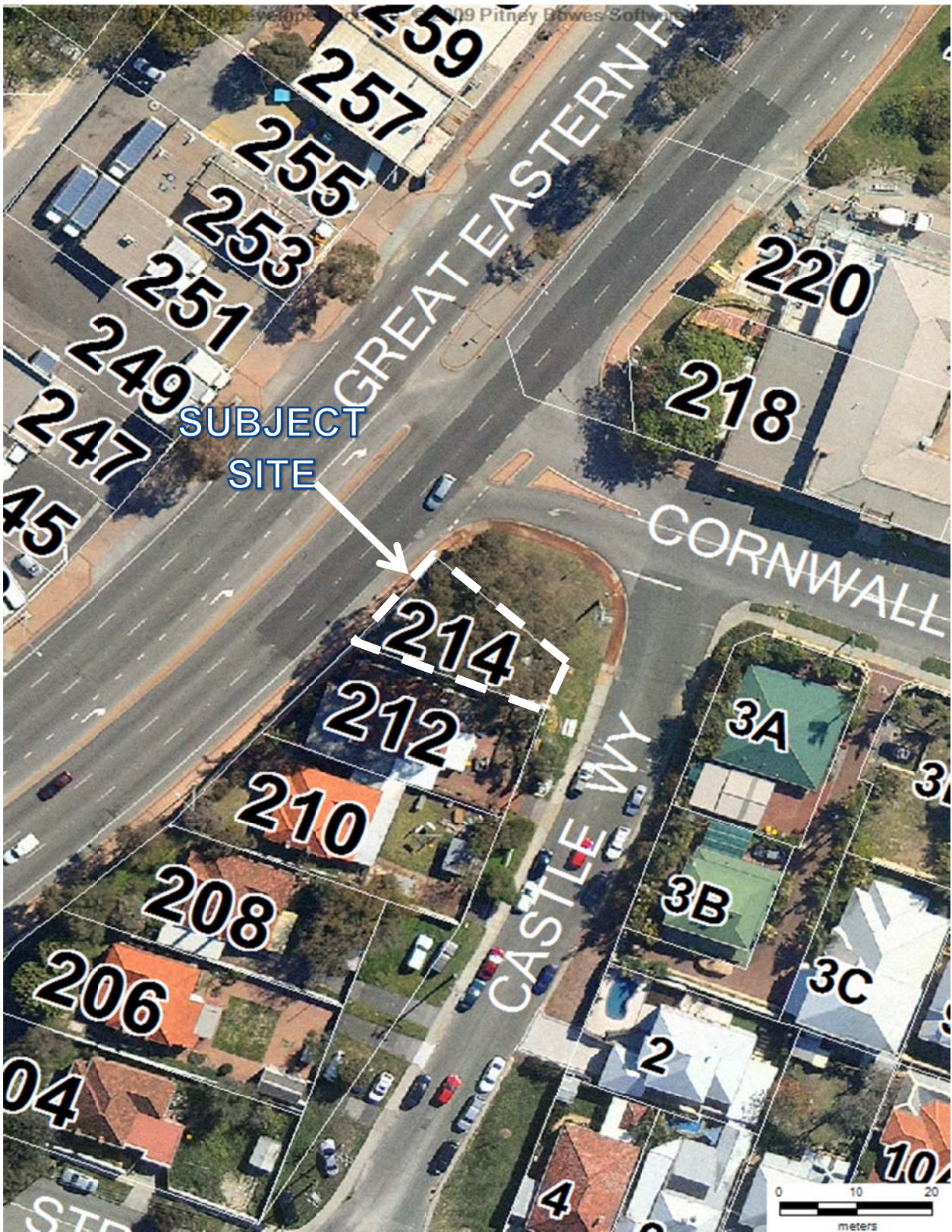


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13.4







13.5 Use of artificial turf on street verges within the Town

File Ref:		In Brief <ul style="list-style-type: none">• Council is asked to re-consider the use of artificial turf on street verges.• Recommended to not permit the use of artificial turf on street verges in the Town.
Appendices:	Nil	
Date:	22 November 2011	
Reporting Officer:	W. Bow	
Responsible Officer:	A. Vuleta	

TABLED ITEMS:

Nil

BACKGROUND:

At its Ordinary Council Meeting held 1 February 2011 the following recommendation was put forward by the Community Environmental Advisory Committee (CEAC) for consideration:

“Council classify the use of artificial turf as not permissible under local law for use on verges within the Town of Victoria Park.”

The recommendation was not adopted by council and an alternative resolution was passed -

“The Director of Renew Life Program be requested to prepare a report on the use of artificial turf on verges within the Town of Vitoria Park for consideration by Community Environmental Advisory Committee subsequent to a public consultation process”.

Subsequent to referral of the report to CEAC on 17 August 2011, the matter was referred to Council on 11 September 2011 with the following resolution passed –

“That Clause 2 of the Officers recommendation being:

“That the Officers recommendation below relating to the use of artificial turf on the Town’s verges be adopted:

- 2.1. Council receives the results of the community consultation regarding the use of artificial turf on street verges within the Town of Victoria Park.*
- 2.2. Council classifies the use of artificial turf on verges within the Town of Victoria Park as not permissible under the provisions of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
- 2.3. The Administration amend the “Your Street Verge Sustainable Landscaping Guide” to specifically reference artificial turf as an “unacceptable material” for use as a verge treatment and update the list of “acceptable material” verge treatments.*
- 2.4. Staff undertake an audit of the entire Town and identify and maintain a register of all existing installations of artificial turf on street verges.*

- 2.5. *Staff write to all property owners identified as having artificial turf on their street verge and for property owners to be advised that no action to remove their artificial turf will be undertaken by Council, subject to the owners maintaining the artificial turf to the satisfaction of the Director Renew Life Program, and that Council reserves the right to remove the artificial turf if maintenance standards are not maintained.*
- 2.6. *Staff develop a subsidised plant-purchase scheme, based on “waterwise” and sustainability principles, in accordance with the “Your Street Verge Sustainable Landscaping Guide”, and for the scheme to be referred back to CEAC and be considered as part 2012/2013 budget process.”*

Be referred back to the Community Environmental Advisory Committee for further consideration”.

The matter was referred back to CEAC at its October 2011 meeting for further consideration, where the above recommendation was supported subject to greater clarification between permissible and non-permissible verge treatments and “acceptable materials” being documented in the Town’s “Your Street Verge Sustainable Landscaping Guide”, and further investigation of the environmental costs/benefits of artificial turf being undertaken.

Whilst it is recognised that artificial and natural turf each have advantages and disadvantages, there is little environmental value in the establishment of artificial turf. Notwithstanding the aesthetic appeal, water conservation and some maintenance benefits, staff and CEAC are of the opinion that artificial turf is not a sustainable verge treatment and should not be permitted.

To clarify and justify this position, the purpose of this report is to outline the current research into the negative environmental implications, as well as the potential negative social and health impacts, of artificial turf.

DETAILS:

The Environmental Implications of Artificial Turf

The potential impact on the environment is perhaps the most contentious aspect of artificial turf use. Research suggests that some environmental benefits of artificial turf include:

- the rubber base is made from recycled tyres;
- synthetic turf, especially turf playing fields do not require the pesticides, herbicides or fertilisers that grass needs to stay healthy; and
- resources are conserved by the avoidance of mowing (use of fossil fuels) and watering.

However, artificial turf contributes to the urban heat island effect by absorbing sunlight and emitting heat. Additionally, removing grass and natural and/or cultivated landscaping takes away habitats that serve birds and plant life in the Town.

The environmental concerns associated with the use of artificial turf are many and varied. Documented research argues that, on the sum of potential negative environmental and sustainability implications, caution should be applied to use of artificial turf, in this case as a verge treatment within the Town.

Heat Island Effect

The surface of artificial turf contributes to the urban heat island effect. Urban heat islands are created when grass and trees are replaced by impervious surfaces, which absorb heat. Not only does removing natural turf exacerbate the urban heat island effect – synthetic turf absorbs rather than reflect sunlight, causing them to emit heat. Urban heat islands increase demand for energy (particularly air conditioning), intensify air pollution, and increase heat-related health problems (New Yorkers for Parks, 2006).

Surface temperature comparisons vary a great deal when it comes to a natural grass area and an artificial one. The surface temperature of an artificial turf surface on a hot day can reach more than 150% of the air temperature. In order to be able to use the area watering is needed to cool the surface down (New Yorkers for Parks, 2006).

With respect to the use of artificial turf within street verge treatments, a hotter street environment may have a flow on effect on the adjacent housings temperature and create greater need for cooling.

Habitat and Food Value

Natural landscapes have a cooling effect on the surrounding environment, but also offers habitats for insects, plants and other organisms, and provides food for birds.

Removing natural turf and landscapes, no matter how deteriorated it has become, is damaging to the environment and to the Town's ecosystem; this is primarily because they do not contain microorganisms that can break down pollutants (SGA Online, 2011). To undertake natural turf and landscapes for aesthetic reasons is folly.

It is acknowledged that natural turf may exist as a monoculture, which can lead to an increase in pest and disease issues. However, unlike artificial treatments, natural turf does not have a negative impact on soil health, whereas soil under artificial turf is sterile (High Quality Turf, 2011). Additionally, the Town uses pesticides and herbicides sparingly on natural grass, so the conservation of chemicals through the use of synthetic turf likely has minimal effects.

Many local Councils, opposed to the installation of synthetic turf in street verges, have cited the harmful effects it would have on the food supply for birds and other wildlife as a primary reason (see Attachment A).

Drainage and Runoff

Natural treatments such as lawns generally require watering, which is certainly a significant consideration in Western Australia given our water resource limitations and associated water restrictions. Similarly, watering of some artificial turf installations is also recommended to maintain it (SGQ Online, 2011).

However, where natural treatments promote infiltration of rain water to replenish our groundwater supplies, the porosity and permeability of some artificial turf is minimal (SGA Online, 2011). This also has implications in events such as flooding, where the poorly maintained artificial turf and associated rubber/plastic matting may wash away and add to the pollutant load to the river system in heavy rain events.

Pollutants and Greenhouse Gas

Where natural treatments produce oxygen and absorb greenhouse gases such as carbon dioxide, carbon monoxide and sulphur dioxide, plus many other pollutants, artificial turf does nothing to capture atmospheric carbon – in fact there was a United States study that suggested it may be contributing to it, due to the high amount of heat fake turf gives off (West Coast Turf 2011).

Whilst it is recognised that artificial turf does not require the same amount of watering, fertilisers, chemicals or mowing, they are manufactured instead of grown and contain a large amount of petrochemicals. Depending on the installation process, the rubber bedding, which is used as infill can contain heavy metals and Volatile Organic Compounds, which can harm the environment through leaching to the soil and groundwater.

Sustainability, Health and Safety Implications

In addition to the few environmental benefits offered by artificial turf, research suggests that there are also health and safety implications with this material.

Soils in a natural grass area contain helpful bacteria which naturally sanitize the surface by decomposition. Artificial turf lacks these significant natural cleansers, so sanitation of contaminants such as algae and animal excrements are left to man-made cleaners (HiQuality Turf, 2011).

Toxicity from rubber used in the sand/rubber infill can be harmful to human health. Over time synthetic surfaces that have not been installed properly may leach rubber infill which, with direct contact to the skin, may lead to allergic or toxic dermatitis.

Artificial turf will degrade with use and over time and materials used in the infill will break down into smaller pieces which may lead to various harmful health issues (HiQuality Turf, 2011) due to ingestion or inhalation.

The cost to install and maintain artificial turf is significantly more than it is to lay and establish natural treatments. Damage caused by wear, animal activity, neglect, vandalism etc. is costly and problematic to repair and/or replace, whereas natural treatments will regenerate and grow to fill bare patches.

Disposal cost for the removal and discarding of artificial turf surface should also be considered, as well as the issue of adding to non-biodegradable landfill.

For comparison, Attachment A provides a summary of the various advantages and disadvantages to the use of artificial turf, and the current position held by other Councils

regarding the use of this treatment.

Implications for the Town's Operations

With respect to the Town's operations and obligations within streetscapes, the use of artificial turf in verge treatments raises a number of potential issues that need to be considered. These include:

- Potential for damage to artificial turf when carrying out essential Council maintenance work within the road reserve (e.g. tree pruning, drainage works, kerbing, road re-seals etc.).
- Impact on street trees when artificial turf is installed on the verge (e.g. damage, impervious nature).
- Reduced area for street tree planting
- Impact of street trees on the artificial turf (e.g. fallen pieces of wood and branches from verge tree may damage the artificial turf material, tree roots).
- Artificial turf is generally not suited for vehicle parking.
- Maintenance obligations of installer of artificial turf.
- Enduring maintenance obligations upon transfer of adjacent private property ownership and the transfer of those obligations.
- In ground service (electricity, water, gas, telecommunications) access and reinstatement obligations.

Town of Victoria Park Community Consultation

A flyer was developed and distributed in July 2011 to all property owners in the Town requesting feedback on the use of artificial turf on verges in the Town. The total number flyers returned within the consultation period was 207, with the majority opposed to the use of artificial turf on verges

The results of the community consultation were as follows:

- **150** for NO – not listing artificial turf as a permitted treatment
- 42 for YES – listing the artificial turf as a permitted treatment
- 13 returned from people not residing in the Town
- 2 both YES and NO

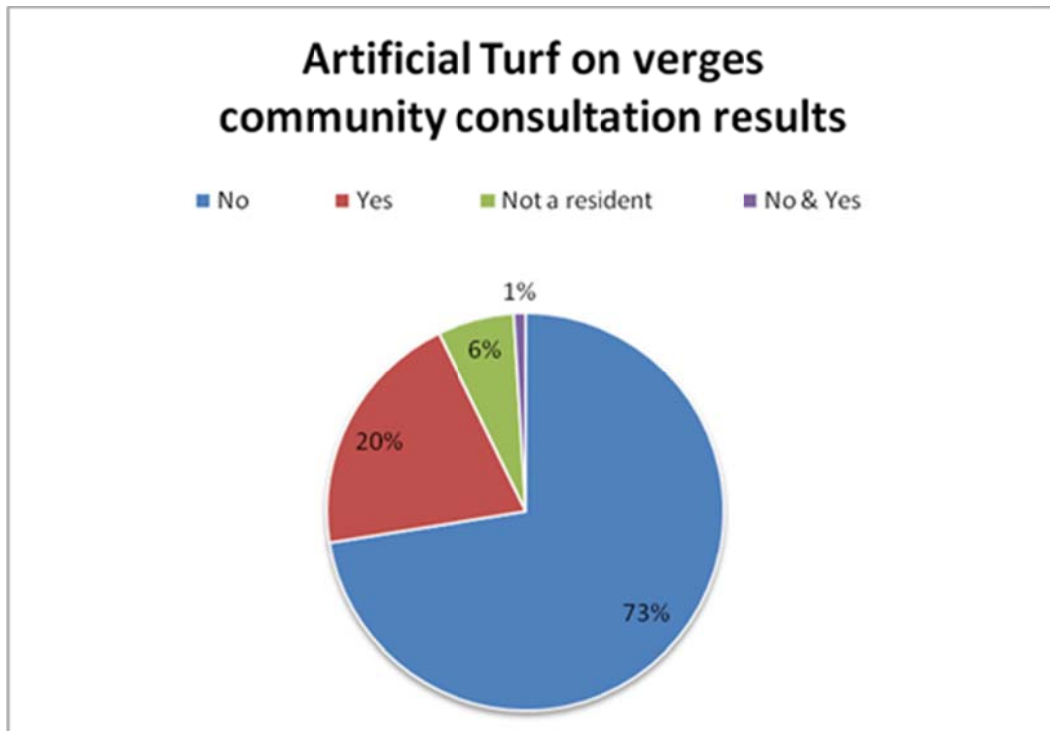


Figure 1 – Summary of artificial turf on verges community consultation results

The clear result from the community consultation is that artificial turf is not wanted by community on street verges and should not be a permissible verge treatment.

Legal Compliance:

Clause 2.7 of the Town's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000 states –

2.7 Permissible verge treatments

- (1) *An owner or occupier of land which abuts a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.*
- (2) *The permissible verge treatments are —*
 - (a) *reticulation pipes and sprinklers;*
 - (b) *the planting and maintenance of a lawn;*
 - (c) *the planting and maintenance of a garden provided that—*
 - (i) *clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and*
 - (ii) *where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;*
 - (d) *the installation of an acceptable material; or*

- (e) *the installation over no more than one quarter of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).*

The above reference to an “acceptable material” is defined in the local law as “any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government”. It is generally accepted that the list of acceptable materials is contained in Town’s *Your Street Verge Sustainable Landscaping Guide*. Artificial turf is not mentioned in this list and there is debate as to whether it qualifies as an acceptable material. It is recommended that this be clarified by Council.

To provide greater clarity on this matter it is recommended that the Town’s *Your Street Verge Sustainable Landscaping Guide* be amended to specifically reference artificial turf as an “unacceptable material”. The Town’s *Guide* is currently under review.

Policy Implications:

PKS6 – Mowing of Street Verges

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

The printing of the Town’s revised *Your Street Verge Sustainable Landscaping Guide* will incur expenditure from the 2011/2012 budget.

Total Asset Management:

The Town maintains certain verges in accordance with Policy PKS6. There may be a financial impost on the Town in remediating poorly maintained and neglected verges on which artificial turf had been installed.

Sustainability Assessment:

External Economic Implications:

Not permitting artificial turf for use on street verges in the Town will have an adverse impact on business in the artificial turf industry.

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

As previously discussed.

COMMENT:

Well-maintained natural turf benefits the environment by reducing the urban heat island effect, filtering rainwater and pollution, and providing habitats for birds and insects. Synthetic turf offers none of these benefits.

Artificial turf is not a sustainable verge treatment and has many disadvantages for the streetscape. There are numerous verge treatments that offer more sustainable alternatives and environmental benefits, enhance the streetscape, and contribute to the Town's strategic goal of vibrant lifestyle.

For comparison, other local Councils were also contacted to obtain their point of view on the use of artificial turf on verges. There are mixed views about the use of artificial turf however none of the Councils contacted use it for their own landscaping. Two Councils are looking to amend the local laws relating to artificial turf not be permitted as a verge treatment and other Councils have expressed that they prefer water sensitive urban design and or encourage native plantings.

City of South Perth

Has a caring for your verge guide called "Greening Our Streets - Street Verge Landscape Guidelines".

City of South Perth has recently updated their verge guide after much resistance from the artificial turf suppliers. The artificial turf is now listed as a hardstand verge treatment and requires written approval for application. The verge cannot consist of more than 50% of hardstand area made up of any of the following; artificial turf, crossovers, footpaths, asphalt and paving. Also minimum of three metres, depending on the tree species and size, is required between the trunk of a street tree and the installation of artificial turf.

The Manager of Parks does not use artificial turf in landscaping in the City.

City of Belmont

Currently permits the use of artificial turf on verges as per their website section on verge treatments. However they advise that the City is looking to amend the local law to prohibit use of artificial turf on verges. The local law currently does not mention artificial turf as either a permitted or prohibited verge treatment.

The City do not currently use artificial turf in their own landscaping.

City of Vincent

No guidelines or policy on artificial turf. In the past when residents applied for artificial turf on the verge the Director of Technical Services has assessed the application and permitted artificial turf to be used on verges. Some other residents around the Town have installed artificial turf on the verges without permission from the Council, however as they have allowed previously houses there is precedent, hence no basis to warrant removal.

The City does encourage native plants and mulch on verges and hold a native plant sales day annually where they sell native local plants in tube stock to residents for \$1 and small pots for \$4. They also run a garden competition and one of the categories is best verge plantings and the local catchment group encourages catchment friendly verge plantings and helps run the tree day and competition.

The Manager of Parks does not use artificial turf in landscaping in the City.

City of Canning

Does permit artificial turf however residents are required to seek written approval from the City prior to installing, as it is deemed not suitable for all locations. The artificial turf must be laid on a free- draining base. If there is a street tree on verge where the artificial turf is to be laid then the trees root system needs to be assessed by the City to ensure the tree won't be damaged by the installation works. All maintenance and repair of the artificial turf is the responsibility of the property owner. The City suggest to residents not to install the artificial turf all the way out to the kerb as it may be damaged by cars parking on top of it. The City has a Verge Treatment Policy ET529 and a Verge Landscaping Brochure.

The City does not use artificial turf in its own landscaping.

City of Perth

The City does not support the use of artificial turf.

The City of Perth itself does not use artificial turf anywhere in their landscaping for reasons including:

- it doesn't have a biodiversity value;
- to keep it in good condition you still need to water it, so it doesn't reduce water consumption by much; and
- it is not aesthetically desirable.

Other options such as water sensitive urban design are believed to provide higher values to the City. Where possible the City tries to increase infiltration to groundwater rather than use hard paving. Artificial turf is considered to be closer to hard stand treatment than natural turf.

References

“A New Turf War” Synthetic Turf in New York City Parks; New Yorkers for Parks; New York, USA. Retrieved October 2011 from:
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<http://www.hiqualityturf.com.au/natural-vs-synthetic-turf/>

“The Truth About Artificial vs. Natural Turf”; West Coast Turf; California, USA.
Retrieved October 2011 from:
<http://www.westcoastturf.com/keepitreal.php>

“Turf Wars – Real Turf, Fake Turf and the Environment”; Sustainable Gardening Australia;
Victoria, Australia. Retrieved October 2011 from:
<http://www.sgaonline.org.au/?p=678>

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Potter

1. Council receives the results of the community consultation regarding the use of artificial turf on street verges within the Town of Victoria Park.
2. Council determines that the use of artificial turf on verges within the Town of Victoria Park is not permissible under the provisions of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
3. Council determine that the reference in the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law to the “*list of acceptable materials maintained by the local government*” means that list as contained in the Town of Victoria Park’s “Your Street Verge Sustainable Landscaping Guide”.
4. Council endorses the amendment of the Town of Victoria Park’s “Your Street Verge Sustainable Landscaping Guide” to specifically reference artificial turf as an “unacceptable material” for use as a verge treatment and update the list of “acceptable material” verge treatments.
5. Staff undertake an audit of the entire Town and identify and maintain a register of all existing installations of artificial turf on street verges.
6. Staff write to all property owners identified as having artificial turf on their street verge and for property owners to be advised that no action to remove their artificial turf will be undertaken by Council, subject to the owners maintaining the artificial turf to the satisfaction of the Director Renew Life Program, and that Council reserves the right to remove the artificial turf if maintenance standards are not maintained.

CARRIED (7-1)

Vote for Cr Skinner, Cr Potter, Cr Vilaca, Cr Hayes, Cr Anderson, Cr Ashton, Mayor Vaughan

ATTACHMENT A – Comparison of natural turf v artificial turf for use on verges

Natural Turf		Artificial Turf	
Benefits	Disadvantages	Benefits	Disadvantages
The cost of natural turf and its synthetic counterparts vary greatly, with real grass costing about \$7-\$10 a square meter			Initial outlay costs, if you choose to do it yourself, the cost is about \$35 a square meter
Lawn clippings can be added to compost for soil conditioning	Requires mowing	No mowing	
			made of polypropylene, and is not biodegradable
Can use grey water for watering	Need water for establishment and if want green in summer grey water is best for this	Doesn't need watering for establishment	need watering when gets really hot in summer
Is softer underfoot and more cooling (Temperature maximum approximately 40°). Aids urban heat dissipation and temperature reduction			Can get to extreme temperatures in summer (Temp approx max 80°) Adds to urban street heat
Choice of drought-tolerant species available and species for specific purposes such as Kikuyu and couch, used in heavy traffic areas	Browns off in summer	Different types of turf available for different purposes	Deteriorates in high use areas

Natural Turf		Artificial Turf	
Benefits	Disadvantages	Benefits	Disadvantages
	Weeds grow in the grassed area		Weeds grow in the turf
			some brands don't always offer good thatch layers with an infill of purely sand rather they need sand and crumbed rubber, which is not environmentally sound
Animal droppings and piddle, chewing gum, organic wastes become fertiliser			Animal droppings and piddle (bird, dogs, cat) chewing gum, organic wastes need to be cleaned off – water use
Oxygen generation Soil erosion control Dust stabilization Water filtration/purification		Soil erosion control	No benefits for the natural environment, birds, bees, bugs,
Reduced Greenhouse gases Reduced smog pollution			Large amounts of embodied energy to make and transport the product
Easy access for utility services			Must be cut or pulled up for access by utilities/ services or Council

13.6 Request for extension of leased area and lease terms – Hillview Clinic, 15 Hillview Tce

File Ref:	HILL15; ALBA999	In Brief <ul style="list-style-type: none"> • A request from the Disability Services Commission has been received to increase their leased area at the Hillview Site to enable the construction of a car park. • The Disability Services Commission intends to undertake a major refurbishment of the Hillview Clinic and requested the Town address their lease obligations as part of the project. • Disability Services Commission has sought an extension to the duration of the lease. • Recommend Council to endorse the use of building renewal funds to undertake certain work. • Recommend Council refuses the lease extension request, but approves the car park construction.
Appendices:		
Date:	22 November 2011	
Reporting Officer:	W. Bow	
Responsible Officer:	A. Vuleta	

TABLED ITEMS:

Nil

BACKGROUND:

For the purposes of this report the property at Lot 9000, street number 999 Albany Hwy, East Victoria Park will be referred to as the Hillview Site (the site). The land located on the site and subject of a lease between the Town of Victoria Park and the Disability Services Commission (DSC) on which the Hillview Clinic building is situated at 15 Hillview Tce will be referred to as the leased area.

The Edward Millen building, also known as “the Rotunda”, and the Mildred Creak building are also located on the site. The site is the subject of a report by the Town’s consultants, AEC Group, titled “Edward Millen Site Feasibility Study and Business Plan (Stage One) Report” which was presented to the Edward Millen Committee in October 2011 and received by Council at its Ordinary meeting on 8 November 2011.

The State transferred the site to the Town in freehold at no cost to the Town in 2005. A small portion excised from the original site was retained and is under the management of the Department of Housing and Works and used for special needs public housing; this property is located at 43 Hillview Tce.

The conditions of the transfer of the site were reflected in the 2005 Tripartite Agreement - Deed of Conditional Tenure Grant of Hillview Site between the Minister for Lands, State Housing Commission and the Town of Victoria Park.

Prior to the transfer of the site from the State Government to the Town of Victoria Park, the DSC occupied a part of the Mildred Creak Centre on the site. Significant upgrade/maintenance works were required at the Mildred Creak building and therefore DSC was relocated to their current location in the Hillview Clinic building. It was originally intended that DSC could potentially return to the Mildred Creak Centre.

As a condition of the transfer of land, DSC was given a Lease of the Hillview Clinic Building with a view that it could be returned to Mildred Creak building at a later date. Over time it has become clear that this is neither a viable option for the Town or the DSC.

The DSC has commissioned a report on the existing Hillview Clinic building services. The DSC is planning to undertake an extensive upgrade and fit out of the building to ensure the building better suits their business needs and meet their occupational safety and health obligations. The cost of those works are estimated by the DSC to be over \$1,700,000, of which the DSC believe the Town is obligated to contribute \$565,000 to meet their responsibilities under the terms of the lease.

The DSC indicates that it is willing to pay the full \$1.7M cost of the works. In return and due to the capital cost of the works, the DSC is seeking an extension of its lease terms. This is intended to provide additional security in exchange for relieving the Town of most of its existing obligations as Landlord under the lease.

The DSC is also seeking an increase of the leased area to enable the construction of a new car park with an additional 18 car parking spaces and improve the car parking facilities on the site. A site plan of these proposed works is attached. The DSC is also willing to pay for all the construction costs associated with this project. Aligned to this project, but ultimately separate, is the Town's intention to construct a 2.0 metre wide footpath along the boundary between Hillview Tce and the leased area. The Town's design engineers have been liaising with the DSC's consultants to ensure compatibility of the two construction projects.

DETAILS:

The DSC is seeking an additional term of 10 years to its current lease.

Under the current lease, DSC has the potential right to occupy the leased area until 1 March 2026 if it exercised both options contained therein. DSC seeks to change the current lease expiry date from 1 March 2016 to 1 March 2021.

Further, DSC wish to change the existing two (2) options of five (5) years each to three (3) options of five (5) years each. This will have the effect of giving DSC the potential right to occupy the leased area until 1 March 2036.

The DSC also seek to increase the leased area to include a portion of land on the Hillview Terrace frontage (adjoining the recreational Reserve) to enable DSC to construct another

car park for DSC staff and visitor use. The cost of the car park works would be borne by DSC.

In exchange, DSC offers to:

- (1) Transfer the Landlord's lease obligations to undertake "Essential Fixtures" and "Structural Items" to the DSC.
- (2) Pay for and undertake all works identified as part of the building upgrade works.
- (3) Accept responsibility for servicing the air conditioning and building insurance for the building.
- (4) Include landscaping in list of outgoing in Appendix 1 of the lease, so that gardening costs relating to the DSC leased area can be undertaken by the Landlord and recovered as "outgoings".

The Town engaged consultants GHD to undertake a review of the lease and to -

- determine the Town's obligations under the lease;
- develop a schedule of works and specification identifying the Town's responsibilities;
- estimates costs to effect the works the responsibility of the Town; and
- undertake an assessment of the existing electrical supply to the Hillview Clinic.

Legal Compliance:

In the aforementioned Tripartite Agreement of 2005, clause 3 refers to the requirement for a lease for part of the site from the Town to the DSC. The relevant parts of this clause are summarised below:

- (a) no rent payable by DSC
- (b) 10 year term plus 2 options to extend of 5 years each, at DSC's discretion.
- (c) Outgoings payable by DSC are utilities consumed by DSC i.e. water, electricity, etc.
- (d) DSC is responsible for arranging and funding repairs and maintenance to its Leased Area to ensure it is kept in good repair and condition but this is providing that DSC is in no way obliged to carry out major upgrades or replace Essential Fixtures or Structural Items (unless DSC were at fault).

"Essential Fixtures" means any fixtures which are essential in ensuring that the Leased Areas are suitable for the purposes for which they have been provided. This includes, but is not limited to, the hot water system, air conditioning system, floor coverings, driveways and car parking areas.

"Structural Items" means in respect of the Leased Areas walls, roofs, ceilings, fireplaces, chimneys, floors, doors, eaves, windows, wiring, foundations, electrical, water, gas, sewerage and plumbing systems, toilets, basins and sinks);

- (e) The Town is responsible for the replacement of Essential Fixtures and Structural Items where these are damaged beyond repair or where the cost of repair exceeded the cost of replacement.

- (f) DSC and Town may by mutual agreement replace this lease with a lease at a replacement location providing DSC is not disadvantaged by that replacement, and provided further that the Town will bear the full cost of relocating the DSC to any subsequent Replacement Leased Area.
- (g) Provisions in the event of dispute.

As a condition of the Tripartite Agreement, DSC was given a new lease in 2006 which was executed by the Town of Victoria Park (as Landlord) and DSC (as Tenant). A summary of the relevant details are summarised below:

Schedule	Provision
Item 5	Term: 10 years Lease Commencement Date: 2 March 2006 Expiry Date: 1 March 2016
Item 6	2 options to extend of 5 years each
Item 7	Rent \$1
Item 10	DSC and Town may, by mutual agreement, replace this lease with a lease at the Replacement Leased Areas. This is conditional upon DSC not being disadvantaged by that replacement. (Cross reference with definition of Replacement Leased Areas below.)

Main Body	Provision
1.1(7) Defn	“Essential Fixtures” same as the Tripartite Agreement
1.1(21) Defn <i>Extract shown in italics</i>	<i>“Replacement Leased Areas” means the areas of the Land shaded in pink on the plan annexed hereto.</i> (Note: The plan shows the Mildred Creak Centre building.)
1.1(24) Defn	“Structural Items” same as the Tripartite Agreement
7.1	The Tenant’s obligations for repairs and maintenance to keep the Premises in good repair and condition is the same as the Tripartite Agreement.

- 15.1 *The Landlord:*
Extract shown in italics
- (1) warrants that at the Commencement Date the Premises are fit for occupation and for the use permitted by this Lease and comply with all laws relating to the Premises; and
 - (2) undertakes that during the Term (subject to the other provisions of this Lease), the Premises will remain fit for occupation and will continue to comply with all laws that were applicable at the Commencement Date; and
 - (3) shall (subject to clause 7.1) be responsible for the replacement of Essential Fixtures and Structural Items where these are damaged beyond repair, or where they are damaged and the cost of their repair exceeds the cost of their replacement.

Clauses 16.2, 17.1, 17.3 The Landlord is responsible for maintaining and servicing the air-conditioning, building insurance (including plate glass) and grounds maintenance. Since these are not listed as Outgoings in Appendix 1, these would be at the Landlord's cost with no opportunity to seek reimbursement.

In reviewing the lease terms the following was determined –

- Section 9.2 states the Tenant is not required to do or pay for the structural alterations or additions except those arising from the nature of the Tenant's business. The proposed fit out works are arising from the Tenant's business and therefore the Tenant would be responsible for paying for the alterations, including the replacement of existing services affected by the fit out works. For example the Tenant would be responsible for paying to upgrade the toilets, basins and plumbing fixtures in the bathroom.
- Section 5.3 states the Tenant must not install any electrical equipment which overloads the cables, switchboards or sub-boards through which electricity is conveyed to the Premises. Section 15.2 states the Landlord must not reduce the capacity of the electrical supply available to the Premises below the level applying at the Commencement Date. In accordance with these two sections of the Lease, the Landlord only has the responsibility to maintain the current supply into the site. If the proposed fit out works requires extra electrical capacity into the site, it is not the responsibility of the Landlord to provide it and therefore the Tenant would need to pay for an upgrade to the site supply. Furthermore, the Tenant must not install electrical equipment which overloads the electrical distribution in the Premises. Therefore, it would be the responsibility of the Tenant to pay for and obtain approval from the landlord to carry out upgrades to the electrical system if the proposed fit out works will overload it. The review of the electrical system determined the site electrical supply should be upgraded even if the fit out works do not proceed. The Town would be responsible for the upgrade in this instance, as it falls under their responsibility to replace Essential Services which are at their end of life.

Policy Implications:
Nil

Strategic Plan Implications:

The commencement of the redevelopment of the Edward Millen site is a key strategic project of the Town, identified for 2018/2019.

Financial Implications:

Internal Budget:

The \$565,000 identified by the DSC as the Town's required contribution covers such building elements as electrical fit out and compliance, mechanical services, fire safety compliance and hydraulic services, plus a contribution towards floor covering and ceiling replacement.

In their review GHD have identified that the Town would be obliged under the terms of the lease to effect the following works –

ITEM	EST. COST
Mechanical Services	
Remove redundant cabling including strip heaters, gas heaters, fans and redundant ACs.	\$2,500
Relocation of some wall splits to suit wall rearrangements.	\$4,200
New ducted split AC units to satisfy zoning and Government Accommodation standards.	\$34,000
New toilet exhausts incorporating external discharge.	\$1,600
Hydraulic Services	
Upgrade fittings to access toilet, showers & hand basins.	\$3,770
Upgrade fittings to male toilet, showers & hand basins.	\$9,120
New hot water unit.	\$1,425
Demolition of redundant services.	\$600
Fire Services	
Upgrade FIP.	\$4,500
Establish open plan smoke detectors.	\$1,800
Electrical Services – Power	
Remove redundant cabling including redundant AC isolators.	\$1,600
Modify floor distribution boards to house new, circuit breakers and RCD's.	\$4,000
Replace distribution boards (DB2C & DB2CA).	\$8,000
Upgrade circuit schedules for all DB's.	\$1,200
New isolators and dedicated circuits for new AC units.	\$600
New power for Hot water service.	\$200

Electrical Services – Lighting	
New 1 x 28W linear fluorescent lighting to open plan.	\$10,800
New bulk switching.	\$1,800
Modified exit signage and emergency lighting to open plan.	\$4,020
Modified external lighting.	\$2,400
Electrical Services – Communications	
Subject to fit out briefing. N/A	
Security services	
Refit PIR's to suit open plan layout.	\$1,500
TOTAL	\$99,635

In addition to the above GHD identified some maintenance issues such as floor and wall coverings, and the completion of some ceiling painting associated with previous renewal works which are the Town's responsibility and are estimated to cost of \$35,000.

The Town has undertaken a rental appraisal of the Hillview Clinic which, based on its condition, would attract a commercial office rental of between \$160 - \$180 per square metre per annum. At approximately 690m² in area, this equates to an annual rental of between \$110,000 - \$120,000.

A renewed and upgraded building may attract an annual commercial office rental of up to \$200,000. This figure should be retained as the estimated cost the Town may incur should it decide to relocate the DSC in accordance with the terms of the Tripartite Agreement.

Total Asset Management:

The 2011/2012 budget allocated \$334,588 for building renewal works aligned to the building asset management plans, including certain works at the Hillview Clinic. This allocation is sufficient to enable the expenditure of \$124,000 on renewal and maintenance works at this building.

Sustainability Assessment:

External Economic Implications:

The presence of the Hillview Clinic building, and its occupation by the DSC, is seen as a potential impediment to the proposed future redevelopment and reactivation of the site.

Social Issues:

Currently, the car parking facilities to the Hillview Clinic do not meet operational requirements, with cars often parked on the grounds of the site. The requested extension of the leased area as per the attached plan will address this issue and will also contribute to an increase in car parking spaces available to general park users.

Cultural Issues:

Nil

Environmental Issues:

The extension of the car park in to the site requires the removal of one tree.

COMMENT:

This matter was informally referred to the Edward Millen Committee in October 2011 and staff had anticipated that this report would initially also be referred to the committee for consideration. However the recent alterations to Council's committee structure and the urgency of the DSC to have this matter determined has necessitated its direct referral to Council.

It is felt that the DSC's estimation of the Town's contributions to the proposed \$1.7M building renewal and fit out project is beyond the scope of responsibility of the Town. It is recommended that the Town undertake the schedule of works identified by GHD as a contribution to the project, plus undertake the maintenance items.

Given the Town will be satisfying its obligations under the lease and that the DSC will not be assuming the financial burden of the Town, it is recommended that the Town refuse the DSC's request for an extension of the expiry date within the lease; thus ensuring that the DSC's current lease will run its course and expire 1 March 2026.

The request to increase the leased area to enable the construction of the additional car park is more problematic, however is supported given its synergies with the Town's proposed dual use footpath along Hillview Tce and the parking opportunity the car park will ultimately afford to general park users in the future.

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Skinner

- 1. That Council refuse the request from the Disability Services Commission to extend the term of the lease of the Hillview Clinic building.**
- 2. That the Disability Services Commission be advised that a formal planning approval is required from the Town for the construction of the new car park with 18 additional car parking bays.**
- 3. That Council agree in-principle to the request from the Disability Services Commission to construct a new car park with 18 additional car parking bays in accordance with submitted plans, to the satisfaction of the Director Renew Life Program.**
- 4. That the area on the Hillview Site upon which the construction of the new car park is proposed be the subject of a new and separate legal agreement with the Town, and that all costs, including those of a new survey diagram of the new additional area, to be borne by the Disability Services Commission.**

5. That Council delegate authority to the Chief Executive Officer to execute the new and separate legal agreement pertaining to the new car park with 18 additional car parking bays.
6. That staff work with the Disability Services Commission to ensure the Town's obligations for building renewal and maintenance works at the Hillview Clinic are affected in conjunction with the overall upgrade and refurbishment project.

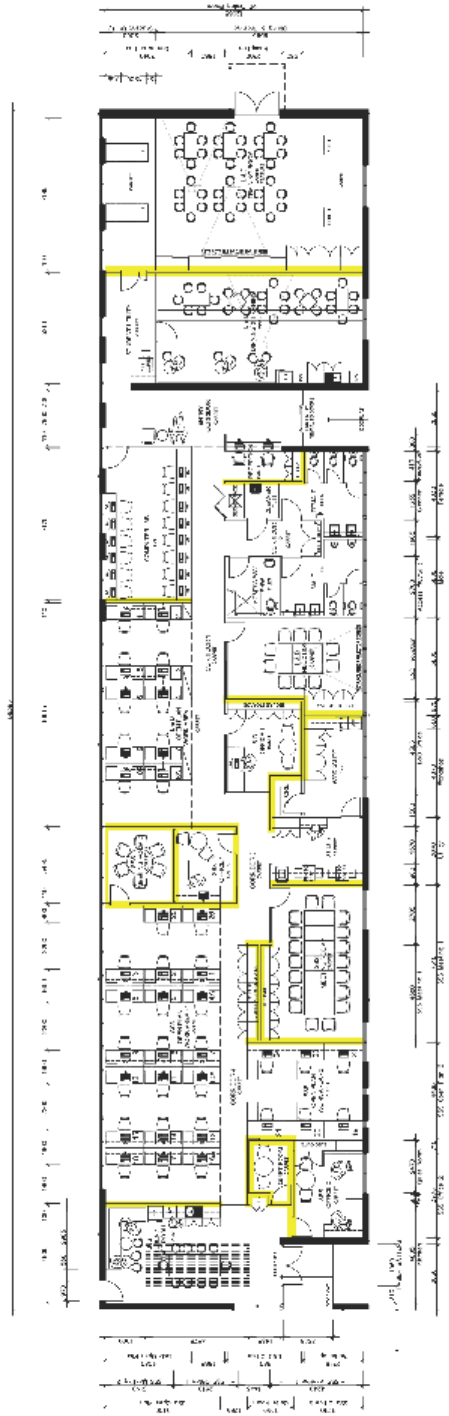
CARRIED BY AN ABSOLUTE MAJORITY (8-0)



13.6

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13.6



13.7 Proposed community garden – 98 Rutland Avenue, Lathlain

File Ref:	RUTL98	In Brief
Appendices:	<ul style="list-style-type: none"> • Proposed site plan – Community Garden, 98 Rutland Ave. • Area plan – 98 Rutland Ave. 	
Date:	28 November 2011	
Reporting Officer:	W. Bow	
Responsible Officer:	A. Vuleta	<ul style="list-style-type: none"> • A request to use the drainage sump at 98 Rutland Ave for a satellite community garden has been received. • Recommend Council endorse the proposal and require a formal planning application. • Council to delegate authority to the Chief Executive Officer to execute the relevant lease documents.

TABLED ITEMS:

- Letter of support – Victoria Park Community Garden Association Inc.

BACKGROUND:

An application from the owners of 96 Rutland Ave, Lathlain was received in February 2011 for the use and development of the adjoining drainage sump at 98 Rutland Ave (the site) as a community garden and food forest.

The matter has been referred to the Community Environmental Advisory Committee, the Town’s Street Life and Park Life sub-programs and the Town’s insurer, Local Government Insurance Services.

The attached site plan and area plan identify the relevant property.

In June 2009 the Council endorsed the development of the first community garden in the Town of Victoria Park at Read Park.

DETAILS:

The initial Rutland Ave proposal was for the owners of 96 Rutland Ave to beautify the site and develop it into a productive garden - with fruit and nut trees and crops like potatoes and pumpkins. The proponents intended to landscape the site to provide a path meandering around the sump to access the produce and to allow people to enjoy the garden.

The proponents also initially sought to negotiate a lease with the Town for the care and control of the site, however staff did not support such an arrangement. On-going negotiations lead to the engagement of the Victoria Park Community Garden Association Inc. (VPCGA) and their subsequent agreement to become the lessee and for the site to be operated as a community garden in the manner of the existing community garden at Read Park. The VPCGA has members from diverse demographic backgrounds with a wide range of skills, including project management and design, permaculture, horticulture,

building and legal skills and has successfully managed the Read Park community garden for nearly 18 months.

Legal Compliance:

The VPCGA are an incorporated body and it is envisaged the lease will reflect the terms and conditions of the existing community garden at Read Park lease agreement.

Advice received from the Town's insurer's included concerns regarding the growing of food crops within the sump, unfettered access into the site, potential water hazard, requirement for public consultation especially with adjoining property owners, lease agreement and maintenance responsibilities.

Policy Implications:

Nil

Strategic Plan Implications:

The development of another successful community garden will contribute to the Town's vision of a *Vibrant Lifestyle*.

Financial Implications:

Internal Budget:

There is no specific allocation in the 2011/2012 budget for contributions to this project. The proponents are requesting that the Town agree to pay for the cost of installing power and water to the site, and install a security code-controlled access gate within the fence across the site's Rutland Ave frontage. The cost of these works is estimated at \$5,000.

Total Asset Management:

A complete review of the functionality of the drainage sump has been undertaken by the Town's Street Life sub-program. Advice received from the Town's Design Coordinator is that the proposed community garden will not adversely impact on the capacity of the drainage sump. It is noted however that the design capacity of the sump is inadequate.

Issues regarding soil contaminants, access to the discharge points, erosion control and on-going maintenance have also been addressed.

Transferring the maintenance obligations of this site from the Town to the VPCGA will also deliver minor operational savings. It is hoped that the success of this proposal can be used as a template for the activation and regeneration of other similar drainage sumps within the Town and will deliver a mutual benefit to the public and Council.

Sustainability Assessment:

External Economic Implications:

The VPCGA should be encouraged to source external funding to cover the service connection and security costs for this proposal.

Social Issues:

The proposal to develop a community garden will afford an opportunity for members of the public to cultivate and grow a variety of flora including food crops; especially residents who

live in apartments and high rise developments where outdoor open space is minimal. The garden will provide a public space for learning, social interaction, cultural exchange and a sense of community ownership and pride.

Cultural Issues:

As with the existing Read Park community garden, residents from a diverse range of cultures are expected to make use of the community.

Environmental Issues:

The conversion of drainage sumps to community-type gardens has numerous environmental benefits, including being a food source for humans and natural habitat for numerous fauna. Generally the cultivation of green spaces deliver benefits such as thermal insulation and temperature modification, humidification of the air, filtration of polluted air, interception of rainfall and reduced water runoff, reduced soil erosion, shade and cooling, carbon dioxide and oxygen exchange, visual and noise screening etc.

COMMENT:

When the original Read Park community garden was considered in 2009 the requirement to obtain a planning approval was applied, which also ensured that a suitable level of public consultation was undertaken. It recommended that the process again be following in relation to the proposal for 98 Rutland Ave.

The terms of the lease will be such that the responsibility for care and control of the site, plus outgoings (power, water) will be transferred to the VPCGA, however the Town will retain the right to access the drainage sump for operational needs, maintenance and improvements as required.

RESOLVED:

Moved: Councillor Anderson

Seconded: Councillor Vilaca

- 1. That Council offer in-principle support for the development and use of the drainage sump at 98 Rutland Avenue, Lathlain as a community garden by the Victoria Park Community Garden Association Inc.**
- 2. That Council require the Victoria Park Community Garden Association Inc. to obtain a formal planning approval from the Town for the development and use of the drainage sump at 98 Rutland Avenue, Lathlain as a community garden, subject to a public consultation process.**
- 3. That Council allocate \$2,500 in the draft 2012/2013 budget towards the installation of electricity, water and a suitable security access gate at the site.**
- 4. That Council delegate authority to the Chief Executive Officer to execute the lease documents as required.**

CARRIED BY AN ABSOLUTE MAJORITY (8-0)



14 COMMUNITY LIFE PROGRAM REPORTS

Nil Reports

15 BUSINESS LIFE PROGRAM REPORTS

15.1 Schedule of Accounts for the Period 1 October 2011 to 31 October 2011

File Ref:	FIN0015	In Brief <ul style="list-style-type: none">• This report provides an overview of payments made by the Town during the month of October 2011.• Recommended that the October 2011 payments made via Accounts Payable, Payroll and Local Government Investments be confirmed.
Appendices:	Yes	
Date:	17 November 2011	
Reporting Officer:	G. Pattrick	
Responsible Officer:	B. Callander	

TABLED ITEMS:

- File – cheques and supporting documents

BACKGROUND:

Council has delegated to the Chief Executive Officer the authority to make payments from the municipal and trust funds in accordance with Regulation 12(1) of the Local Government (Financial Management) Regulations 1996.

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

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

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

DETAILS:

The list of Accounts Paid

The list of accounts paid by the CEO in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996 be confirmed.

FUND	CHEQUE NUMBERS / PAY PERIODS	AMOUNTS \$
Municipal Account		
Recoup Advance Account		3,167,393.40
Bank Fees		4,903.73
Corporate Mastercard		3,263.33
Returned Cheque 3978		7,124.63
		<u>3,182,685.09</u>
Advance Account		
Automatic Cheques Drawn	75773 – 75839	67,345.64
Less Cancelled Cheques		(661.90)
Payroll	F/E 11/10/2011	359,667.15
	F/E 28/10/2011	362,002.65
Direct Credits		750.30
Bank Fees		28.72
EFT Creditor Payments		2,378,260.84
		<u>3,167,393.40</u>
Trust Account		
Cheques Drawn	2618 – 2637	4,330.00
Less Cancelled Cheques		(300.00)
		<u>4,030.00</u>

Legal Compliance:

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

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Nil

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

It is recommended that the payments made for the month of October 2011 be confirmed.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Potter

1. In accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996 the List of Accounts Paid for the period 1 October 2011 to 31 October 2011 be confirmed;
2. Direct lodgement of payroll payments to the personal bank accounts of employees be confirmed;
3. Depositing and withdrawal of investments to and from accounts in the name of the Local Government be confirmed.

CARRIED (8-0)

15.2 Financial Statements for the Period Between 1 October and 31 October 2011

File Ref:	FIN0015	In Brief <ul style="list-style-type: none">Recommended that the Financial Statements for the period ending 31 October be adopted.
Appendices:	Yes	
Date:	30 November 2011	
Reporting Officer:	G. Pattrick	
Responsible Officer:	B. Callander	

TABLED ITEMS:

- Nil

BACKGROUND:

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

DETAILS:

To date the emphasis has been on reconciling and maintaining Council's financial records for the 2010-11 annual year. This was necessary due to the implementation of the Authority software, the required changes in processes and changes in key staff. Much work was required in order to be able to present a complete and correct set of financials to Councils' auditors in time for the annual report to be adopted in November.

As a result time available to work on the October financial statements has been constrained. Attached in the appendices are a copy of the Operating Statement and Balance Sheet for the month of October. A detailed review of operating variances will be provided at the Council Meeting on 13 December 2011.

Legal Compliance:

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

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

Nil

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

It is recommended that the Financial Statements for the month of October 2011 be adopted.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Potter

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations the Financial Statements for the period ending 31 October 2011 be adopted.

CARRIED (8-0)

Cr Nairn left the meeting at 7:38pm

15.3 Adoption of Annual Financial Report for the year ended 30 June 2011

File Ref:	ADM0010/LEG000 8/FIN0025	In Brief
Appendices:	Yes	
Date:	29 November 2011	
Reporting Officer:	G. Patrick	
Responsible Officer:	B. Callander	
		<ul style="list-style-type: none"> • The Local Government Act 1995 requires the preparation of an Annual Financial Report (AFR) each year; • The AFR for the year ending June 2011 details that the Town was in surplus of \$2,684,249. • Recommended that the Annual Financial Report for the year ending 30 June 2011 be adopted and that the distribution of the surplus will be the subject of a separate report to Council. • It is also recommended that the Town continues to do business with All Signs in accordance with Council Policy FIN9.

TABLED ITEMS:

Nil

BACKGROUND:

Section 6.4. (1) of the Local Government Act 1995 requires that a Local Government is to prepare an annual financial report for the preceding year. The annual financial report is to be set out in accordance with clause 36 of the Local Government (Financial Management) Regulations 1996.

Council Policy FIN9 – Business Dealings with Elected Members and Employees requires the Council to determine on an annual basis which businesses it will do dealings with when the business has a close association or is owned by an Elected Member or Employees. The Policy also requires that the extent of the funds paid to the business must be disclosed in the Annual Financial Report.

DETAILS:

The Accounts and the Annual Financial Report have been submitted to the Auditor for the year ended 30 June 2011. The Annual Financial Report with the signed audit report is contained within the appendices of the Agenda.

A discussion of the surplus and the attributing factors will be available for the Council Meeting on the 13 December 2011.

During the financial year ended 30 June 2011 the Town made payments totalling \$990 (2010 \$6,403.00) to All Signs, a business associated with Councillor Nairn. As per policy FIN9 this has been disclosed by way of a separate note (Note 34) to the accounts in the Annual Financial Report for the Year Ended 30 June 2011.

Legal Compliance:

Section 6.4. (1) of the Local Government Act 1995 requires that: -

“A Local Government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.”

Section 6.4. (3) also requires that by 30 September following each financial year, a Local Government is to submit to its auditors:-

- a) the accounts of the Local Government, balanced up to the last date of the preceding financial year’ and
- b) the annual financial report of the Local Government for the preceding financial year.

Clause 36 of the Local Government (Financial Management) Regulations 1996 specifies what information is to be included in the Annual Financial Report.

FIN9 Business Dealings with Elected Members and Employees requires that: -

“Where an employee or an elected member owns or is closely associated to a business from which the Town purchases, or intends to purchase, goods and services, the Council will determine annually or before the association commences, whether or not the Town will purchase, or continue to purchase, from the business concerned.

Where the Town conducts business with such an entity, it will disclose the extent of the funds paid to it by way of a separate note to the accounts of the annual financial report.

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:

A discussion of the surplus and the attributing factors will be available for the Council Meeting on the 13 December 2011.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Potter

1. The audited Annual Financial Report for the year ended 30 June 2011 be adopted and the report be presented to the Annual General Meeting of Electors on 20 December 2011.
2. That the distribution of the surplus of \$2,684,249 as at 30 June 2011 will be the subject of a separate report to Council.
3. The Town continue to have business dealings with All Signs a business associated with Councillor Nairn.

CARRIED BY AN ABSOLUTE MAJORITY (7-0)

Cr Nairn returned to the meeting at 7:39pm

15.4 National Disaster Resilience Funding Application

File Ref:	ADM0170 and ORG0083	In Brief <ul style="list-style-type: none"> • The Town has jointly applied with the City of Belmont for funding under the National Disaster Resilience Program. • The program aims to develop the ability of communities to recover after an emergency. • In support of the application it is requested that budget allocation of \$7,500 be provided in the mid-year budget review. • As the funding amount is over \$20,000 it would require a resolution of Council to accept the funding. However if the submission is approved the Town will be advised in December/January and only given 10 days to accept. As there are no meetings in January the recommendation is to provide the Chief Executive Officer with the delegation to accept the grant funding of \$34,579.
Appendices:	Nil	
Date:	25 November 2009	
Reporting Officer:	A. Lantzke	
Responsible Officer:	B. Callander	

TABLED ITEMS:

- Copy of funding application

BACKGROUND:

The Town of Victoria Park and City of Belmont have jointly submitted a funding application in the recent funding round of the Natural Disaster Resilience Program (NDRP) managed by Fire and Emergency Services (FESA).

From 2010-2011, the Natural Disaster Resilience Program (NDRP) replaces the Natural Disaster Mitigation Program (NDMP), the Bushfire Mitigation Program (BMP), and the National Emergency Volunteer Support Fund (NEVSF), with the focus on community resilience.

The NDRP in Western Australia is looking to allocate funds towards projects focusing on:

- Support for local government, to assist them to effectively discharge their emergency management responsibilities;
- Encouraging partnerships with business, volunteers and community groups to improve their ability to assist communities and be integrated in response and recovery activities and arrangements. The private sector owns many of the critical services that underpin communities, and have capacity to help communities prepare for, and recover from, emergencies and disasters; and
- Disaster resilience works, measures and related activities that contribute to safer, sustainable communities better able to withstand the effects of disasters and emergencies, including those arising from the impact of climate change.

DETAILS:

The joint funding application is made up of two sub projects.

Project A aims to raise awareness in the small business communities of the City of Belmont and Town of Victoria Park of the need to plan for emergencies in order to mitigate loss. This will be achieved through the development of educational material on business continuity and a promotional campaign to promote business continuity planning by small businesses and to direct them to resources which will help them to achieve this.

Project B aims to improve the emergency preparedness of seniors and people with disabilities and their carers by:

- a. Delivering an Emergency Preparedness Package to seniors and people with disabilities and their carers via a series of tailored seminars, informational materials and emergency preparedness kitbag.
- b. Raising awareness within aged and disabled members of the local community of what will happen during an emergency event and the need to be prepared should an emergency event occur, the evacuation process.

The funding timetable provided from the funding body indicated that State Emergency Management Committee endorsement and Ministerial approval would be received by the end of November and successful applicants notified in the first week of December 2012.

That said, funding announcements are frequently delayed because timing is at the discretion of the Minister. Given that Council approval is required to accept this funding it is requested that the CEO be given authority to accept due to Council's recession until February 2012.

Legal Compliance:

These projects compliment the Town's Emergency Management activities by reducing the community's reliance on the Town for support during the recovery phase after an emergency event. This is a specific responsibility of the Town under the Emergency Management Act 2005.

Policy Implications:

Nil

Strategic Plan Implications:

This recommendation is consistent with the Town's Plan for the Future.

Financial Implications:

The submissions value is \$70,926 made up as follows:

Contributor	2011-12	2012-13	Total
NDRP Funds Requested <ul style="list-style-type: none"> • Project A \$15,133 • Project B \$19,446 	\$34,579	\$0	\$34,579
Applicant Contributions – Cash <ul style="list-style-type: none"> • Project A \$0 • Project B \$14,924 	\$14,924	\$0	\$14,924
Applicant Contributions – In-kind <ul style="list-style-type: none"> • Project A \$16,901 • Project B \$4,522 	\$21,423	\$0	\$21,423
Other (specify) Donated Products	\$0	\$0	\$0
Total	\$70,926	\$0	\$70,926

Internal Budget:

This funding opportunity was not known at the time of drafting this year's budget and as such the cash component of the project has not been allocated. It is proposed to seek Council's endorsement to have the cash component of \$7,500 funded in the half yearly budget review.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

This application specifically addresses business continuity preparedness and therefore will specifically aim to improve the ability of the Town's economy to withstand an emergency event.

Social Issues:

This project will assist members of the community to prepare for emergency events which will in turn improve their ability to return to normal social activities if an event should occur. This will assist in safe guarding the morale and vibrancy of the Town.

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The two projects in this funding application will be implemented in the Town by the Town's Economic Development Officer, Neighbourhood Enrichment Officer and Manager of Health and Regulatory Services. By partnering with the City of Belmont, who share our joint Emergency Management Arrangements, we are able to target two at risk groups within the community and assist them in preparing for an emergency event.

As this funding has not yet been approved, and as the application is based on a cash contribution by the Town, approval is sought from council to allocate \$7,500 to this project during the budget review, and that delegated authority be given to the Chief Executive Officer to accept the funding should our joint application be accepted.

RESOLVED:

Moved: Councillor Skinner

Seconded: Councillor Hayes

That Council acknowledge the lodging of the joint submission with the City of Belmont to FESA for the Natural Disaster Resilience Program and if the funding application is successful:

- 1. Provide the Chief Executive Officer delegated authority to accept the funds.**
- 2. Allocate \$7,500 to fund the Town's portion of the cash component of the project.**
- 3. Fund the allocation in the half yearly budget review.**

CARRIED BY AN ABSOLUTE MAJORITY (8-0)

15.5 Immunisation Program Review

File Ref:	ADM0058	In Brief <ul style="list-style-type: none">• A review of the Town's Provision of immunization services has been undertaken.• The review indicated that there is adequate private practices that could provide this service at no cost as they bulk bill.• Given the outcome of the review it is recommended that:<ol style="list-style-type: none">1. the Administration liaise with the Health Department and the WA General Practice Network to ensure that immunization is marketed throughout the Town; and2. once satisfied that the marketing has raised awareness of the immunization service and where it is available within the Town the service currently provided by the Town be discontinued.
Appendices:	Nil	
Date:	28 November 2011	
Reporting Officer:	A. Lantzke	
Responsible Officer:	B. Callander	

TABLED ITEMS:

- Nil

BACKGROUND:

The Town has continued to provide immunisation services to the community since it became an entity in 1995.

DETAILS:

The Town of Victoria Park currently conducts approximately two immunisation clinics per month. Residents of the Town and people who reside outside of the Town's municipal boundaries are welcome to bring their children along to the Town of Victoria Park's immunisation clinics to have them vaccinated in accordance with the WA Vaccination Schedule.

Children from the ages of birth to four years are vaccinated against Hepatitis B, Pneumococcal, Rotavirus, Diphtheria, Tetanus, Pertussis (whooping cough), Poliomyelitis, Haemophilus Influenza type B, Measles, Mumps, Rubella, Chicken Pox and Meningococcal C.

The immunisation program is currently managed by the Health and Regulatory Services Business Unit. A total of 287 children have visited the Town of Victoria Park immunisation clinics in the 2011 calendar year (up until 16 September 2011).

Yearly Comparison of Vaccine Doses Administered by the Town of Victoria Park

The following table compares the vaccination doses administered to children by the Town of Victoria Park over a period of five years:

Financial Year	Total number of vaccine doses administered by the Town of Victoria Park
2006/7	2439
2010/11	3893

As can be seen, over the last five years the vaccine doses administered by the Town of Victoria Park have increased by approximately 60%.

Victoria Park Residents

The following immunisation rate statistics for the Town of Victoria Park (postcodes 6100 and 6101) were provided by the Australian Childhood Immunisation Register (ACIR). The reporting period was 1 January 2011 – 16 September 2011.

- Number of vaccination doses administered to children: 2567
- Number of vaccination doses administered to children by the Town of Victoria Park (per vaccination): 2336

Therefore, in this calendar year to date, approximately 91% of vaccinated children who reside in the Town of Victoria Park are vaccinated at the Town of Victoria Park child immunisation clinics. It is assumed that the other 9% of vaccinated children are vaccinated either by a GP or at another Council clinic.

Suburb Location of Patients

Some of the children vaccinated at the Town of Victoria Park immunisation clinics do not reside in the Town of Victoria Park. The following table summarises the suburbs that the children vaccinated at the Town of Victoria Park clinics reside in:

SUBURB	NUMBER OF CHILDREN	In the Town
Victoria Park	86	Yes
East Victoria Park	58	Yes
Carlisle	38	Yes
Bentley	15	No
St James	14	Some
Cannington	12	No
Kewdale	11	No
Lathlain	11	Yes
Kensington	8	No
Queens Park	8	No
Rivervale	5	No
Burswood	4	Yes
East Cannington	3	No
Cloverdale	3	No
Wilson	3	No
Como	2	No
Ascot	1	No
South Perth	1	No
Byford	1	No
Beckenham	1	No
Applecross	1	No
Redcliffe	1	No

211 (74%) of the children vaccinated at the Town of Victoria Park clinics reside in the Town of Victoria Park.

Other Immunisation Providers

Residents of the Town of Victoria Park who wish to have their children immunised can take their children to other immunisation providers such as their GP/nurse, other Local Governments or the Department of Health Central Immunisation Clinic.

General Practitioners

Most of the GPs in the Town of Victoria Park offer immunisation services and bulk billing for children meaning that there are no out-of-pocket expenses for the patient.

The following table provides a summary of local GPs immunisation services:

Doctor's Surgery	Immunisation services?	Bulk bill for children?
Family Medical Practice - St James	Yes	Yes
King George Street Family Practice - Victoria Park	Yes	Yes
The Medical Practice - St James	No	N/A - They send patients to Wilson Immunisation Clinic
The Medical Practice Victoria Park 1	Yes	Yes
The Medical Practice Victoria Park 2	Yes	No - \$50 consult charge
Victoria Medical Group - East Victoria Park	Yes	Yes
Lathlain Doctor's Surgery - Rivervale	Yes	Yes
Dr Herbert - East Victoria Park	Yes	No - \$55 consult charge
Sunseekers Private Practice - Burswood	Yes	No - \$35 gap charge

Note: The following medical practices listed in the Yellow Pages were unable to be contacted – Chemical Health Centre, Geddes Street Family Practice, Reach for Health Centre, The Medical Practice East Vic Park,

The Federal Government administers through Medicare a 'General Practise Immunisation Incentive' which aims to have 90% of practises immunising 90% of the children under 7 who attend their practises. It provides financial incentives for registered practises.

Alternative Immunisation Clinics

The following nearby immunisation clinics for children are run by the Local Government authorities for that area or the Community Health Services nurses:

Clinic Name	Address	Frequency
Belmont	275 Abernethy Road Belmont WA 6104	2 nd and 4 th Thursday every month
Manning	Manning Community Health Building Bradshaw Crescent Manning WA 6152	2 nd and 4 th Monday every month
Queens Park	Queens Park Rec Centre Cnr Centre and George St Queens Park WA 6107	1 st Monday every month
Wilson	Local Hall Bribrie Road Wilson WA 6107	1 st Monday of every month

Central Immunisation Clinic

The Central Immunisation Clinic is open to all WA community members and children can receive WA Vaccination Schedule immunisation there by appointment. It is run by the State Department of Health WA as part of their Immunisation Program.

The Immunisation Program is a state-wide program which conducts the distribution of scheduled vaccines to immunisation providers, school based vaccination programs and immunisation campaigns. The program also manages the Central Immunisation Clinic and initiates campaigns to promote vaccinations and to alert general practitioners to missed vaccinations in children attending the surgery.

Incentives and Penalties

Currently the Federal Government provides an incentive 'maternity immunisation allowance' of \$258 for fully immunised children irrespective of income testing. The Town registers all immunisations provided under its services on the Australian Childhood Immunisation Register which then releases the payment once full immunisation is reached.

In July 2012 the \$258 allowance will be scraped and instead the Government will link the existing \$726 per child Family Tax Benefit Part A to immunisation. This means that in the year that the child turns 1, 2 and 5 their immunisation history must be up to date for them to receive this tax benefit for each of these years (total value \$2178).

One of the concerns is the lack of marketing of the service through general practice and it would be considered inappropriate to remove the service until this concerned is addressed. As such it is intended to work with the WA General Practice Network who coordinate the immunisation program to improve the marketing of the service outside General Practitioners Clinics.

Legal Compliance:

There is no legal requirement for the Town to provide this service.

Policy Implications:

Nil

Strategic Plan Implications:

This recommendation is consistent with the Town's Plan for the Future.

Financial Implications:

Internal Budget:

The total cost of running the Town of Victoria Park immunisation clinics is approximately **\$19,250** per year.

This consists of:

Revenue:

\$3636 per annum from Australian Childhood Immunisation Register

Expenditure

Syringe disposal	\$130
Equipment and supplies	\$300
Nursing Consultants	\$17,680
Administrative support	\$4,775

Note: the current contract between the Town and Medical Hand for the provision of nurses at our clinics is paid on an as needs basis and there are no negative impacts on cancelling this early.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

The level of alternative immunisation providers available in the Town is significant. For this reason removing this service would benefit the medical practitioners in the Town without negatively impacting on the finances of families with young children.

Social Issues:

The contact with parents of young families offered under the current scheme could provide a positive contact point for use by the Town's Community Life Directorate. This contact point is however also available through the Child Health Centre or directly through doctors' offices. It is the intention of the administration, if this service is discontinued, to reallocate the funds used by the immunisation clinics to provide additional support to Environmental Health Officers to increase their ability to provide core services in line with their business plan. This would also have positive social impacts.

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The Immunisation Clinic is a long standing service voluntarily provided by the Town for the Community. The recent review has shown that although the immunisation clinic is well utilised there are a number of alternative services which could accommodate this service if it were removed.

Although the service may provide a useful contact to families with young children this contact is not currently used in any way. As the service is voluntary, there are alternatives readily available and as the monies used to provide this service could be reallocated to improve service provision in Environmental Health it is recommended that the Clinic be discontinued when the Administration is satisfied that the immunisation service offered by the Federal/State Government is appropriately marketed to the Town's diverse community and the Town advertises the service on its website.

Due to the Federal Government changes to immunisation incentives it is not expected that the removal of the Town's immunisation services will have any negative impact on immunisation rates by existing users. Removing this service would also support the aim of the Department of Health's General Practise Immunisation Incentive by encouraging more parents to have their children immunised through their GP.

RESOLVED:

Moved: Councillor Skinner

Seconded: Mayor Vaughan

The Administration liaise with agencies such as Health Department and WA General Practice Network to ensure that the Federal/State immunisation services are marketed to the Town's diverse community and once the Administration is satisfied that an acceptable level of marketing is in place the Town discontinue providing the immunisation service.

Equality casting vote for Mayor Vaughan, Cr Skinner; Cr Nairn; Cr Hayes

CARRIED (5-4)

ITEM REVOKED

Addendum: Please refer to the minutes of the Special Council Meeting held on Tuesday 7 February 2012, Item 7.1 Immunisation Program Review Update, as Council adopted a revocation relating to the current Item 15.5 Immunisation Program Review.

15.6 Rates Debt Collection for the Year Ended 30 June 2012

File Ref:	FIN0090	In Brief • The debt collection action for the recovery of overdue rates proposed for the 2011/12 financial year be endorsed.
Appendices:	No	
DA/BA Ref:	N/A	
Date:	28 October 2011	
Reporting Officers:	Graham Johnson Graham Patrick	
Responsible Officer:	Brian Callander	

TABLED ITEMS:

- Policy FIN3 – Debt Collection

BACKGROUND:

The current debt collection procedure requires a report to be presented to Council to obtain approval to refer ratepayers who do not respond to the Town's request for payment of overdue amounts to the Town's debt collection agency and if necessary, the Town's lawyers, for further action.

As at 25 November 2011 the number of properties to be referred for debt collection for 2011/2012 is 394 compared to 538 in 2010/2011. It is proposed that Austral Mercantile Collections be contracted this year to send demand letters as part of the debt collection process. Approximately 75% of accounts are paid in full using this initial process.

DETAILS:

A comparison of the 2011/12 financial year to the 2010/11 financial year is tabled below;

	Date	Notice Issued	Date	Notices Issued
		10/11		11/12
Rates notices issued	23/07/2010	15,848	22/07/2011	15,980
Final notices issued	24/09/2010	1,116	23/09/2011	1,403
Letters of demand issued	8/11/2010	538	issued 25/11/2011	394

The Town has allowed a grace period of 14 days for ratepayers paying instalments after the due date.

If payment has not been received or a payment arrangement entered into, the Town intends to proceed with issuing demand letters, then claims or other appropriate legal action to recover the outstanding rates.

Legal Compliance:

The collection of rates proposed is in accordance with Sections 6.55 to 6.57 of the *Local Government Act 1995*.

Policy Implications:

Policy FIN3 Debt Collection states

“Any payments due to the Town that have not been received by the due date shall be recovered in accordance with the Procedures and Practices Manual”.

Financial Implications:

There are currently 394 assessments totalling \$528,476.60 that are to be referred for debt collection. Allowing debt collection to commence mid November 2011 will increase cash flow and allow the process to take place prior to the Christmas period.

COMMENT:

The Town has applied considerable time this year contacting ratepayers to advise them of their overdue rates. An attempt has been made to contact every ratepayer on the listing. To improve the Town’s cash flow it is recommended that debt collection action proceed as outlined in this report.

The demand letters to be issued will be reduced considerably from the number currently stated in this report by the time they are due to be issued. The Final Notices were due 7 October 2011 and further payments will be received.

RESOLVED:

Moved: Councillor Nairn

Seconded: Councillor Anderson

Any rates payments due to the Town not received by the due date are to be passed on to the Town’s debt collection agency Austral Mercantile Collections for further action in accordance with the Debt Collection Policy (FIN 3 – Debt Collection).

CARRIED (8-0)

15.7 Renaming of Albany Highway

File Ref:	TES0058 ORG0038	In Brief <ul style="list-style-type: none"> The Council has determined to rename Albany Highway and resolved that it should be renamed Albany Road or Old Albany Road. Preliminary discussion with the Geographic Names Committee indicates that neither name would be supported but they would informally consider the request at its December meeting and advise the Town of its position. Recommended that the feedback received from the Geographic Names Committee be presented to the Business Life Working Group and that the process detailed in the report for the renaming of Albany Highway within the Town be endorsed.
Appendices:	Yes	
Date:	13 December 2011	
Reporting Officer:	K Bel-Bachir	
Responsible Officer:	B Callander	

TABLED ITEMS:

Nil

BACKGROUND:

The issue of renaming Albany Highway in the Town has been in progress for quite some time. The following detail the previous actions implemented on this matter:

1. In response to the editorial contained in the 20 to 26 September 2005 edition of the Southern Gazette entitled “Debate Sparked over Renaming Highway”, Cr Ashton presented a Notice of Motion to the Council seeking endorsement of a process for the renaming of Albany Highway to Albany Road and that the matter be discussed at a future workshop. The Council supported Cr Ashton’s motion unanimously.
2. At the October 18 2005 OCM, Cr Ashton presented a Notice of Motion to the Council seeking endorsement of two renaming options for Albany Highway to be Albany Road and Old Albany Road. At the same meeting, it was announced by the Mayor without discussion that the renaming of Albany Highway be added to the topics for discussion at the next Elected Members Workshop.

3. At the Elected Members' Workshop held 25 October the Executive Manager Technical Services presented an update on the progress made on the renaming of Albany Highway. The presentation outcomes were included in the *Members Information Bulletin* on 8 November 2005 as follows:

"RENAMING ALBANY HIGHWAY

The Executive Manager Technical Services outlined the legislation that impacts on the naming of roads, the Geographic Names Committee Guidelines that have to be adhered to, and the process required.

It was acknowledged a name change (Albany Road/Old Albany Road) could be beneficial in downgrading from a Highway to a Road and that consultation be undertaken in 5 to 6 months' time following some further publicity in the Town's newsletter."

4. No further action was taken on the proposed renaming until it was re-introduced by the Business Liaison Committee in March 2009 who made the following recommendation to Council:
1. *Initiates a consultation process with a view to change the designation and name of Albany Highway between Shepperton Road at the Causeway end and the intersection of Shepperton and Welshpool Road.*
 2. *Adopts the consultative process set out in the officer's report.*
 3. *Invites the Local Chambers to be joint partners in the renaming initiative.*
 4. *Invites the Local History Advisory Committee to identify possible names for Albany Highway.*
 5. *Commences the preparation of a Marketing Plan to coincide with that promotes the Town of Victoria Park the renaming process.*
 6. *Notifies Main Roads WA of the process.*

Council adopted the Committee's recommendation at its meeting on 23 March 2010.

5. The matter was raised again at the Business Liaison Committee's meeting on 30 August 2011 where it was recommended to Council that a report be prepared for the Council meeting on 13 December 2011 outlining a strategy to progress the renaming of Albany Hwy. Council endorsed the recommendation at its meeting on 11 October 2011.

DETAILS:

The renaming of any Road in Western Australia requires the approval of the Geographic Names Committee and before it considers any such change the following criteria needs to be met:

1. A very good reason for the change
2. Evidence of vast community support for the change

Although the stretch of Albany Highway located within the Town's boundaries has not been operating as a major through road since the construction of Shepperton Road, the recent reduction in speed limit to 40 km / hr presents a stronger case to change the road designation from Highway to Road (or other designation) as Highway no longer accurately describes the current road use.

The two renaming options which have been endorsed by Council (OCM 18 Oct 2005) to be presented to the public for consultation are:

1. Albany Road
2. Old Albany Road

Unfortunately, under the Geographic Names Committee guidelines, these options are seen as duplicate names to the adjoining portion of Albany Highway which would begin at the Welshpool Rd / Shepperton Rd intersection and have advised the following:

"Thank you for your request for feedback regarding the renaming of a portion of Albany Highway. Looking at the Town's proposal, Geographic Names would not support the renaming of Albany Highway to either Albany Road or Old Albany Road, as both names come under 'duplication of a road name within 10km or the same LGA'. Therefore a new road name would be requested."

Another important consideration is that the consultative process to demonstrate "broad community support" would require that the council consult all tenants, owners and residents that the change would affect showing the majority would support such a change.

It is estimated that approximately 1000 letters would need to be distributed in order to contact all the owners and occupiers along Albany Highway. More than 500 positive responses would be needed to demonstrate positive community support for the change. An online web-based survey using contact details provided by the Australian Business Register is being currently being investigated as an alternative to a paper based survey.

Given that the consultation process for this change is quite intensive, consideration should be made as to whether Council is prepared to fund such a process given the information provided by the Geographic Naming Committee.

Notwithstanding the above the strategy to progress the renaming of Albany Highway has been broken down into 3 stages as outlined below:

1. Phase 1 – Determining the new name for Albany Highway
2. Phase 2 – Renaming Options
 - a. Option 1 – Albany Road or Old Albany Road
 - b. Option 2 – New preferred name and designation
3. Phase 3 – Implementation

Phase 1 - Proposed timeline to advance of the renaming of Albany Highway

Date	Step
1 December 2011	Geographic Names Committee to informally review the change of the name Albany Highway to either Albany Road or Old Albany Road and advise the Town accordingly.
February 2012	Prepare report to the Working Group detailing the response from the Geographic Names Committee and determining a course of action including recommendation/s to Council
14 February 2012	Council to consider the recommendation/s from the Working Group.

**Phase 2
Community Consultation – Renaming Options**

Date	Step
Late February 2012	The Strategy endorsed by Council be presented to the first meeting of the Business Life Working Group.
March/April 2012	Develop a marketing and communications plan to sell the idea to those who will be affected.
April/May 2012	Begin consultation
June 2012	Results of consultation analysed and reported to the Working Group
July 2012	Working Group Recommendations presented to Council

**Phase 3
Implementation**

Date	Step
August to December	Install new Street Signs. Timeframe dependent upon the time required for Business to prepare for name change ie changing letterheads and business cards
August to December	Intensive marketing campaign for the name change. Again the timing of this will be dependent upon the businesses.

Legal Compliance:

The Town is required to comply with the Geographical Names Committee process for naming streets and with Main Roads WA requirements regarding the designation of the road.

GEOGRAPHIC NAMES COMMITTEE - CHANGES OF NAMES

The changes of names of roads, localities and features should conform to the relevant policy and in addition, should have broad community support. Road name changes should have the support of those residents affected by the name change. Proposals require the support of local government, but the Minister for Land Information is the final authority in all such matters. It is incumbent on local government to ensure there is community support for a change of name. Non-essential road name changes also incur a service charge.

Policy Implications:

Nil

Strategic Plan Implications:

This initiative is aligned to “Develop and implement the Albany Highway main street plan” in the Plan for the Future. Financial Implications:

Internal Budget:

Item	Estimated Cost	Financial Year
Consultation Costs DL Brochure, Letter, Postage Advertising and /or online survey	\$10,000.00	2011/2012
Replace Existing Signage 40 signs @ \$100.00 ea	\$4,000.00	2012/2013
12 Month Marketing Campaign Radio Print Web New Banners	\$10,000.00	2012/2013 2013/2014
Total	\$24,000	

Total Asset Management:

The main asset impact will be the signage on the road.

Sustainability Assessment:

External Economic Implications:

There is an opportunity to integrate the change of road name into a larger destination branding campaign to attract more visitors to the area. Should a change of road name occur, local businesses will be faced with costs to re-print business stationery and associated items. Ideally, it should be communicated at the consultation phase that a 12 to 18 month implementation period would allow businesses to use up existing stock of business stationery, minimising wastage.

Social Issues:

Nil

Cultural Issues:

A place destination strategy will allow greater access to the Town's historical and heritage landmarks as well as local public art through regional marketing opportunities. This would enhance our reputation of being CAFÉ – creative, attractive, friendly and environmentally sustainable.

Environmental Issues

Less traffic through the main street will create a more walkable pedestrian and cyclist friendly area.

COMMENT:

Due to the intensive nature of the consultation required to change a road name. The community should only be presented with names which are likely to be approved. The consultation process will create a community expectation that a change will occur.

RESOLVED:

Moved: Councillor Ashton

Seconded: Councillor Nairn

That Council:

- 1. Adopt the strategy detailed in this report for the renaming of Albany Highway.**
- 2. The cost of consultation/promotion of the change in name estimated at \$10,000.00 be funded in the half yearly budget review.**
- 3. Include in its 2012/13 Draft Budget a further \$14,000 to fund the marketing campaign and signage replacement for the name change.**

CARRIED BY AN ABSOLUTE MAJORITY (6-2)

Voted for Cr Ashton, Cr Anderson, Cr Hayes, Cr Nairn, Cr Potter, Mayor Vaughan

15.8 Town Centre Redevelopment – Revised Project Definition (Confidential)

This Report is issued under a separate cover. The Council Resolution is detailed in Part 19 on page 232.

RESOLVED:

Moved: Councillor Hayes

Seconded: Mayor Vaughan

That the item be “lifted from the table” in accordance with Section 12.7 (3) of the Town of Victoria Park Local Law Relating to Standing Orders.

CARRIED (8-0)

16 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr Keith Hayes has given notice that he intends to move the following motion:

“That in accordance with clause 12.7(2) of the Standing Orders Local Law notice is given that the application submitted by Ricardo Rizzi for a Research and Development Facility Building at 3 (Lot 74) Sarich Way, Bentley, be raised from the table in order for it to considered at the meeting of the Council to be held on the 13 December 2011.”

Reason

The item be raised from the table as additional information previously requested by Council has now been obtained to enable the application to be reconsidered.

16.1 (Lot 74) Sarich Way, Bentley – Research and Development Facility.

File Ref:	SARI3	In Brief <ul style="list-style-type: none"> • Proposed Research and Development Facility Building. • Non-compliant with Precinct Plan P13 – Curtin Precinct in relation to front setback, building height and landscaping. • Application was advertised for public comments and no submissions were received. • Proposal was reviewed by the Design Review Committee. • Recommended that the application be Approved by Absolute Majority subject to conditions.
Appendices:	No	
DA/BA or WAPC Ref:	11/0110	
Date:	30 November 2011	
Reporting Officer:	J Gonzalez	
Responsible Officer:	R Cruickshank	

TABLED ITEMS:

- Development application form received on 24 February 2011 ;
- Original plans and elevations dated 24 February 2011;
- Amended plans and elevations dated 17 May 2011;
- Amended plans and elevations dated 18 October 2011;

- Consultation with adjoining owners & occupiers dated 10 June 2011; and
- Minutes from the Design Review Committee Meeting on 30 March 2011.

APPLICATION:

Landowner: Ricardo Rizzi & Greggan Holdings P/L
Applicant: Ricardo Rizzi
Zoning: MRS: Urban
TPS: Special Use Zone – Technology Park
Precinct Plan P13 – ‘Curtin’

DETAILS:

The proposal is for a ‘Research and Development’ building. The original submitted plans comprised a three storey building, however after meeting with the Design Review Committee, the applicant amended the plans reducing the proposal to a two storey building.

The amended application proposes to build a two storey building facing Sarich Way, with four building modules as follows:

Building modules A and C consist of approximately 414m² each (over both floors), including 72m² of amenities (male and female toilets plus lunch room). Building modules B1 and B2 consist of approximately 576m² each (over both floors) including amenities (toilets and lunch room). Three common lobbies with stairs and elevator are proposed to join every two modules. The ground floor has three entries (pedestrian accesses) from Sarich Way and three entries from the proposed rear car parking. The proposal has 3168.48m² of plot ratio. There is an existing two storey building located at the rear of the property which has 1287.72m² of plot ratio, to make a total of 4456.2m² equivalent to a plot ratio of 0.469 for the entire site.

In relation to street setbacks the application proposes:

- Module ‘A’ a minimum street setback of 4.67m at its eastern corner and 7.63m at its western corner.
- Module ‘B1’ a minimum street setback of 4.89m at its eastern corner and 7.72m to its western corner. Module ‘B2’ proposes 5.02m and 6.81m to the eastern and western corner respectively.
- Module ‘C’ a minimum street setback of 10.63m and 11.05m to the eastern and western corner respectively.

Based on the above plot ratio and based on the Town Planning Scheme No. 1 Policy Manual, Policy 5.1 ‘Parking and Access’, which requires “1 bay for every 40 square metres of net floor area” a total of 111 bays are required for both the proposed new building and the existing rear building. A total of 134 car parking bays (including 2 disabled bays) are proposed within the property to be used by the staff and visitors of the new proposed building and also for the existing two storey building located at the rear of the property.

Total landscaping area of approximately 1167m² is proposed which is equivalent to 12.3% of the total site area.

The building proposes to have approximately a 20 degree tiled pitched roof over each building module. The building shows a maximum height of 11.855m to the top of the tiled roof and a maximum wall height of 7.575m. The building will have a similar appearance to the two storey buildings located on 16 Brodie Hall Drive, 18 Brodie Hall Drive and 7A Parker Place, approximately 170 metres away.

As the proposal is non-compliant with three of the eight Development Standards of the Precinct Plan P13 – ‘Curtin Precinct’, in accordance with Council’s Policy GEN3 “Community Consultation”, the proposal was the subject of consultation for a 14 day period, from 10 June 2011 and closing on 24 June 2011, with letters sent to the owners and occupiers of adjoining properties considered to have a potential adverse impact. The consultation letters made reference to the non-compliance issues: reduced street setback, building height and landscaping area shortfall. No submissions were received during or after the advertising period.

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

- Statement of Intent contained in Precinct Plan P13 ‘Curtin’;
- Clause 36 of the Scheme Text – Determination of Application – General Provisions; and
- Clause 38 of the Scheme Text – Determination of Non-Complying Applications.

Compliance with Development Requirements

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

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Plot Ratio	Precinct Plan P13	0.5	0.469	Compliant
Street Setback	Precinct Plan P13	Minimum 7.5m	4.669m minimum to Building Module A and 4.887m to Building Module B1	Non-compliant (refer to Comments section below)
Building Height (measured from the natural ground level)	Precinct Plan P13	Maximum 7.5m or 2 storeys	11.855m; 2 storeys	Non-compliant (refer to Comments section below)
Car Parking	TPS 1 Policy	111 bays	134 bays	Compliant

Item	Relevant Provision	Requirement	Proposed	Compliance
	Manual			
Landscaping	Precinct Plan P13	Minimum 25% of the site area, equivalent to 2373m ²	12.3% equivalent to 1167m ²	Non-compliant (refer to Comments section below)

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

The applicant is seeking approval for a two storey building for the purposes of a Research and Development Facility within the Special Use Zone “Technology Park”.

Under the Town of Victoria Park Town Planning Scheme No.1 Precinct Plan P13 ‘Curtin Precinct’, the provisions for Technology Park states that: *“the main use will be scientific and technological research and development; production, manufacture and assembly of products will be permitted provided it relates and is ancillary to the technological research and development activities on each site.”*

Precinct Plan P13 also states that: *“The use permitted is research and development. Land in this area may also be used for a purpose that is incidental to research and development if the Council is satisfied that the use would:*

- (a) Be compatible with the Statement of Intent;*
- (b) Neither generate excessive traffic movements to, from or within the area nor require servicing by heavy vehicles;*
- (c) Have no adverse impact in, or on the precinct, or adjacent residential areas caused by noxious emissions or any other disturbance;*
- (d) Not result in more than 50% of the gross floor space of the building being taken up by any one or more of storage, production, manufacture or assembly activities;*
- (e) Comply with a requirement that any production, manufacture or assembly activities must be carried out without causing a nuisance or detrimentally affecting the amenity of the adjoining residential area.*

Note: All uses other than that which is nominated above, and those which have a direct association with the nominated use are prohibited uses.”

The applicant has not provided detailed information in regard to the nature of the proposed research and development industry. It is considered that any approval should be given subject to a condition being imposed on the development that all floors of the building need to be used for the purpose of research and development and incidental uses as defined under the Town Planning Scheme No 1, and that this be registered as a Notification on the title for the property.

The proposal is non-compliant with three of the development standards under the Precinct Plan for the Special Use Zone, Technology Park:

1. Setbacks

- “(i) A building shall be set back not less than 7.5 metres from any street boundary except where the street is Kent Street, Hayman Road or Jarrah Road in which case it shall be 20 metres; and*
- (ii) A building shall be set back not less than 4.5 metres from any boundary other than a street boundary.”*

A minimum street setback of 7.5m is required to Sarich Way. Building modules A and B do not comply with the minimum setback of 7.5m required under the Precinct Plan P13 (proposed minimum setback of 4.669m and 4.887m respectively), although an average setback of 7.3m is proposed across the entire street frontage. During the consultation process no submissions were received in regard to this variation. The Council in 2001 approved a reduced setback of 4.4m for the building at 18 Brodie Hall Drive. Given that the building setback varies and in view of the form of surrounding development, the proposed reduced front setback is supported.

2. Building Height

- “A building shall not exceed a height of 2 storeys or 7.5 metres above the average natural ground level, whichever is the lower.”*

Although the proposed building is two storeys, the maximum height to the roof is 11.855m. The maximum height of the wall is 7.575m. It should be noted that the original proposal was for a three storey building with a maximum height of 15m to the top of the roof. No objections were received during the consultation process in relation to this matter. While compliance could be achieved by replacing the proposed pitched roof with a flat roof, it is considered that the additional height resulting from a pitched roof does not have any adverse impact upon the street or adjoining properties. On this basis the proposed building height variation is supported.

3. Landscaping

- “(i) All land within the landscape margin of Technology Park (i.e. all land within 20 metres of Kent Street, Hayman Road or Jarrah Road) will be landscaped; and*
- (ii) At least 25% of the area of the land the subject of an application for planning approval (which is not within the landscape margin) shall be landscaped.”*

Although the requirement for landscaping area is 25% (2373.00m²) of the total lot area in accordance with the development standards for Technology Park, the proposal is for a landscaping area of 1167m² equivalent to 12.3% being 1206.00m² deficient. The Council in the past approved a landscaping area of 18.66% for the property at 18 Brodie Hall Drive. It is considered that some paved areas proposed as foot path could be removed (up to a maximum of 255m²) and converted into landscaping to increase the landscaping area achieving up to a maximum of 1422m² equivalent to 15% and a condition in this regard will be imposed. It should be noted that Council's Renew Life is not satisfied with the submitted Landscaping Plan, therefore a condition is being imposed requiring the submission of a detailed Landscaping Plan. Officers will ensure that the proposed landscaping within the front setback area will be of a high standard to offset the reduced amount of on-site landscaping.

In relation to car parking a total of 134 car parking bays are proposed resulting in a surplus of 23 car parking bays as only 111 bays are required.

Any proposed signage on facades or pylon signs to be located on the site will be the subject of a separate sign licence application.

There are no Design Guidelines for buildings within the Technology Park Precinct, nevertheless it is considered that the proposal is inconsistent in relation to its design (façade design, form and mass) when compared with the existing buildings surrounding the subject site. While the appearance of the proposal has improved from the original plans, the design still gives the impression of 'residential dwellings' rather than a building for 'research and development' being the character of Technology Park Precinct. However the proposal with its tiled pitched roof have some similarity with the approved buildings located on 16 Brodie Hall Drive, 18 Brodie Hall Drive and 7A Parker Place.

The Design Review Committee has reviewed the proposal on two different occasions. Although the Members of the Design Review Committee are not completely satisfied with the proposal in its current form, the Committee Members were of the view that it would not be reasonable to refuse the application given the site context and the proposal being similar to existing developments at 16 and 18 Brodie Hall Drive.

In view of the above, it is recommended that the application be Approved subject to a condition relating to the use of the building for research and development and incidental uses to research and development as defined under the Town of Victoria Park Town Planning Scheme, plus standard conditions.

Further Comments:

At the Ordinary Council Meeting on 8 November 2011, Council resolved that the application lay on the table until further information is obtained regarding the proposed use of the building, the existing child care centre and the use of the surrounding buildings.

In response to the additional items required :

1. The applicant has provided the following response regarding the proposed use of the building

*“Currently we have no prospective tenants or pre commitments from any tenant to occupy space within 3 Sarich Way.
The intended use of the building is for research and development.*

Any tenant who intends to occupy space within Technology Park must first make application to the state government for their written consent. It is my understanding the entry criteria as set by the State Government is specific and must conform with all zoning requirements.

Only those proposed tenants who qualify for entry from the state government and conform to existing zoning will be allowed entry into 3 Sarich Way. “

2. The adjoining child care centre was approved on 26 November 1996. Approval was granted in 1986 for a Pharmacy Research Facility on the property across the road at 15 Brodie Hall Drive, and in 1992 approval was granted for the purpose of manufacturing and warehousing (Pharmacy products).
3. None of the surrounding business uses with exception of the manufacturing across the road at 15 Brodie Hall Drive potentially cause any harm to staff or users of the Child Care Centre. The premises at 15 Brodie Hall Drive were built before the Child Care Centre. Use of the proposed building both now and in the future will depend on the Department of Commerce. Potential users or tenants to Technology Park will need to submit an application to Technology Parks Manager at the Department of Commerce. In accordance with the “Industry and Technology Development Act 1998”, Section 31 – ‘Regulations’, the Governor may make regulation in relation to ‘Technology Park’ “(d) regulating the use of land and prohibiting activities on the land”; “(e) prohibiting changes in the use of land or prescribing conditions on which the use of land may be changed”.

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Potter

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 R Rizzi on behalf of Ricardo Rizzi & Greggan Holdings P/L (DA Ref: 11/0110) for Research and Development Facility Building at 3 (Lot 74) Sarich Way, Bentley as indicated on the amended plans dated received 18 October 2011 be Approved by Absolute Majority subject to the following conditions:

- 1.1. The building(s) being used for the purpose of Research and Development and incidental uses as defined under the Town of Victoria Park Town Planning Scheme No 1, with the exception of those areas being provided as amenities. This is to be registered as a Notification on the title prior to the submission of a building licence application.
- 1.2. A landscaping plan detailing size, location and type of planting to be provided to the satisfaction of the Director Renew Life prior to submission of an application for building licence, with such landscaping plan to include a minimum of one shade tree per four car parking bays.
- 1.3. The extent of proposed paved foot paths around the site being reduced with such areas being converted into landscaping areas to the satisfaction of the Executive Manager Built Life and to be shown on the above landscaping plan.
- 1.4. A minimum of one shade tree per four parking bays to be provided on site. The shade trees are to be established prior to occupancy of the building and thereafter maintained to the satisfaction of the Director Renew Life. Landscaping to be protected by kerbing or similar barrier at least 150mm high.
- 1.5. 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. (Refer related Advice Note)
- 1.6. Landscaping is to be completed prior to occupancy and thereafter maintained to the satisfaction of the Director Renew Life.
- 1.7. Before the subject development is first occupied or commences operation all car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Director Renew Life.
- 1.8. All car parking bays to be lined-marked and designed in accordance with AS2890.1.
- 1.9. A minimum of 111 car parking bays to be provided on site for the exclusive use for staff and visitors. These bays shall be marked accordingly.
- 1.10. The street verge between the kerb and the property boundary is to be landscaped, reticulated and maintained to the satisfaction of the Director Renew Life.

- 1.11. 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 8 November 2011, attached with the approved plans.
- 1.12. Proposed development complying with setbacks, landscaping and other details and amendments as shown in red on the approved plan.
- 1.13. This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application.
- 1.14. The proposal to comply with Council's Building, Environmental Health and Renew Life requirements.
- 1.15. 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:

- 1.16. With regard to Condition No. 1 of this approval, Town of Victoria Park Town Planning Scheme No. 1 Precinct Plan P13 – Curtin Precinct, in relation to Technology Park states the purpose for which the land can be used:

“This area shall be further promoted and consolidated as a specialised location for technological research and development activities. The main use will be scientific and technological research and development; production, manufacture and assembly of products will be permitted provided it relates and is ancillary to the technological research and development activities on each site. Other uses may be permitted if the use is considered to be incidental to research and development uses and conforms with a number of other specified requirements.”

“The use permitted is research and development. Land in this area may also be used for a purpose that is incidental to research and development if the Council is satisfied that the use would:

- (a) Be compatible with the Statement of Intent;*
- (b) Neither generate excessive traffic movements to, from or within the area nor require servicing by heavy vehicles;*
- (c) Have no adverse impact in, or on the precinct, or adjacent residential areas caused by noxious emissions or any other disturbance;*

- (d) Not result in more than 50% of the gross floor space of the building being taken up by any one or more of storage, production, manufacture or assembly activities;**
- (e) Comply with a requirement that any production, manufacture or assembly activities must be carried out without causing a nuisance or detrimentally affecting the amenity of the adjoining residential area.**

Note: All uses other than that which is nominated above, and those which have a direct association with the nominated use are prohibited uses.”

- 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 drawing forming part of this planning approval may require the submission of an application for modifications to planning approval and reassessment of the proposal.**
- 1.19. 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.**

CARRIED BY AN ABSOLUTE MAJORITY (8-0)

17 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

18 PUBLIC QUESTION AND PUBLIC STATEMENT TIME

Mr Sam Zammit – 31 Alvah Street, St James WA 6102

Mr Zammit spoke on the following:

- Against the renaming of Albany Highway;
- Minimising expenses by changing recycle bin days to once a month; and
- That caryards on the Highway should be reverted back to small businesses.

Mr Zammit asked where Amalgamation of Councils was currently at.

Response: Mayor Vaughan

It will be reviewed mid-2012, the recommendations will then be put to Cabinet, where a decision will be made in 2013.

Mr Zammit also asked what direction the Town was headed with the Edward Millen Site.

Response: Ms Rochelle Lavery

Currently considering further works on various options, a report will then be presented to Council early next year with the various options that have been taken into consideration.

Mr Peter Lesiter – 40 Oats Street, East Victoria Park WA 6100

Spoke against renaming Albany Highway and also wished Mr Brian Callander all the best for the future.

19 MATTERS BEHIND CLOSED DOORS

RESOLVED:

Moved: Councillor Anderson **Seconded:** Councillor Ashton

That the meeting be closed to members of the public in accordance with clause 4.2 of the Local Law relating to Standing Orders and Section 5.23(2) of the Local Government Act 1995.

CARRIED (8-0)

Members of the public left the meeting at 8:10pm.

12.4 55 (Lot 274) Bank Street, East Victoria Park - Confidential

RESOLVED:

Moved: Councillor Ashton Seconded: Councillor Hayes

- 1. In accordance with the Section 31(1) of the State Administrative Tribunal Act 2004 (WA), the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Peter Green on behalf of NP Pancumatia (DA Ref: 11/0452) for Change of Use from a Dwelling to Residential Building at No. 55 (Lot 274) Bank Street, East Victoria Park as indicated on the plans dated received 28 July 2011 be Approved subject to the following conditions:**
 - 1.1 The use of the existing building on the site as a ‘Residential Building’ is valid for a period of twelve months only from the date of this approval. An extension of time beyond this twelve month period may be considered by Council upon the submission of a further application for approval and having regard to the impact that the use may have had during the twelve month period, and any complaints that may have been received.**
 - 1.2 This approval is for the operation of the premises as a ‘Residential Building’ by the owner NP Pancumatia and staff under his employment only. The operation of the premises as a ‘Residential Building’ by any other person(s), or the use of the premises for any other purpose, will require an application for planning approval to be submitted to and approved by the Council.**
 - 1.3 At least one caretaker shall be present on site 24 hours a day, seven days a week.**
 - 1.4 A maximum of nine (9) unrelated persons and a maximum total of twelve (12) persons other than staff members are permitted to reside at the subject premises at any one time.**
 - 1.5 The duration of stay for all rooms to be a minimum of two (2) months. This requirement shall be outlined in lease documents.**

- 1.6 Operation of the use shall be in accordance with the conditions of this approval and applicant's written information dated 11 November 2011 and 28 July 2011 as marked in red, attached to the approved plans. Where there is an inconsistency between the applicant's information and the conditions of this planning approval, the conditions of this planning approval shall prevail at all times. Any changes to the approved operations or variation to the conditions of this planning approval will require an application for planning approval to be submitted to, and approved by the Council.
- 1.7 Before the subject development is first occupied or commences operation, the applicant is required to provide the contact details of the caretaker/s of the subject premises to the surrounding owners and occupiers. Written confirmation of the provision of these details is to be provided to the Council prior to the commencement of the use. Updated contact details shall be provided to the surrounding owners and occupiers as well as written confirmation of the provision of such details to the Council, at the time of any change to the contact details of the caretaker or the business representative of the premises.
- 1.8 A minimum of eleven (11) car parking bays to be lined-marked, designed in accordance with AS2890.1 and maintained clear of obstructions to be used for car parking at all times.
- 1.9 A register of all occupants is to be kept by the operator and is to be made available for inspection by Council Officers. The register is to detail the name and usual place of address of each occupant, the date of arrival and departure, and is to be signed by the occupant.
- 1.10 The proposed development to comply with the following legislation (as amended), to the satisfaction of Council's Environmental Health Services at all times:
- Health Act 1911;
 - Health Act (Laundries and Bathrooms) Regulations;
 - Sewerage (Lighting, Ventilation & Construction) Regulations 1971;
 - Town of Victoria Park Health Local Law 2003;
 - Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste Regulations);
 - Perth Metropolitan Region Sewerage Policy 1982; and
 - Environmental Protection (Noise) Regulations 1997.

- 1.11 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.
- 1.12 The front gate shall be upgraded and maintained so as not cause a noise nuisance to the satisfaction of the Manager Urban Planning.
- 1.13 The wood panelling in the front fence shall be removed in order to increase the visual permeability of the fence, and the wrought iron fencing is to be retained to the satisfaction of the Manager Urban Planning.
- 1.14 No advertising material or signage with respect to or in connection with the approved 'Residential Building' is to be displayed or erected on the site.
- 1.15 All external areas on the subject premises to be maintained in a clean and tidy state of repair at all times to the satisfaction of the Manager Urban Planning.
- 1.16 Compliance with Council's Building, Environmental Health and Renew Life requirements.

Advice to applicant

- 1.17 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.
 - 1.18 Any modifications to the approved drawings and other information forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
2. The State Administrative Tribunal be advised of Council's decision.

CARRIED (8-0)

12.5 3 (Lot 4) Claude Street, Burswood - Confidential

RESOLVED:

Moved: Councillor Hayes

Seconded: Councillor Anderson

Council delegate to the Chief Executive Officer the authority to instruct solicitors McLeods to initiate prosecution action in respect to the unauthorised use of the premises at 3 Claude Street, Burswood under Clause 54 of the Town of Victoria Park Town Planning Scheme No. 1 and Section 218 of the Planning and Development Act 2005, illegal building works in contravention of Sections 374 and 401A of the Local Government (Miscellaneous Provisions) Act 1960, and possible contravention of the Health Act.

CARRIED (8-0)

15.8 3 Town Centre Redevelopment – Revised Project Definition - Confidential

RESOLVED:

Moved: Councillor Anderson

Seconded: Councillor Vilaca

That Council:

- 1. Receive the Project Definition Plan (the Plan) dated 28 November 2011 prepared by Kooperman Project Management.**
- 2. Commence the preparation of:**
 - a. An Activity Centre Structure Plan and Design Guidelines for the Town Centre; and**
 - b. The required Town Planning Scheme Amendments to accommodate the Activity Centre Structure Plan and Design Guidelines.**
- 3. Authorises the Chief Executive Officer, on a without prejudice basis, to enter into preliminary discussions with Hawaiian to determine its interest in purchasing the land identified as 12b on pages 8 and 9 of the Project Definition Plan on the basis of its value being determined on the lands “highest and best use”.**
- 4. The outcome of the negotiations detailed in (3) above be the subject of a separate report to Council.**

5. If Hawaiian are interested in purchasing the land in the manner described in (3) above and the Council is prepared to sell the land to Hawaiian then the sale processes be formalised in a legal agreement between Oahu Management Pty Ltd (Hawaiian) and the Town of Victoria Park drafted by the Town's solicitors and that any legal agreement is to ensure compliance with the requirements of the *Local Government Act 1995* as they relate to disposal of property, business planning and commit both parties to the overall development including timeframes.
6. Further investigate alternative solutions to fund the development of the land within the Town Centre that is in the ownership of the Council including but not limited to:
 - a. Packaging the land the Town owns and seek interest from developers to develop the land in accordance with the Activity Centre Structure Plan and Design Guidelines for the Town Centre excluding the land identified as 12b on pages 8 and 9 of the Project Definition Plan if Council resolve to sell the land to Oahu Management Pty Ltd (Hawaiian).
 - b. Seeking interest from developers to construct the civic and community facilities the Town requires in return for a long term lease arrangement.
7. Authorise the Chief Executive Officer to employ a Project Manager on a fixed term basis to assist the Administration in managing the necessary processes required to meet the Council's obligations. The costs associated with this position be funded in the half yearly budget review.
8. \$160,000 be added to the 2011/12 Budget - GL 628002.635.3301 – Town Centre Study to fund the additional consultancy work anticipated in the Plan identified in (1) above.
9. The \$160,000 detailed in (8) above be funded from the 20010/11 end of year surplus.
10. The properties on 6,8,10,12 and 14 Kent Street detailed as Lot 2 on page 15 of the Project Definition Plan are not to be redeveloped and as such will not form part of the Town Centre Redevelopment.

CARRIED (8-0)

RESOLVED:

Moved: Councillor Ashton Seconded: Councillor Anderson

That the meeting be opened to members of the public in accordance with Section 5.23(2) of the Local Government Act 1995.

CARRIED (8-0)

The Presiding Member read out the decisions in relation to item 12.4, 12.5 & 15.8.

20 CLOSURE

There being no further business the Mayor declared the meeting closed at 8.15pm.

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

Signed Mayor

Dated this Day of 2011