



Town of Cambridge

AGENDA

NOTICE OF ORDINARY MEETING OF COUNCIL

Notice is hereby given that the next Ordinary Meeting of the Council of the Town of Cambridge will be held in the Council Chamber at the Council's Administration/Civic Centre, 1 Bold Park Drive, Floreat, on **Tuesday 24 November 2020** commencing at **6.00 pm**.


JOHN GIORGI, JP
CHIEF EXECUTIVE OFFICER

20 November 2020

OUR VISION

Cambridge: the best liveable suburbs

The Town is endowed with a range of housing, employment, and lifestyle opportunities. Our inner-city charm, character laden suburbs, extensive parkland and quality streetscapes reflect who we are, what we value and what we offer. Our activity hubs, mixed-use areas and events create a sense of community, belonging and wellbeing for residents of all ages. These are all community values we seek to protect and enhance into the future.

OUR MISSION

We will maintain and enhance our very liveable suburbs, their streetscapes and character and our vibrant activity centres through strategic, cost effective management of resources and an enhanced community experience based on a "locals first" philosophy.

OUR VALUES

The values will guide our attitudes and behavior in everything we do to serve our community:

Integrity - we will act responsibly, place trust in each other and will be accountable for our actions.

Respect - we will acknowledge an individual's uniqueness and will treat them in a dignified and positive manner.

Friendly and Helpful - we value our community members and will assist them in the best way we can.

Teamwork - we believe teamwork is essential for improving our services and achieving our goals.

Creativity - we can improve the way we do business by challenging the status quo.

DISCLAIMER

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any Elected Member or Employee of the Town during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Town. No action should be taken on any item discussed at a Council or Committee meeting prior to written advice on the resolution of the Council being received.

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AGENDA

BUSINESS

1. Opening

2. Attendance/Apologies/Leave of Absence

3. Public Question Time

4. Petitions

5. Deputations

6. Applications for Leave of Absence

7. Confirmation of Minutes

7.1	Ordinary Meeting of Council	27 October 2020
7.2	Special Meeting of Council	19 November 2020

8. Announcements by the Mayor without Discussion

9. Committee Reports

9.1	Development Committee	17 November 2020
9.2	Community and Resources Committee	18 November 2020

10. Council Reports

10.1	Monthly Financial Statements, Review and Variances – October 2020
10.2	Ownership of Streetlight Poles and Infrastructure
10.3	Lake Monger Pump/Jump Track Project Working Group Membership
10.4	Railway Parade Pedestrian Crossing Project Update
10.5	Legal Expenses Report for the Period 1 July – 30 September 2020
10.6	Information Bulletin – November 2020

11. Urgent Business

Nil

12. Motions of Which Notice has been Given

12.1	Mayor Shannon – Purple Benches at High Schools
12.2	Mayor Shannon – Media Statement on COVID-19 Arrangements

13. Confidential Reports

13.1	DV20.152 - Lot 501 (No. 135-137) Cambridge Street, West Leederville – Compensation Claim Report
13.2	DV20.153 – Lot 416 (No. 106) Grovedale Road, Floreat – Compliance Matter
13.3	Floreat Kiosk, West Coast Highway Lot 6000, Challenger Parade, City Beach
13.4	Employee Matter

14. Closure

Visitors are reminded that mobile phones should be turned off during Council Meetings.

DEVELOPMENT COMMITTEE

TUESDAY 17 NOVEMBER 2020

ORDER OF BUSINESS

1. **DECLARATION OF OPENING**
2. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
3. **PUBLIC QUESTION TIME**
4. **DEPUTATIONS AND PETITIONS**
5. **CONFIRMATION OF MINUTES**
6. **DECLARATION OF MEMBERS' INTERESTS**
7. **REPORTS**

Items to be determined by Committee

- | | | |
|----------|---|---|
| DV20.136 | Lot 206 (No.19A) Kingsland Avenue, City Beach – Proposed Timber Screening Structure to Boundary Fences | 1 |
| DV20.137 | Lot 241 Nos. 20-22) Blencowe Street, West Leederville – Change of Use from Youth Accommodation to Community Purpose (S31 Reconsideration) | 7 |

Items to be determined by Council

- | | | |
|----------|---|----|
| DV20.138 | Lot 1299 (No.179) The Boulevard, Floreat – Proposed Addition to Existing Garage | 19 |
| DV20.139 | Lot 8 (No.17) Jubilee Crescent, City Beach – Alterations/Additions to Existing Retaining Walls and Front Fencing to Existing Single House (Development Commenced) | 24 |
| DV20.140 | Lot 317 (No. 23) Kinkuna Way, City Beach – Proposed Carport Addition to Existing Single Dwelling | 34 |
| DV20.141 | Lot 95 (No.1) Lowanna Way, City Beach – Single Storey Dwelling with Undercroft | 42 |
| DV20.142 | Lot 29 (No.27) Hovea Crescent, City Beach – Alterations and Additions to Existing Two Storey Dwelling | 54 |
| DV20.143 | Lot 1533 (No.12) Tullow Road, Floreat – Proposed Alterations/Additions to Existing Single House (Development Commenced) | 65 |
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DV20.153	Lot 416 (No.106) Grovedale Road, Floreat – Compliance Matter	109

9. CLOSURE

MINUTES OF THE MEETING OF THE DEVELOPMENT COMMITTEE OF THE TOWN OF CAMBRIDGE HELD AT THE ADMINISTRATION/CIVIC CENTRE, 1 BOLD PARK DRIVE, FLOREAT ON 17 NOVEMBER 2020.

1. DECLARATION OF OPENING

The Presiding Member, Cr Ian Everett, declared the meeting of the Development Committee open at 6.00 pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Present:	Time of Entering	Time of Leaving
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Members:

Cr Ian Everett (Presiding Member)	6.00 pm	7.35 pm
Mayor Keri Shannon	6.00 pm	7.35 pm
Cr Alaine Haddon-Casey	6.00 pm	7.35 pm
Cr Kate McKerracher	6.00 pm	7.35 pm
Cr Robert Fredericks	6.00 pm	7.35 pm

Observers:

Cr Kate Barlow
Cr Gary Mack (Until 6.52 pm)

Officers:

John Giorgi, JP, Chief Executive Officer
Brett Cammell, Acting Director Planning and Development
Jennifer Heyes, Manager Statutory Planning
Simon Shub, Acting Manager Strategic Planning
Steve Cleaver, Manager Regulatory Services
Mark Allies, Coordinator Ranger & Community Safety Services
Lee Gyomrei, Coordinator Governance & Office of CEO
Denise Ribbands, Senior Governance Officer

Members of the Public:

17 persons

Media:

1 person (Until 7.16 pm)

Adjournments:

Nil

Time meeting closed:

7.35 pm

APOLOGIES/LEAVE OF ABSENCE

Nil

3. PUBLIC QUESTION TIME

Nil

4. DEPUTATIONS AND PETITIONS

- Item DV20.153 Russell Blaikie, on behalf of the owners at 104 Grovedale Road
Dianne Dixon, on behalf of the owner at 75 Evandale Street
- Item DV20.136 Declan White, owner
- Item DV20.139 Tim Wright, Architect
- Item DV20.141 Justin Stewart, neighbour
Geoff Stoneman, owner
- Item DV20.142 Nic Hidding, Planning Consultant
- Item DV20.143 Emma Kirkwood, applicant
- Item DV20.145 Mathew Fuller, applicant

5. CONFIRMATION OF MINUTES

Moved by Cr Haddon-Casey, seconded by Cr McKerracher

That the Minutes of the Ordinary meeting of the Development Committee held on 20 October 2020 as contained in the October 2020 Council Notice Paper be confirmed.

Motion put and CARRIED (5/0) (unanimous)

6. DECLARATIONS OF INTEREST

- Item DV20.139 Mayor and Cr McKerracher – Impartiality Interest
- Item DV20.152 Cr McKerracher – Financial Interest

7. REPORTS

**DV20.136 LOT 206 (NO. 19A) KINGSLAND AVENUE, CITY BEACH – PROPOSED
TIMBER SCREENING STRUCTURE TO BOUNDARY FENCES**

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for proposed timber screening structures to be permanently fixed to two lot boundary fences. The screens are proposed to be located on portions of the north-western and south-western lot boundaries.

SUMMARY:

The screening addition to the existing boundary fence is considered to result in unnecessary bulk impacts and sense of confinement to the north-western and south-western adjoining neighbours. The proposed timber screen adds to the overall height of the site's dividing fence and should therefore be setback from the boundary.

The resultant maximum wall height of 4.6m above natural ground level to the north-western boundary, and 4.0m above natural ground level to the south-western boundary, is not considered to be of an appropriate scale. This results in an unacceptable impact of bulk to the adjoining sites. Furthermore, the structure will be visible to multiple neighbouring properties which is considered to have a detrimental impact to the local character and the amenity of the adjoining properties.

Accordingly, it is recommended that the application be refused.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

The application is presented to Council due to the extent of building bulk proposed. In this instance, it is not considered appropriate for the Administration's delegation to be exercised.

BACKGROUND:

Address:	Lot 206 (No. 19A) Kingsland Avenue, City Beach
Report Date:	10 November 2020
File Reference:	DA20/0287
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Statutory Planning Officer, Karen Liddell
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Development Application Plans (3 pages) 3. Site Photos (3 pages) 4. Applicant's Comments (7 pages)

Applicant:	Carley Maloney
Owner:	Carley Maloney
Zoning:	Residential R12.5
Precinct:	P1: City Beach
Development Description:	Screening Structures to boundary fences
Development Value:	\$8000
Existing Land Use:	Dwelling (single)
Proposed Land Use:	N/A – works associated with existing use
Land Area:	884m ²
Heritage Listing:	No
Application Date:	28 August 2020
Application Process Days:	74 days

DETAILS:

Site Context

The site is situated within the City Beach Planning Precinct, and is within the block bound by Kingsland Avenue to the North, Hesperia Avenue to the West, Lentara Crescent to the South, and Boronia Crescent to the East. The locality predominantly consists of single and two storey single dwellings.

The site is a battle-axe lot with vehicular access to Kingsland Avenue. There is a fall of approximately 4m across the site from the southern corner to the northern corner. On the site is a two-storey dwelling with undercroft which is currently under construction.

Proposal

The applicant proposes to erect a timber screening structure comprising “hit and miss” open timber battens above portions of the existing boundary fence to the north-western and south-western lot boundaries. It is intended to grow creepers over the structure.

The purpose of the proposed structure to the north-western lot boundary is to mitigate the visual impact of the neighbouring dwelling’s air-conditioning unit and satellite dish at 37 Hesperia Avenue, and to provide visual privacy to the first floor en-suite which can be viewed from the en-suite window of this adjoining property.

It is unclear why the screen to the south-western lot boundary adjoining 39 Hesperia Avenue is required.

The addition of the screen structure results in boundary fences with an overall maximum height of 4.6m as measured from natural ground level, including any retaining or attached privacy screen, in lieu of 2.5m as prescribed in Town’s *Local Planning Policy 1.1 – Minor Use and*

Development Exempt from Development Approval. Therefore, development approval is required for the structure.

The proposed screen structure seeks the following variation:

1. A screening structure with a nil setback to the north-western and south-western lot boundaries in lieu of 1.1m.

CONSULTATION:

Public Consultation

The application was required to be advertised in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

The applicant provided evidence of written consent from adjoining neighbours at 37 and 39 Hesperia Avenue, City Beach as part of the development application. Both neighbours were contacted by the Town's assessing officer to confirm that consent was provided, and the proposed variations were understood. Both neighbours confirmed they had no objection to the proposed screening structure.

APPLICANT'S COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer **Attachment 4**).

STATUTORY ASSESSMENT:

State Planning Policy 7.3 - Residential Design Codes Volume 1 / Local Planning Policies

<i>5.1.3 Lot boundary setback</i>		
	Deemed-to-comply Requirement	Proposed
<i>Side (north- western) lot boundary</i>	1.1m	Nil
<i>Side (south- western) lot boundary</i>	1.1m	Nil
<u>Design Principles (of R-Codes):</u> <i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <ul style="list-style-type: none">• <i>reduce impacts of building bulk on adjoining properties;</i>• <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i>• <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties"</i>.		

Design Principles Assessment

North-western lot boundary

The proposed screen occupies a length of approximately 23m along the north-western boundary. Of this length, the majority of the screen has a height of 300mm above the existing boundary fence, resulting in a maximum overall wall height of 3.64m at the northern end for this portion of the structure.

Along the same boundary, for a length of approximately 9.0m within the 23m portion of proposed screening structure, the screen reaches a maximum overall height of 4.6m above natural ground level. This is an additional 1.54m on top of the existing over-height concrete boundary fence. To reach this height, the screen is tapered on both ends of the 9.0m portion.

The property to which this boundary adjoins, 37 Hesperia Avenue, has a relative level at the base of the lot boundary fence of RL25.40. If the screen were approved, it would result in an overall wall height of approximately 5.74m (at the highest point) when viewed from rear of this property. This is considered to be excessively high, creating unnecessary building bulk on the boundary.

The applicant has stated that the proposed screen is required along this boundary to:

1. create visual privacy to overcome sightlines from the en-suite of 37 Hesperia Ave to the en-suite bathroom of the subject site;
2. create an acoustic screen between the two properties to address the noise issue from the air-conditioning unit to the rear of 37 Hesperia Avenue; and
3. to address safety concerns the applicant has for their children in the event they were to climb the dividing fence as the ground level to the rear of 37 Hesperia Avenue is considerably lower.

As the subject site is a battle-axe lot, screened from the street by new dwellings (some still under construction or yet to be constructed), the applicant maintains the timber screen does not impact on the streetscape.

In response to the applicant's justification it is considered that there are other options which could be explored by the applicant in order to achieve the applicant's desire for screening of the adjoining property and enhanced visual privacy. This might include growing vegetation along the lot boundary or consulting with the neighbour to install obscure film over their en-suite window.

In regard to the safety issue raised, it is noted that the Town's Building and Compliance Services have confirmed that the current boundary fence meets the Australian Standards regarding pool fencing. The current fence has a height of 1.8m from the finished floor level of the pool area. Therefore, it is not considered necessary to add to the height of the existing wall as proposed in order to improve safety. It is assumed that the Australian Standard for pool fencing has been designed to ensure safety to both occupants and to those on adjoining properties.

There is no apparent impact on access to sun and ventilation to the adjoining property at 37 Hesperia Avenue as a result of the proposed screen.

South-western lot boundary

The proposed screen occupies a length of approximately 6m along the south-western boundary, resulting in a maximum overall wall height of 4.0m at the western end. This is approximately 1.3m above the existing boundary fence.

The property to which this boundary adjoins, 39 Hesperia Avenue, has a relative level at the base of the lot boundary fence of RL25.70. If the screen were approved, it would result in an overall wall height of approximately 5.44m (at the highest point) when viewed from the side of this property. This is again considered to be excessively high, creating unnecessary building bulk on the boundary.

It is not clear as to the purpose of this portion of screening as there are no visual privacy or building façades to screen. Whilst this boundary is also accessible from with the applicant's pool area, safety to this boundary was not raised as an issue.

The proposed height of this screen is considered to create additional overshadowing, however, the area of the adjoining property that would be impacted on is not an area of primary outdoor living nor does it contain windows to habitable rooms/living spaces.

Whilst no objections were received from the adjoining neighbours, it is considered that the combination of both screening structures will create a significant sense of confinement for users of the adjoining dwelling, particularly when viewed from ground level.

On balance, as the proposed screen structures are not setback from the lot boundary as per the R-Codes, they are considered to have an adverse impact of visual bulk to No. 37 and No. 39 Hesperia Avenue which is somewhat exacerbated due to the differences in ground level between sites.

For the above reasons, the application is not considered to meet the associated design principles relating to lot boundary setbacks.

CONCLUSION:

Due to the significant height of the screening proposed, and the subsequent impacts on the amenity of the adjoining neighbours, the proposed development is considered to create an unnecessary level of visual bulk on the lot boundary.

This amount of building bulk on or within close proximity to the lot boundary, is not considered to be in-keeping with the future desired character of the area and the R12.5 coding, and if approved, may establish an undesirable precedent which may be considered in future planning decisions.

For the above reasons, it is recommended that the application be refused.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
State Planning Policy 7.3 - Residential Design Codes Volume 1
Local Planning Policies*

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE DECISION:
(ADMINISTRATION RECOMMENDATION)

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council **REFUSES** the application for a timber screening structure to two boundary fences at Lot 206 (No. 19A) Kingsland Avenue, City Beach, as shown on the attached plans stamped received 2 September 2020, for the following reasons:

1. The proposal does not satisfy the design principles of *State Planning Policy 7.3 - Residential Design Codes Volume 1* (cl 5.1.3 Lot boundary setbacks) as the proposed reduced lot boundary setback will have an adverse impact on the amenity of the neighbouring properties due to building bulk on the boundary; and
2. The proposal does not satisfy Clause 67(m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal is not compatible with its setting and the relationship of the development to development on adjoining land as the impact of the screening structure will result in a building bulk impact that is inconsistent with the prevailing R12.5 development pattern and set an undesirable precedent.

Nil advice notes.

Motion put and CARRIED (4/1)

For: Mayor Shannon, Crs Fredericks, Haddon-Casey and McKerracher
Against: Cr Everett

DV20.137 LOT 241 (NOS. 20-22) BLENCOWE STREET, WEST LEEDERVILLE - CHANGE OF USE FROM YOUTH ACCOMMODATION TO COMMUNITY PURPOSE [S31 RECONSIDERATION]

PURPOSE OF REPORT:

The purpose of this report is for Committee to reconsider a development application, under Section 31(1) of the *State Administrative Tribunal Act 2004*, for a change of use from youth accommodation to community purpose, which is a use currently operated by the non-profit organisation Perth Inner City Youth Service (PICYS) from the subject site. The use was refused by the Development Committee at its 17 December 2019 meeting, as it was considered that the use is an "Office", which is an "X" – prohibited use in the Residential zone.

SUMMARY:

In response to the refusal, the Applicant lodged an appeal with the State Administrative Tribunal (SAT).

Following mediation, the Applicant has submitted additional information detailing the core services provided by the PICYS and a reduced intensity of the use at the subject premises as a result of the organisation now operating from two separate properties. An amended floorplan and an amended Parking Management Plan (PMP) have also been provided.

The SAT has invited the Council to reconsider the proposal in accordance with Section 31 of the *State Administrative Tribunal Act 2004*.

It is considered that the additional information, amended PMP and amended floorplan received after mediation demonstrates that the use meets the definition of a 'Community Purpose' in the Town's *Local Planning Scheme No. 1* (LPS1), which is an "A" use in a Residential zone in LPS1.

It is also considered that the use will not have an adverse parking impact or impact on the amenity of the residential locality, as the organisation now operates from two separate properties, one being the subject premises and the other being located in Nedlands, which has resulted in a reduced intensity of the use and a reduced car parking demand for the site.

It is therefore recommended that the application be approved, subject to conditions.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

In accordance with c12.1.4 of the Town's Delegation Register, the Development Committee is required to determine the application for the following reason:

- "5. *Reconsideration of applications pursuant to Section 31 of the State Administrative Tribunal Act 2004, where the application was originally determined by resolution of Council.*"

BACKGROUND:

Address:	Lot 241 (Nos. 20-22) Blencowe Street, West Leederville
Report Date:	20 October 2020
File Reference:	DA19/0207
Responsible Officer:	Director Planning and Development, Marlaire Lavery
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Statutory Planning Officer, Steven Laming
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Minutes From 17 December 2019 Development Committee Meeting – DA19/0207 Refused 3. Development Plans Dated 6 August 2019 & 21 October 2020 (2 pages) 4. Applicant's Comments (6 pages) 5. Parking Management Plan Dated October 2020 (44 pages) 6. Site Photos (6 pages)

Applicant:	Perth Inner City Youth Service
Owner:	Perth Inner City Youth Service
Zoning:	Residential R30
Precinct:	P5: City Beach
Development Description:	Change of Use from Youth Accommodation to Community Purpose
Development Value:	N/A
Existing Land Use:	Youth Accommodation - Use Not Listed
Proposed Land Use:	Community Purpose - "A" (discretionary)
Land Area:	647m ²
Heritage Listing:	No
SAT Application Date:	21 January 2020

DETAILS:

Site Context

The subject site is located within the West Leederville Planning Precinct. The site is located on the street block bound by Cambridge Street to the north, Railway Parade to the south and Northwood Street to the east. The site abuts Pether Lane at the rear.

The site is currently occupied by a single-storey building, which was originally a single house and has the external appearance of a character style dwelling.

Blencowe Street is primarily zoned Residential R30 in *Local Planning Scheme No. 1* (LPS1). The lot is situated on the corner of Cambridge Street and the east side of Blencowe Street, and the properties along Northwood Street, which abut Pether Lane, are zoned Mixed Use in LPS1.

Blencowe Street is characterised by predominately single-storey character style dwellings. The properties on Northwood Street, which abut Pether Lane, comprise a mix of commercial uses, including a café, a health studio, offices and light industry, and a five storey mixed use development with commercial tenancies on the ground floor and residential dwellings in all floors above.

Site History

On 16 May 1983, the City of Perth Council approved an application for a change of use from residential to youth accommodation at the subject property.

The site has been used by the Perth Inner City Youth Service (PICYS), which is a non-profit organisation that currently provides a range of services to youth who are homeless, have mental health issues, or are experiencing hardship, as youth accommodation since approval was granted in 1983. In recent years, the youth accommodation use ceased and the site has since been used as the organisation's main office and for various youth services and activities.

In February 2019, the Town issued a total of five residential parking permits to the PICYS, consisting of two visitor permits and three verge permits. The parking permits are currently valid until 31 December 2021.

On 17 December 2019, Council refused development application DA19/0207 to change the use from youth accommodation to community purpose, because it was considered that the premises were being used as an 'Office', which is an "X" prohibited use in the Residential zone in LPS1, and the intensity of the use will not be compatible with the residential character of the locality and will have an adverse parking impact on the amenity of the neighbouring properties. The minutes of that refusal can be viewed in **Attachment 2**.

Committee's December 2019 refusal is now the subject of an application for review at the SAT.

As part of the SAT process, mediation was held and subsequently additional information detailing the core services provided by the PICYS and a reduced intensity of the use at the subject premises as a result of the organisation now operating from two separate properties, an amended floorplan and an amended Parking Management Plan (PMP) were submitted to the Town.

The additional information (refer to **Attachment 4** – Applicant's Comments) details that the PICYS organisation will operate from two separate properties, one being the subject property and the other being a property located in Nedlands, which became possible due to additional funding the organisation received from the Western Australian Health Commission in its response to the COVID-19 crisis. The additional information also details the PICYS' core services and changes to the organisation's use of the subject premises as a result of the organisation now operating between two separate properties, including a reduced maximum of staff operating from the premises from eight staff to six.

The amended floorplan (refer to **Attachment 3** – Development Plans Dated 6 August 2020 & 21 October 2020) has relabelled the room the front entry, situated to the left of the 'Entry/Foyer', from 'Office' to 'Lounge'.

The amended PMP (refer to **Attachment 5** – Parking Management Plan) proposes a total of five car bays located at the rear of the property and accessed via the adjoining right-of-way. In addition, a motorbike/scooter bay is proposed at the rear of the site, adjacent to the proposed car parking area, and four bicycle bays are proposed alongside the house adjacent to the north boundary, which are also proposed to be accessed from the right-of-way.

The amended PMP considers that the five on-site car bays (plus a motorbike/scooter bay) will meet the PICYS' parking needs at the premises, as the organisation will now operate from two separate properties. The PMP states that the on-site parking provision will be sufficient if no parking permits are issued by the Town after the five current parking permits expire in December 2021, however, the organisation will continue to utilise two verge bays at the front of the premises if permitted by the Town after the current permits expire.

Legal advice and representation has been obtained throughout the mediation process and can be provided to Elected Members upon request.

Proposal

The application proposes to change the use from youth accommodation to community purpose in order for the PICYS to continue operating from the premises.

The additional information received after mediation details that, as a result of the organisation now operating from two separate properties, the subject premises, as shown on the amended floor plan dated 21 October 2020, will be used as follows:

- a) The premises will be used primarily for the in-person contact the PICYS staff have with the youth it services.
- b) The premises will also be used for some administrative activities, however the majority of the organisation's administration will be carried out at its other property located in Nedlands.
- c) The PICYS provides two core services, being PILLAR and Household Network, which are discussed in detail in the Statutory Assessment below.
- d) In summary, PILLAR is a psycho-social support program for youth with mental health conditions, and Household Network is a housing program for youth that are homeless or at risk of homelessness.
- e) The PICYS also provides a number of other activities, programs and initiatives for the youth it services, which are run or supported by the organisation and provided at the subject premises.
- f) Further details of the PICYS operations from the subject premises, and specific details of how each room in the building and the outdoor space is used, is provided in **Attachment 4 – Applicant's Comments**.

As result of the organisation now operating between two separate properties, the maximum number of staff operating from the subject premises at any one time has been reduced from eight staff to six.

The application proposes the organisation to continue operating from the premises during the hours of 9am to 5pm, Monday to Friday.

The changes between the original proposal refused by Committee on 17 December 2019 and the modified proposal, including the amended plans, additional information and amended Parking Management Plan received 21 October 2020, which are the subject of this report, are detailed in the table below:

Element	Proposal refused by Council on 19 December 2019	Modified Proposal
Intensity of Use	The organisation operated solely from the subject premises.	The organisation now operates between two separate properties, one being the subject premises and the other being located in Nedlands.
Amended Floorplan	The room near the front entry, situated to the left of the 'Entry/Foyer', was labelled as 'Office'.	The room near the front entry, situated to the left of the 'Entry/Foyer', is labelled as 'Lounge'.
Maximum Number of Staff On-Site at Any One Time	Eight staff, comprising: <ul style="list-style-type: none"> – Three full-time staff; and – Five part-time staff. 	Six staff.
On-Site Car Parking	Four on-site parking bays located at the rear of the site, accessed from the rear right-of-way.	Five on-site parking bays located at the rear of the site, accessed from the rear right-of-way. In addition, a motorbike/scooter bay is proposed at the rear of the site, adjacent to the proposed car parking area.

Parking Permits	Utilise five existing parking permits, comprising two visitor permits and three verge permits, for parking in the verge area in front of the premises. The parking permits are currently valid until 31 December 2021.	Parking permits are not required to meet the organisation's parking requirements, if the Town will not issue any permits after the current permits expire in December 2021. Alternatively, the organisation will continue to utilise two verge bays at the front of the premises if two parking permits are issued by the Town after the current permits expire.
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CONSULTATION:

Public Consultation

The original application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

Considering that no new variations are being proposed, and the intensity of the use operating from the subject premises has been reduced, the modified proposal was not advertised. However, it is noted that during the SAT mediation process, the Town received a petition in support of the proposal, which was co-signed by 20 residents from 14 individual properties located on Blencowe Street.

APPLICANT'S COMMENTS:

The applicant has provided comments in support of the proposed change of use and car parking assessment. These comments are attached to this Report (refer **Attachment 4**).

STATUTORY ASSESSMENT:

The subject site is zoned Residential in the Town's LPS1 and has a density coding of R30.

The proposed 'Community Purpose' is an "A" use in a Residential zone in LPS1, which means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (deemed provisions).

Note 2 under Clause 18 of LPS1 states that, with regards to land use, "*In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions*".

In this instance, the provisions under Schedule 2 Clause 67 of the deemed provisions that are relevant to the proposal are as follows:

- "(a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (s) *the adequacy of -*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles."*

In accordance with Clause 67(a) of the deemed provisions, in considering the appropriateness of the proposed land use, Council shall have regard to the objectives of the Residential zone under LPS1. The relevant objective in this instance is as follows:

- “ *To provide for a range of non-residential uses, which are compatible with and complimentary to residential development.”*

Assessment – Land Use:

The original proposal was refused by Committee on 17 December 2019, as it was considered that the use of the premises was ‘Office’, which is an “X” – prohibited use in the Residential zone in LPS1.

Following mediation, the applicant provided additional information to the Town (refer **Attachment 4** – Applicant’s Comments), which outlines the core services and various activities, programs and initiatives provided by the PICYS, and that the intensity of the use operating from the subject premises has been reduced as a result of the organisation now operating between two separate properties.

The additional information received after mediation argues that the use meets the definition of a ‘Community Purpose’ as defined in LPS1 as follows:

"Community purpose means premises designed or adapted primarily for the provision of educational, social and recreational facilities and services by organisations involved in activities for community benefit".

A summary of the key points provided in the additional information, in support of the use meeting the ‘Community Purpose’ definition in LPS1, are discussed below:

The PICYS manages two core services, being Household Network and PILLAR, which are carried out in all room and areas in the subject premises, and are described in the additional information as follows:

- i) The PICYS manages Household Network, which is a program that provides medium to long term housing in the West Leederville, Wembley and West Perth areas for youth aged 16-25 who are at risk of homelessness or are homeless. The program is accredited as a WA Specialist Homelessness Service by the Department of Communities, who also provides funding for the program.
- ii) The PICYS also runs PILLAR, which is a psycho-social support program that caters for youth aged 15-20 who have been diagnosed with a mental health condition. The PICYS does not provide clinical support. Young people must have an external, independent clinician in order to participate in the program. This Nationally accredited program is funded by the Mental Health Commission under their Community Services directorate.

In addition to the core services described above, the additional information also outlines various other activities, programs and initiatives that are managed or supported by the PICYS and are carried out or programmed from the subject premises, including the following:

- i) 'Base Camp', which is when the premises is 'open house' to the youth on Monday, Wednesday and Friday and comprises a range of activities, including cooking sessions, art therapy sessions, music therapy sessions and health and wellbeing discussions.
- ii) Specialist programs are provided for transsexual and gender diverse young people.
- iii) The PICYS provides free clothes washing, personal showering, free hygiene supplies, and donated food.
- iv) The PICYS also facilitates the youth to attend physical activity sessions at Beatty Park Leisure Centre in North Perth by providing free transport and supervision during the session, which PICYS is provided access to free of charge from the City of Vincent.

The supporting information provided with the original proposal described a service offered by the PICYS as 'counselling'. The additional information received after mediation states that the PICYS only provides 'incidental counselling' and does not provide professional counselling services.

The original proposal did not provide any detail on how each room in the building at the subject property were being used. The additional information has provided details on the general use of each room and space in and outside the building, in reference to the label of each room and space as shown on the amended floor plan received on 21 October 2020.

The additional information details that, generally, the various rooms and spaces in and outside the building are used for informal interactions between the PICYS staff and the youth, and as a place for the youth to interact with other youth, carry out general homely activities, such as personal hygiene and cooking, and to partake in the various activities, programs and initiatives run by the PICYS, as detailed above.

The floorplan provided with the original proposal showed there were a total of three rooms labelled as 'Office'. The amended floorplan received after mediation shows that the room near the front entry, situated to the left of the 'Entry/Foyer', is labelled as 'Lounge'.

The additional information details that the two rooms labelled as 'Office' are used for administrative and case management work for the Household Network program and for incidental administrative tasks, such as payroll, human resources and bookkeeping. Whilst administrative office work is carried out at the premises, it is considered that those activities are incidental to the primary use of the building.

Based on the additional information provided by the applicant, it is considered that the PICYS' use of the subject premises meets the definition of a 'Community Purpose' in LPS1, as the organisation is involved in activities for community benefit and provides some social services at the premises, and the premises has been designed or adapted primarily for the provision of social services.

The additional information also details that the intensity of the use at the subject premises has reduced since the original proposal was considered by Council, as the organisation now operates between two separate properties, one being the subject property and the other being located in Nedlands. This became possible due to additional funding the organisation received from the Western Australian Health Commission in its response to the COVID-19 crisis.

By operating from two separate properties, the maximum number of staff operating at any one time at the subject premises has been reduced from eight staff, as per the original proposal, to six. The reduced number of staff has resulted in a reduced parking demand for the site, which is discussed in detail in the parking assessment below.

It is considered that the reduced intensity of the use will be compatible with the Residential zone and the continuation of the use operating from the site will not have an adverse impact on the locality.

Notably, during the SAT mediation process, the Town received a petition in support of the proposal that was co-signed by 20 residents from 14 individual properties located on Blencowe Street, which supports the view that the use will not adversely impact the surrounding residential properties.

To ensure that the use will continue to operate during general business hours, so as not to have an impact on neighbouring properties during the general times when residents will be home outside of business hours, it is recommended that, if the application is approved, a condition be included limiting the hours of operation to 9am to 5pm, Monday to Friday.

As the additional information received after mediation states that music therapy sessions will be provided to the youth at the premises, it is also recommended that, if approved, a condition be included restricting the use from playing any amplified music outside the building.

The proposed "A" use is therefore supported subject to conditions.

Assessment - Parking

In the Town's assessment of the original proposal, based on the information provided with the application, the parking requirement for the community purpose was based on 'Office' and 'Consulting Rooms' component uses as per Table 1 of the Town's *Local Planning Policy 3.13 – Parking* (LPP 3.13), as that approach was considered reasonable given that the floor plan showed a total of three rooms labelled as 'Office' and the supporting information detailed that three of the rooms in the building were used for 'counselling'.

Based on the additional information and amended floor plan received after mediation, it is considered that, as the administrative work carried out in the two rooms labelled as 'Office' are incidental to the community purpose use, and the building is not used for formal counselling services, it is not considered to be reasonable to assess the parking requirement for the community purpose use based on any of the specific uses listed in Table 1 of LPP 3.13. However, it is considered that an evaluation of the general activities carried out on the site, as discussed in the land use assessment above, and the maximum number of staff at the premises at any one time, should be made in order to determine the parking bays required for the use.

The amended Parking Management Plan (PMP) proposes a total of five car bays located at the rear of the property and accessed via the adjoining right-of-way. In addition, a motorbike/scooter bay is proposed at the rear of the site, adjacent to the proposed car parking area, and four bicycle bays are proposed alongside the house adjacent to the north boundary, which are also proposed to be accessed from the right-of-way.

The PMP considers that the five on-site car bays (plus a motorbike/scooter bay) will meet the PICYS' parking needs at the premises, as the organisation will now operate from two separate properties. The PMP states that the on-site parking provision will be sufficient if no parking permits are issued by the Town after the five current parking permits expire in December 2021, however the organisation will continue to utilise two verge bays at the front of the premises if permitted by the Town after the current permits expire.

With regards to whether the Town can or is willing to permit parking permits, it is noted that, pursuant to Clause 6.2 of the Town's *Parking Local Law*, the Town may issue a residential parking permit, a visitor's parking permit or a commercial parking permit upon a written application from an "eligible person".

The definition of an 'eligible person' in the Town's *Parking Local Law* is as follows:

"the owner of a vehicle registered under the Road Traffic Act at the address shown on the application for the parking permit, where used:

- a) in relation to an application for a residential parking permit means a single house occupier, a unit occupier, a unit owner;*
- b) in relation to an application for a visitor's parking permit means:*
 - i) a single house occupier;*
 - ii) a strata company; or*
 - iii) a unit owner of a residential unit which is not a strata lot;*
- c) in relation to an application for a commercial parking permit means the proprietor of a commercial business."*

The PICYS is the registered proprietor of the subject property, and is also the registered owner of two vehicles which are currently kept there.

However, the PICYS cannot be an eligible person in relation to a residential parking permit or a visitor's parking permit, as the PICYS is not a single house occupier, a unit occupier, a unit owner (all of which require occupation or ownership of a 'dwelling unit' which, in turn is defined in the Local Law to mean 'premises lawfully used for self-contained living quarters') or a strata company.

In order to be an eligible person for a commercial parking permit, the PICYS would have to be *the proprietor of a commercial business*. As the PICYS is a registered charity, it cannot be a commercial business.

Therefore, the PICYS cannot be an eligible person for any form of verge permit issued pursuant to the *Parking Local Law*.

On the above basis, as the Town cannot issue any further parking permits under the Local Law, only the proposed five on-site car bays can be considered in the car parking assessment for the use.

The PMP states that, as the youth visiting the premises typically will not own or have access to a vehicle because of their age and/or socioeconomic circumstances, the parking demand for the youth will be negligible. The PMP proposes one of the five on-site bays to be allocated for youth parking and four bicycle bays at the side of the building, which is considered to reasonably cater for the youth visiting the site.

The PMP allocates one of the five on-site bays to visitors, such as employees of Government Departments and support agencies, which are stated to only visit the premises infrequently.

According to the amended PMP, there will be a maximum of six staff at the premises at any one time, however, it is stated that, generally, not all six staff will be at the premises at the same time as some staff will be off-site for meetings and other activities. The PMP states that three of the five on-site car bays will be allocated for the PICYS dedicated staff work cars, which three of the six staff use to commute.

The PMP does not outline how the other three staff commute to the site. Given that the site is located less than 65m to bus routes on Cambridge street and 300m walking distance to the West Leederville train station, it is considered reasonable to assume that some staff will likely utilise public transport to commute to the site. It is also reasonable to assume that some staff will likely commute to the site via scooter/motorbike or bicycle and utilise the proposed parking bays for those transport modes.

The PMP argues that the parking demand for the site can be adequately addressed by a combination of management measures (rostering of staff), public transport options and use of alternative transport modes, plus available public parking nearby.

It is considered that the proposed additional car bay, resulting in a total of five on-site car bays, the provision of a scooter/motorbike bay and four bicycle bays, and the organisation now operating between two separate properties, will result in a reduced car parking demand for the subject site and therefore the use will not have an adverse parking impact on the residential locality.

It is recommended that, if the use is approved, conditions be included requiring the applicant to submit an amended site plan showing the location of the proposed five car bays, scooter/motorbike bay and four bicycle bays, and requiring use to operate in accordance with the PMP for the duration of the use operating from the premises.

CONCLUSION:

It is considered that the additional information, amended PMP and amended floorplan demonstrates that the use meets the definition of a 'Community Purpose' in the Town's *Local Planning Scheme No. 1* (LPS1), which is an "A" use in a Residential zone in LPS1.

It is considered that, as the organisation now operates from two separate properties, which has resulted in a reduced intensity of the use and a reduced car parking demand for the site, the use will not have an adverse parking impact or impact on the amenity of the residential locality,

For the above reasons, it is recommended that the application be approved, subject to conditions.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the applicant proceeds the matter to a hearing.

LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
Local Planning Policies
State Administrative Tribunal Act 2004*

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, pursuant to S31(1) of the *State Administrative Tribunal Act 2004*, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Committee APPROVES the application for a Change of Use from Youth Accommodation to Community Purpose at Lot 241 (Nos. 20-22) Blencowe Street, West Leederville as shown on the attached plans stamped received 6 August 2019 & 21 October 2020 subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;
2. This approval is for "Community Purpose" as defined in the Town's *Local Planning Scheme No. 1* and the subject site shall not be used for any other use without further approval from the Town;
3. The "Community Purpose" shall be restricted to the following operating hours:
 - i) Monday to Friday: 9:00am to 5:00pm; and
 - ii) Saturday, Sunday and Public Holidays: Closed;
4. A minimum of five (5) car parking bays shall be provided at the rear of the subject site, generally in accordance with the arrangement shown in the Parking Management Plan dated October 2020.

Amended plans shall be submitted to the Town for approval, within 28 days of the date of determination of this approval, or any other such date as agreed to by the Town, showing the above;

5. All vehicle parking bays, including manoeuvring and circulation areas, required in accordance with Condition 4 above shall be sealed/paved, surface marked in accordance with *Australian Standard 2890.1 - Off-street car parking* and *Australian Standard 2890.6 - Off-street parking for people with disabilities*, and drained.

The above works shall be completed within 60 days of the Town's written approval of the amended plans, required in accordance with Condition 4 above, and thereafter maintained by the landowner for the life of the development to the satisfaction of the Town;

6. The use shall operate in accordance with the Parking Management Plan (PMP) dated October 2020 for the duration of the use operating from the site, to the satisfaction of the Town;

7. **No amplified music may be played outside the building; and**

8. **No more than:**

- i) **6 staff; and**
- ii) **12 people in total;**

may be present on the premises at any one time.

Standard Advice Notes to be included by Administration plus the following Non-Standard Advice Note(s):

1. **The landowner is advised that a Form BA9 "Application for Occupancy Permit" for a change of building classification/use shall be submitted to the Town for approval within 28 days of the date of this approval, or such other time as agreed by the Town, in accordance with the *Building Act 2011* and *Building Regulations 2012*.**

During discussion, Cr Everett referred to confidential additional information circulated by the Administration advising that the applicant has requested modifications to conditions 3, 5 and 8.

AMENDMENT:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That condition 5 of the motion be amended by deleting "60 days" and inserting "90 days".

Amendment put and CARRIED (5/0) (unanimous)

AMENDMENT:

Moved by Cr Everett, seconded by Cr McKerracher

That condition 3 of the motion be amended to read as follows:-

3. **The "Community Purpose" shall be restricted to the following operating hours:**

- i) **Monday to Saturday: 9:00am to 5:00pm; and**
- ii) **Sunday and Public Holidays: Closed;**
- iii) **A once monthly Board Meeting is permitted outside of the weekly operating hours.**

Amendment put and LOST (2/3)

For: Crs Everett and McKerracher

Against: Mayor Shannon, Crs Fredericks and Haddon-Casey

COMMITTEE DECISION:

That, pursuant to S31(1) of the *State Administrative Tribunal Act 2004*, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Committee APPROVES the application for a Change of Use from Youth Accommodation to Community Purpose at Lot 241 (Nos. 20-22) Blencowe Street, West Leederville as shown on the attached plans stamped received 6 August 2019 & 21 October 2020 subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;
2. This approval is for "Community Purpose" as defined in the Town's *Local Planning Scheme No. 1* and the subject site shall not be used for any other use without further approval from the Town;
3. The "Community Purpose" shall be restricted to the following operating hours:
 - iii) Monday to Friday: 9:00am to 5:00pm; and
 - iv) Saturday, Sunday and Public Holidays: Closed;
4. A minimum of five (5) car parking bays shall be provided at the rear of the subject site, generally in accordance with the arrangement shown in the Parking Management Plan dated October 2020.

Amended plans shall be submitted to the Town for approval, within 28 days of the date of determination of this approval, or any other such date as agreed to by the Town, showing the above;

5. All vehicle parking bays, including manoeuvring and circulation areas, required in accordance with Condition 4 above shall be sealed/paved, surface marked in accordance with *Australian Standard 2890.1 - Off-street car parking* and *Australian Standard 2890.6 - Off-street parking for people with disabilities*, and drained.

The above works shall be completed within 90 days of the Town's written approval of the amended plans, required in accordance with Condition 4 above, and thereafter maintained by the landowner for the life of the development to the satisfaction of the Town;

6. The use shall operate in accordance with the Parking Management Plan (PMP) dated October 2020 for the duration of the use operating from the site, to the satisfaction of the Town;
7. No amplified music may be played outside the building; and
8. No more than:
 - iii) 6 staff; and
 - iv) 12 people in total;

may be present on the premises at any one time.

Standard Advice Notes to be included by Administration plus the following Non-Standard Advice Note(s):

1. The landowner is advised that a Form BA9 "Application for Occupancy Permit" for a change of building classification/use shall be submitted to the Town for approval within 28 days of the date of this approval, or such other time as agreed by the Town, in accordance with the *Building Act 2011* and *Building Regulations 2012*.

Motion put and CARRIED (5/0) (unanimous)

DV20.138 LOT 1299 (NO.179) THE BOULEVARD, FLOREAT – PROPOSED ADDITION TO EXISTING GARAGE

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for an addition to an existing garage which is partially within the street setback area of the subject property.

SUMMARY:

The application seeks to vary the requirements of cl26 of *Local Planning Scheme No. 1* in relation to the primary street setback. The western side of the garage is proposed to be extended 0.6m towards the side lot boundary to provide additional storage space for the landowners. A 0.6m² section of the addition will be set back 8m in lieu of 9m from the street boundary.

The addition will occupy a minor portion of the property's street setback area, and due to the unusually large verge, will be approximately 19m from the pedestrian footpath going passed the property, and approximately 26m from the road. Therefore the small extension of width of the garage will not have a significant impact on the streetscape when viewed from the footpath and the road.

Accordingly, it is recommended that the application be approved.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

In accordance with cl12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason(s):

- "2. *The determination of a development application under Cl. 34 (2) of Local Planning Scheme No. 1.*"

BACKGROUND:

Address:	Lot 1299 (No.179) The Boulevard, Floreat
Report Date:	10 November 2020
File Reference:	DA20/0303
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning - Jennifer Heyes
Contributing Officer:	Coordinator Statutory Planning - Andrew Bratley
Reporting Officer Interest:	Nil
Attachments:	1. Locality Plan (1 page) 2. Annotated Plan (1 page) 3. Development Plans (4 pages) 4. Site Photograph (1 page)

Applicant:	J Tout
Owner:	J Tout
Zoning:	Residential R12.5
Precinct:	P3: Floreat
Development Description:	Addition to Existing Garage
Development Value:	\$19,000
Existing Land Use:	Dwelling - Single
Proposed Land Use:	Dwelling - Single
Land Area:	930m ²
Heritage Listing:	No
Application Date:	17 September 2020
Application Process Days:	61 days

DETAILS:

Site Context

The subject site is located within the P3: Floreat Planning Precinct. The site currently contains a single dwelling, with fencing and landscaping within the street setback area. To the north of the property is Wembley Golf Course.

Proposal

The western side of an existing flat roofed garage is proposed to be extended 0.6m towards the side lot boundary to allow for additional storage space.

The existing garage is set back 8m in lieu of 9m from the street boundary. The addition to the garage is proposed to be set back the same distance from the street boundary, resulting in a 0.6m² section of the addition encroaching into the street setback area.

The addition is proposed to be set back 1m from the side lot boundary and therefore complies with the deemed-to-comply requirements in relation to lot boundary setbacks.

Internal alterations are also proposed inside the existing dwelling, however, they meet the deemed-to-comply requirements and therefore do not require development approval.

CONSULTATION:

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the advertising period.

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	Required	Proposed
Primary Street Setback (addition to existing garage)	9m	8m
<p><u>Clause 34 - Variations to Site and Development Requirements</u></p> <p>"(1)a) <i>an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i></p> <p>(2) <i>Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i></p> <p><u>Local Planning Policy 3.1 – Streetscape</u></p> <p><i>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i></p> <p><i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i></p> <p><i>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i></p> <p><i>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i></p> <p><i>c. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</i></p> <p><i>i. Do not detrimentally affect adjoining properties;</i></p> <p><i>ii. Are suitably landscaped to reduce the impact of building bulk; and</i></p> <p><i>iii. The natural topography of the land can still be interpreted, despite the retaining."</i></p>		

Assessment

A 0.6m² section of the addition will encroach into the street setback area, in addition to the existing 5.5m² section of the garage already in the street setback area. The garage and the proposed addition will therefore occupy 2.9% of the street setback area which is not considered to be significant.

No other building encroaches into the street setback area of the subject property, and the single storey addition complies with the deemed-to-comply requirements for lot boundary setbacks. Therefore, the proposal will preserve the amenity of the neighbouring property.

The verge which is adjacent to the subject property is unusually wide. The addition will be approximately 19m from a pedestrian footpath extending passed the property and approximately 26m from the road. Therefore the small encroachment into the street setback area when viewed from the pedestrian footpath and the road will not be too apparent due to the addition's distance from them.

In addition, the proposed addition will be constructed of the same materials as the existing garage and dwelling. This will further minimise any impact building bulk will have on the streetscape as a result of the reduced setback.

No concerns were received during the advertising period with regard to the proposed reduced street boundary setback.

Having due consideration of the relevant sub-clauses of cl67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, it is considered that the addition, in this particular case, will not have a significant impact on the prevailing and desired development context due to the surrounding character of the area.

The proposed non-complying application is therefore supported and it is recommended that the application be approved.

CONCLUSION:

The addition, combined with the existing garage, will occupy a relatively small amount of the property's street setback area, and its encroachment into the street setback area will not be too apparent when viewed from the public realm due to its scale and location. Therefore it will still generally maintain the open nature of the local area.

The proposed location and extent of the addition will also result in building bulk not having an adverse impact on the visual amenity of the surrounding properties.

For these reasons, it is recommended that the application be approved.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
State Planning Policy 7.3 - Residential Design Codes Volume 1
Local Planning Policies

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council **APPROVES the application for an addition to an existing garage at Lot 1299 (No.179) The Boulevard, Floreat, as shown on the attached plans stamped received 17 September 2020, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval; and**
- 2. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town.**

Standard Advice Notes to be included by the Administration.

Motion put and CARRIED (5/0) (unanimous)

**DV20.139 LOT 8 (NO. 17) JUBILEE CRESCENT, CITY BEACH –
ALTERATIONS/ADDITIONS TO EXISTING RETAINING WALLS AND FRONT
FENCING TO EXISTING SINGLE HOUSE [DEVELOPMENT COMMENCED]**

PURPOSE:

The purpose of this report is for Council to consider a retrospective development application for existing retaining walls, front fencing infill, letterbox and meter box walls, and a solid wall within the street setback area to remain.

SUMMARY:

The retaining walls as constructed have a maximum height of 0.74m and are located within the 7.5m front setback area and therefore do not meet the primary street setback requirement of Clause 26 of the Town's *Local Planning Scheme No. 1*.

The front fencing infill as constructed has a maximum height of 1.96m in lieu of 1.8m, and slat gap widths of 65mm in lieu of minimum 75mm. The letter box wall and meterbox wall have a combined maximum width of 1.1m in lieu of 1m and there is a solid wall along the west boundary within the front setback area with a maximum height of 1.9m in lieu of having a maximum height of 1.8m and being 'open style'.

It is considered that the increased height of the retaining walls will not have an adverse impact on the streetscape, as the retaining walls have the appearance of forming part of the front fencing, which is permitted to have a maximum solid wall height of 0.75m in accordance with the Town's *Local Planning Policy 3.1 – Streetscape*.

It is considered that the combined increased width of the letter box and meterbox walls will have a minor impact on the overall streetscape.

The 1.9m high solid wall on the west boundary is considered to not impact the streetscape given the wall is abutting an existing solid limestone wall on the adjoining property with a maximum height of 1.7m.

However, the increased height and reduced visual permeability of the front fencing infill is considered to have an adverse impact on the streetscape, as the height and reduced visual permeability creates unnecessary bulk and impacts the amenity of the locality given the already reduced landscaping approved in the front setback area. The reduced visual permeability of the fencing infill also reduces street surveillance and limits view of the dwelling from the street, which is not in keeping with the desired future character of the City Beach precinct for open frontages.

Accordingly, it is recommended that, if the application is approved, conditions be included requiring the front fencing to be modified to be 'open style' as per the definition in the Town's *Local Planning Policy 3.1 – Streetscape* and the fencing be reduced in height to a maximum of 1.8m.

The application is therefore supported subject to conditions.

AUTHORITY/DISCRETION:

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input checked="" type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

DELEGATION:

In accordance with cl12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason:

"2. The determination of a development application under Cl. 34 (2) of Local Planning Scheme No. 1."

BACKGROUND:

Address:	Lot 8 (No. 17) Jubilee Crescent, City Beach
Report Date:	21 July 2020
File Reference:	DA20/0074
Responsible Officer:	A/Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Statutory Planning Officer, Steven Laming
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Original Approval Plans Stamped Approved 18 August 2016 (2 pages) 3. Development Plans Dated 2 October 2020 (1 pages) 4. Site Photos (7 pages)

Applicant:	Natalie Snooks
Owner:	Natalie Snooks
Zoning:	Residential R12.5
Precinct:	P1: City Beach
Development Description:	Alterations/Additions to Existing Retaining Walls and Front Fencing to Existing Single House (Development Commenced)
Development Value:	\$5,000
Existing Land Use:	Dwelling (Single)
Proposed Land Use:	N/A – works associated with existing use
Land Area:	569m ²
Heritage Listing:	No
Application Date:	24 March 2020
Application Process Days:	238 days – applicant agreed to extend determination timeframe

DETAILS:

Site History

Original Approval (0170DA-2016)

On 18 August 2016, the Town under delegation approved development application 0170DA-2016 for a two-storey single house at the subject property.

That approval included a retained below ground pool in the front setback area, which was set back 1.55m from the front boundary, and a garden bed, situated between the pool retaining wall and the front boundary, which had a finished ground level approximately at natural ground level.

The pool safety fencing was situated at the pool edge and the perimeter of the pool deck and garden bed to the west of the pool.

Surrounding the garden bed on the front boundary, the eastern perimeter of the garden bed, and the west boundary within the front setback area, was 1.8m high front fencing, which was annotated on the plans as having open-to-solid ratio of 4:1 (80%). The approved plans did not provide specific dimensions of the fencing infill slat width or depth or gaps between each slat, however, measurement shows the infill slat width was 2mm and the depth was 10mm, and the gaps between each slat was 10mm, which would meet the required open-to-solid ratio of 4:1 (80%).

Previous Amended Approval (0170DA-2016.01)

On 28 August 2018, Council approved development application 0170DA-2016.01, which amended the original approval by enclosing the first floor balcony located in the north-western corner of the building. That application was required to be determined by Council as the balcony was located in the 7.5m front setback area, and its enclosure was a variation to the front setback requirement of the Town's *Local Planning Scheme No. 1*.

Compliance

An associated building permit was issued in 2017, which showed the front fencing and retaining walls were as per the original approval (0170DA-2016).

Construction of the development was completed in October 2019.

In January 2020, the Town undertook a routine inspection of the pool safety fencing at the property, which was found to not be compliant with the Building Code of Australia, as the fencing was climbable.

During the inspection it was also identified that the retaining walls and front fencing were not constructed as per the approved development plans or building permit plans.

Site Context

The site is located within the City Beach Planning Precinct and is currently occupied by a two-storey single house.

Jubilee Park reserve is located on the opposite side of the street and Challenger Parade is located approximately 55m to the west of the site.

The locality consists predominately of two-storey single houses.

Application History

Following the community consultation period and an on-site meeting between the applicant and the Town's officers, amended plans were received that accurately depicts the retaining walls, front fencing and landscaping as constructed on-site, and proposes to widen the existing landscaping strip to west side of the driveway in order to provide a truncation area in order to meet deemed-to-comply sightlines requirements of the R-Codes. It is those amended plans that are the subject of this report to Council.

Proposal

The application seeks retrospective development approval for existing retaining walls, front fencing infill, letterbox and meter box walls, and a solid wall to remain which have not been built in accordance with the development approval (O170DA-2016) issued on 18 August 2016 or the associated building permit.

The details of the changes to the original approval that result in further variations to the deemed-to-comply requirements are provided in the below table:

Element	Original Approval (O170DA-2016)	Subject Application/As Constructed	Complies
Primary Street Setback	<p>The garden bed was located between the pool retaining walls and the front boundary.</p> <p>All retaining and finished ground levels in the front setback area were less than 0.5m above the natural ground levels</p>	<p>The garden bed is located behind retaining walls, which are built up to the front boundary.</p> <p>The retaining walls have a top of wall height that is a maximum height of 0.74m above the natural ground level at the front boundary in lieu of maximum 0.5m.</p> <p>The garden bed retaining walls have a nil setback to the front boundary in lieu of being setback minimum 7.5m</p>	No
Front Walls and Fencing (retaining walls and pool safety fencing)	<p>The pool safety fencing was situated at the pool edge and the perimeter of the pool deck and garden bed to the west of the pool.</p> <p>The combined maximum height of the retaining walls and pool safety fencing is 1.7m above the natural ground level.</p> <p>Condition 5 required the front fencing to have an open to solid ratio of 4:1 as follows:</p>	<p>The pool safety fencing is situated on top of the garden bed retaining walls along the front boundary and the perimeter of the pool deck and garden bed to the west of the pool.</p> <p>The combined maximum height of the retaining walls and pool safety fencing is 1.96m above the natural ground level in lieu of maximum 1.8m.</p> <p>The pool safety fencing slats have a depth of 50mm and a width of 25mm. As the depth is</p>	No

	<p><i>“5. The infill panels of the fencing and gate in the front setback area to have a surface with an open to solid ratio of no less than 4:1.”</i></p>	<p>greater than the width, the slats are required to be separated by minimum 75mm (1.5x the depth) in accordance with the ‘open style’ definition in LPP 3.1, however the slats as constructed are separated by 65mm.</p> <p>The letter box and meter box walls have a combined maximum width of 1.1m in lieu of 1m.</p> <p>There is a solid wall along the western boundary with a maximum height of 1.9m in lieu of having a maximum height of 1.8m and being ‘open style’.</p>	
Sight lines	<p>1.8m high 80% visually permeable fencing was located within the 1.5 x 1.5m truncation area to west of the driveway.</p> <p>The fencing was setback 0.75m from the driveway.</p>	<p>The amended plans received 2 October 2020 propose a widened landscaping strip to the west of the driveway in order to provide a truncation area that meets the deemed-to-comply minimum 1.5m x 1.5m truncation area in accordance with Clause 5.2.5 of the R-Codes.</p> <p>Outside of the truncation area, the garden bed retaining wall and pool safety fencing is setback 1.5m from the driveway.</p>	Yes
Landscaping	<p>Condition 2 of original approval required minimum 2 advanced growth trees in front setback area as follows:</p> <p><i>“2. Two (2) advanced growth trees, being a minimum 45 litre bag or a minimum of 2 metres in height and diameter, to be provided within the front setback area in accordance with the provisions of Clause 3.1.9: Landscaping of the Town’s Local Planning Policy 3.1 – Streetscape.”</i></p>	<p>The amended plans received 2 October 2020 propose two advanced growth trees in the landscaping strip to the east of the driveway, within the front setback area, which satisfies Condition 2 of the original approval.</p>	Yes

CONSULTATION:

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

In response, one submission was received, which raised no objection.

Following the community consultation period, amended plans were received that accurately depicted the retaining walls, pool safety fencing and landscaping as constructed on-site, and proposed to widen the existing landscaping strip to west side of the driveway in order to provide a truncation area in order to meet deemed-to-comply sightlines requirements of the R-Codes.

As the amended plans did not result in any further variations to deemed-to-comply requirements, those plans were not re-advertised for consultation.

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	Required	Proposed
Primary Street Setback (Garden bed retaining walls with a maximum height greater than 0.5m above NGL)	7.5m	Nil setback
<p>Clause 34 - Variations to Site and Development Requirements</p> <p><i>"(1)(a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i></p> <p><i>(2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i></p> <p>Local Planning Policy 3.1 – Streetscape</p> <p><i>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i></p> <p><i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i></p> <p><i>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i></p> <p><i>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i></p> <p><i>c. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</i></p> <p><i>i. Do not detrimentally affect adjoining properties;</i></p> <p><i>ii. Are suitably landscaped to reduce the impact of building bulk; and</i></p> <p><i>iii. The natural topography of the land can still be interpreted, despite the retaining."</i></p>		

Assessment

The garden bed retaining walls located within the front setback area have a maximum top of wall height of 0.74m above the natural ground level in lieu of a maximum height of 0.5m.

It is considered that the increased height of the retaining walls built up to the front boundary will not have an adverse impact on the streetscape, as when viewed from the street, the retaining walls have the appearance of being part of the front fencing, which in accordance with Clause 5.1 of the Town's *Local Planning Policy 3.1 – Streetscape*, could have a solid wall with a deemed-to-comply maximum height of 0.75m.

As the retaining walls have the appearance of forming part of the front fencing, it is considered that the increased height of the walls to 0.74m is compatible with the adjoining properties and development in the locality, and therefore is consistent with the desired future character of the locality.

The proposed non-complying application is therefore supported.

Local Planning Policy 3.1 - Streetscape

<i>5.1 Street Walls and Fences</i>		
	Deemed-to-comply Requirement	Proposed
Letter box and meterbox walls combined maximum width	1m	1.1m
Letter box and meterbox walls minimum separation	2m	Nil
Solid wall (west boundary)	'Open style'	Solid
Front fencing maximum height	1.8m	1.96m
Fencing infill slat gap width	75mm (1.5 times the depth of slat)	65mm
Design Principles (of R-Codes): <i>"Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per Clause 5.1.2), with appropriate consideration to the need:</i> <ul style="list-style-type: none"> • <i>for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and</i> • <i>necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial."</i> 		

Design Principles Assessment

Letterbox and Meterbox Walls

The combined increased width of the letterbox and meterbox walls and the nil setback between the walls is not considered to have an adverse impact on the streetscape, as the walls sit in the corner of the site, are set back 1.2 from the front boundary, and integrate with the existing solid wall with a maximum height of 1.7m on the adjoining property.

Solid Wall (West boundary)

Although the solid wall with a maximum height of 1.9m on the west boundary is not shown on the plans, a site visit by the Town's officers found that the wall has been constructed without approval (refer to **Attachment 4 – Site Photos**). Notwithstanding, the wall is not considered to impact the streetscape or the amenity of the locality given the wall is situated along the side boundary where it abuts an existing solid limestone wall on the adjoining property with a maximum height of 1.7m.

Fencing Infill and Maximum Height

The front fencing infill does not meet the front fencing 'open style' definition in the Town's *Local Planning Policy 3.1 – Streetscape*. The fencing slats have a width of 25mm and a depth of 50mm. As the depth of the slats are greater than the width, the gaps between each slat are required to be 1.5 times the depth of the slats. In this instance, the required minimum gap width is 75mm, however, gaps of only 65mm have been provided. The increased depth of the slats and the reduced gaps between each slat results in the fencing having reduced visual permeability when viewed from a range of angles.

The increased height and the reduced visual permeability of the front fencing is not considered to be necessary for attenuation of traffic impacts, or privacy or noise screening, as Jubilee Crescent is not a primary or district distributor or integrator arterial.

The front fencing is not considered to be consistent with the desired future character of the City Beach precinct, as per the Town's *Local Planning Policy 3.1 – Streetscape*. The increased height and reduced visual permeability has an unnecessary building bulk impact on the streetscape and impacts the amenity of the locality, especially given the already reduced approved landscaping and building in the front setback area. The reduced visual permeability of the fencing infill also reduces street surveillance and limits view of the dwelling from the street, which is not in keeping with the open nature of the area.

For the above reasons, the application is not considered to meet the associated design principles, and it is therefore recommended that, if the application is approved, a condition be included requiring the fencing within the primary street setback area to be modified to meet the front fencing 'open style' definition in the Town's *Local Planning Policy 3.1 - Streetscape* and the deemed-to-comply maximum height of 1.8m to the satisfaction of the Town.

CONCLUSION:

The retaining walls with a maximum height of 0.74m within the front setback area are not considered to have an adverse impact on the streetscape or surrounding properties, as the walls have the appearance of front fencing, which is permitted to have a solid maximum wall height of 0.75m.

The combined increased width of the letterbox and meterbox walls, the nil separation between those walls, and the solid wall along the west boundary with a maximum height of 1.9m, are not considered to have an adverse impact on the overall streetscape or amenity of the locality given the walls are situated in the corner of the site where they abut an existing solid limestone wall on the adjoining property with a maximum height of 1.7m.

However, the increased height and reduced visual permeability of the front fencing infill within the front setback area is considered to have an adverse impact on the streetscape and amenity of the locality, as it creates unnecessary bulk, reduces street surveillance and limits the visual connection between the dwelling and the street, which is not consistent with the desired future character of the City Beach Precinct for open frontages.

It is therefore recommended that, if the application is approved, conditions be included requiring the existing front fencing to be modified to have a maximum height of 1.8m and to meet the 'open style' definition for front fencing in LPP 3.1.

For the above reasons, it is recommended that the application be approved, but subject to conditions which will ensure the fence is modified to comply with the visual permeability provisions of the Policy.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
State Planning Policy 7.3 - Residential Design Codes Volume 1
Local Planning Policies*

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

Committee Meeting 17 November 2020

Impartiality Interest Declaration – Cr McKerracher

Prior to consideration of the item, Cr McKerracher disclosed an interest affecting impartiality and declared as follows:- “with regard to Item DV20.139, I declare that I have an association in the form of an acquaintance with the applicant with occasional catch up from time to time having attended school together. As a consequence, there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Impartiality Interest Declaration – Mayor Shannon

Prior to consideration of the item, Mayor Shannon disclosed an interest affecting impartiality and declared as follows:- “with regard to Item DV20.139, I declare that the applicant is known to me and is more of a mutual friend as she is a local real estate agent. As a consequence, there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council **APPROVES** the application for development which has commenced, being alterations/additions to existing retaining walls and front fencing to remain at Lot 8 (No. 17) Jubilee Crescent, City Beach as shown on the attached plans stamped received 2 October 2020 subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval; and
2. The infill panels of all fencing/gates within the 7.5m primary street setback area (which includes any side boundary fencing within this area) shall be modified within 60 days of the date of this approval to be "open style" (as defined by the Town's *Local Planning Policy 3.1 - Streetscape*) and shall meet all other deemed-to-comply provisions of cl5.1 of the Town's *Local Planning Policy 3.1 – Streetscape* to the satisfaction of the Town.

Standard Advice Notes to be included by the Administration plus the following Non-Standard Advice Notes:

1. With reference to Condition 2 above, the landowner(s) is advised that the pool safety barrier is also required to comply with Australian Standard 1926.1 – 2012.
2. With reference to Condition 2 above, the applicant/landowner is advised that in accordance with *Local Planning Policy 3.1 – Streetscape*, the term 'open style' is defined to be the following with regard to front walls and fencing:

Open style definition:

- "1. Street walls and fences can be solid up to 0.75m from natural ground level, measured from the level on the street side.*
- 2. For portions of street walls and fences above 0.75m in height:*
 - a) With the exception of letterboxes and meter boxes, open and/or visually transparent elements are to be distributed evenly along the length of the street wall or fence; and*
 - b) A minimum of 50% of the surface area above 0.75m of the total street wall or fence (including pillars), as viewed from the street boundary, is to be open and/or visually transparent; and*
 - c) Where a street wall or fence has blades, rails or slats with a depth greater than the width:*
 - i. the gaps or visually transparent portions shall be 1.5 times the depth of the blade, rail or slat, and*
 - ii. the blade, rail or slat shall have a maximum width of 10mm, and*
 - iii. the blade, rail or slat shall have a maximum depth of 70mm."*

Motion put and **CARRIED** (5/0) (unanimous)

**DV20.140 LOT 317 (NO. 23) KINKUNA WAY, CITY BEACH – PROPOSED CARPORT
ADDITION TO EXISTING SINGLE DWELLING**

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for a carport to be constructed within the street setback area. The proposal also does not meet clause 7 of *Local Law 43 - Buildings on Endowment Lands and Limekilns Estate (LL43)*.

SUMMARY:

The current application is the same application that was refused by Council in 2018. It seeks to vary the requirements of cl26 of *Town Planning Scheme No. 1* in regards to the primary street setbacks proposed. The proposed carport is proposed to be set back 3.75m in lieu of 7.5m from the street boundary.

In addition, the proposal does not meet the Deemed-to-Comply requirements in relation to landscaping under *Local Planning Policy 3.1: Streetscape (LPP3.1)*, the car parking dimensions of the *Residential Design Codes 7.3 Volume 1*, and the materials of construction do not meet clause 7 of Local Law 43.

The reduced primary street setback to the carport is considered to have an adverse impact on the streetscape, which is characterised by the majority of dwellings being set back 7.5m from the street boundary. In addition, the future desired character of the City Beach Planning Precinct emphasises the need to reduce the impact of parking structures within the existing streetscape by locating such structures at the rear or in line with the front wall of dwellings.

Due to the cumulative impact of the reduced primary street setback, reduced amount of landscaping and non-compliance with parking dimensions, it is considered the proposal will have a detrimental impact on the established streetscape, and local character of the Precinct.

Accordingly, it is recommended that the application be refused.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

In accordance with cl12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason(s):

- “• *The determination of a development application under CI34. (2) of Local Planning Scheme No.1.*”

BACKGROUND:

Address:	Lot 317 (No. 23) Kinkuna Way, City Beach
Report Date:	17 November 2020
File Reference:	DA20/0161
Responsible Officer:	A/Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Statutory Planning Officer, Karen Liddell
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Development Plans (3 pages) 3. Site Photos (1 page) 4. Applicant's Comments (11 pages)

Applicant:	Richard Godfrey
Owner:	Richard Godfrey & Catherine Godfrey
Zoning:	Residential R12.5
Precinct:	P1: City Beach
Development Description:	Carport Addition to Existing Single House
Development Value:	\$16,000
Existing Land Use:	Dwelling (Single)
Proposed Land Use:	N/A – works associated with existing use
Land Area:	769m ²
Heritage Listing:	No
Application Date:	2 June 2020
Application Process Days:	168 days (78 day time extension agreed to by the applicant)

DETAILS:

Site History

In 2016, the Town received an application for the conversion an existing garage, located towards the rear of the site behind the dwelling, into a games room. The subsequent approval by the Town was issued in April 2016, which resulted in the reduction of covered parking onsite.

In 2017, the Town received an application for a proposed carport and kitchen addition to the existing dwelling. The proposal had been lodged by the same applicants as present (Bektic Design) and sought planning approval for a carport within the 7.5m primary street setback area. The carport was proposed with a minimum setback of 3.75m from the primary street boundary and was approximately 25.8m² in area.

The application was required to be put to a Council meeting for reasons of delegation, with a recommendation for conditional planning approval. Subsequently, the proposal was refused by Council at the April 2018 meeting due to it being inconsistent with the prevailing streetscape and garden suburb character of the locality.

The decision was appealed at the State Administrative Tribunal (SAT) in June 2018, but was later withdrawn by the applicant prior to commencement of a full hearing.

Site Context

The site is situated within the City Beach Planning Precinct, and is bound by Kinkuna Way to the West, and Maloney Park to the East. The locality consists predominantly of single two storey dwellings. The site comprises of a two storey dwelling with a front porte-cochere with two crossovers and a curved driveway through the porte-cochere. The applicant proposes to construct a double carport to provide covered car parking. There is no other covered parking on site apart from the porte-cochere.

The existing dwelling on the site has a minimum primary street setback of 5m to the porte-cochere, and a primary street setback of 8.7m to the remainder of the dwelling. It is noted that the applicant seeks to widen the existing southern driveway to service the proposed carport.

Application History

At the request of further information by the assessing officer, the applicant provided amended plans and further justification. The amended development plans stated the finish of the proposed colorbond carport roof, and address the concerns raised by the Town's Infrastructure Department, in relation to the intent of vehicular manoeuvrability.

It is these latest plans and accompanying justification which are being presented to Council as part of this Report (refer **Attachment 4**).

Proposal

The application proposes a carport addition to the existing single dwelling. The variations for the proposal include:

1. The addition of a carport forward of the front wall of the existing dwelling onsite. The structure is set back 3.75m from the primary street, in lieu of 7.5m;
2. Proposed widening of the existing driveway, resulting in a total of 41.8% landscaping in the primary street setback area, in lieu of 60%;
3. A total width of proposed side-by-side configured car parking bays of 5.14m, in lieu of 5.4m; and
4. Proposed weatherboard cladding finish to the proposed addition, in lieu of masonry materials listed within Local Law 43.

CONSULTATION:

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the public consultation period.

APPLICANT'S COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer Attachment 4).

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	Required	Proposed
Primary Street Setback (Carport)	7.5m	3.75m
<u>Clause 34 - Variations to Site and Development Requirements</u>		
<p>"(1) ... a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</p> <p>(2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</p>		
<u>Local Planning Policy 3.1 – Streetscape</u>		
<p>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</p> <p>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</p> <p>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</p> <p>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</p> <p>c. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</p> <p>i. Do not detrimentally affect adjoining properties;</p> <p>ii. Are suitably landscaped to reduce the impact of building bulk; and</p> <p>iii. The natural topography of the land can still be interpreted, despite the retaining."</p>		

Assessment

The streetscape of Kinkuna Way is characterised by nearly all existing dwellings and minor structures, other than terraced retaining walls, being set back a minimum 7.5m from the front boundary. Specifically, there are no carports located forward of an existing dwelling within Kinkuna Way, as proposed by the applicant.

LPP3.1 – Provision 1 (a)

"a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;"

The relevant desired future character set out in Local Planning Policy 3.1 states:

- Development shall be constructed to maintain the traditional street setbacks and separation between buildings, to preserve the original open nature and gardenesque quality that the precinct was designed for;
- New development shall create and enhance open landscaped front gardens within the street setback to maintain the green character of the streetscape and the precinct;
- New development shall reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located at the rear and side of properties."

Given the current and desired future character of the locality, it is considered that the reduced street setback to the double carport will have an adverse impact on the streetscape. The existing portico is currently set back 5m from the street boundary, and it is considered that the addition of the proposed carport with a reduced setback will increase building bulk within the front setback area.

The carport will project forward of an established streetscape pattern within Kinkuna Way. It is therefore considered that the proposal would not be compatible with the surrounding development.

The proposed non-complying application is therefore not supported and it is recommended that the application be refused.

State Planning Policy 7.3 - Residential Design Codes Volume 1 / Local Planning Policies

<i>Design of Parking Spaces</i>		
	Deemed-to-comply Requirement	Proposed
Minimum on-site car parking dimensions	Car parking spaces and manoeuvring areas designed and provided in accordance with AS2890.1 (5.4mx5.4m).	The double vehicle carport proposes a 5.6m width and 5.14m length.
<u>Design Principles:</u> <i>"P4. Car, cycle and other parking facilities are to be designed and located on-site to be conveniently accessed, secure, consistent with the streetscape and appropriately manage stormwater to protect the environment."</i>		

Design Principles Assessment

The application proposes a double carport for two vehicles, located on the existing hardstand driveway, modified to accommodate vehicular access into the carport. The carport seeks a 0.46m car bay width shortfall, based upon compliant Australian Standards for a side-by-side parking configuration (5.4m x 5.4m).

The applicant's justification for the variation is that the proposed width of the structure is considered to adequately shelter the occupant's car bays, given the eaves width projects beyond the structural columns of the carport.

However, in order to accommodate two cars as proposed the Australian Standard for car parking spaces should be met. If not met, the Council would be approving a structure that is not fit for purpose and further parking solutions may be sought in the future to address the problem.

The car parking facility, whilst located to be conveniently accessed, it is not consistent with the established streetscape within Kinkuna Way.

For the above reasons, the application is not considered to meet the associated Design Principles relating to the design of car parking spaces.

<i>Local Planning Policy 3.1 - Streetscape</i>		
	Deemed-to-comply Requirement	Proposed
<i>Minimum landscaping amount within street setback area</i>	C2.2 A minimum of 60% of the primary street setback area (as prescribed by the Scheme or Table 1 of the R-Codes) shall be landscaped, this may be reduced to 50% of the primary street setback area,	The applicant proposes the planting of two advanced growth trees to compensate for a 5% reduction in landscaping per tree. The proposed landscaping area within the front setback area is 41.8% (60m ²).

	<p>on the basis of any combination of the following:</p> <ul style="list-style-type: none"> i. additional compensating landscaping is provided behind the primary street setback area and still visible from the primary street; and/or ii. 5% reduction in landscaped area per tree, to a maximum of two trees, for retention or planting of an advanced growth tree (minimum of 2m high and 2m canopy diameter, or minimum 45L bag size) within the primary street setback area. 	
<p>Design Principles:</p> <ul style="list-style-type: none"> <i>i. Landscaping that enhances the presentation of homes and gardens as viewed from the street;</i> <i>ii. The primary street setback area be predominantly garden, substantial plantings and/or the retention of existing vegetation;</i> <i>iii. The use of trees as a feature where possible;</i> <i>iv. Minimise the amount of hard surfaces in the front setback area;</i> <i>v. The proposed development is consistent with the Objectives of this Policy; and</i> <i>vi. The proposed development is consistent with the desired future character of the area as outlined in the Character Descriptions section of this Policy."</i> 		

Design Principles Assessment

The subject site currently has a landscaped area of 66m² (46%) within the primary street setback area. This is an existing shortfall of 20m². In order to accommodate the proposed carport, the existing driveway is to be widened, reducing the landscaped area by a further 6m². This results in only 60m² of the primary street setback area being landscaped. A 5% reduction is available where 2 metre trees are to be installed. Even with this compensation, the applicant has a shortfall of 11.65m². The applicant was asked to consider removing the secondary existing driveway in order to meet the landscaping requirements, but declined.

The character of the City Beach Planning Precinct is derived from a predominant pattern of large street setbacks, containing open and well-landscaped front gardens. By widening the driveway to facilitate vehicular access to the proposed carport, further adding to the existing shortfall of landscaping, the design is considered inconsistent with the existing and future desired character of the Precinct.

The desired future character of the City Beach Precinct is encapsulated in the locality’s traditional street setbacks, the preservation of front gardens, and the promotion of verge landscaping. The proposed development is considered inconsistent with this objective.

For the above reasons, the application is not considered to meet the associated Design Principles in relation to landscaping.

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)

Clause 7(c)		
	General Regulation	Proposed
Construction materials	All other dwelling-houses and all buildings shall be constructed of brick, stone, concrete or similar material.	The proposed carport design incorporates a wooden gable cladding.

Clause 2B

"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–

- a) for use for a purpose which is not permitted in that district;*
- b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.*

if the Council is satisfied by an absolute majority that:–

- i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and*
- ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".*

Assessment

The carport design is to include a wooden gable on the northern façade to match that on the existing dwelling. The use of the timber gable occupies a small percentage of the carport façade.

As the proposed gable is consistent with that existing on the site, and there are other examples of wooden gables within the locality, it is considered to be consistent with orderly and proper planning of the locality.

Given the small area of wooden gable proposed to be incorporated in to the building, approval is not considered to have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality.

For the above reasons, the application is considered to meet Clause 2B of *Local Law 43*.

CONCLUSION:

Due to the significantly reduced primary street setback, non-compliance with car parking standards and the subsequent impact on the provision of landscaping, the proposed development is not considered to be in keeping with the desired local character set out in the local planning framework.

The proposed carport within the primary street setback area is considered to have an adverse impact on the established streetscape which is reflective of the traditional garden suburb-style streetscape qualities, with extensive landscaping in the front garden and verge.

For the above reasons, it is recommended that the application be refused.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

Metropolitan Region Scheme

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 1

State Planning Policy 7.3 - Residential Design Codes Volume 1

Local Planning Policies

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council REFUSES the application for a Carport Addition to an Existing Single dwelling at Lot 317 (No. 23) Kinkuna Way, City Beach, as shown on the attached plans stamped received 11 August 2020 for the following reasons:

- 1. The proposal is a non-conforming application under Clause 26(1)(a) of *Local Planning Scheme No. 1*;**
- 2. The proposal does not satisfy Policy Objective 3 of the Town's *Local Planning Policy 3.1 – Streetscape*, as the reduced landscaping area would not maintain the existing and desired future streetscape character and amenity of the locality;**
- 3. The proposal does not meet the desired future character of the City Beach Precinct in accordance with the Town's *Local Planning Policy 3.1 – Streetscape*, as the development would not reduce impacts of parking structures within traditional street setbacks; and**
- 4. The proposal does not satisfy Clause 67(m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal is not compatible with its setting as the cumulative impact of the reduced primary street setback to the proposed carport, existing portico together with the reduced landscaping, will have an adverse impact on the local amenity and future desired character due to the building bulk and set an undesirable precedent.**

Motion put and CARRIED (5/0) (unanimous)

DV20.141 LOT 95 (NO. 1) LOWANNA WAY, CITY BEACH – SINGLE STOREY DWELLING WITH UNDERCROFT

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for a new single storey dwelling with undercroft, which includes an ancillary dwelling. The application seeks variations to the secondary street setback, lot boundary setbacks, building height and a screening structure to the alfresco area.

Council is to also consider this application under cl(7) of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) as the ground floor of the dwelling is proposed to be constructed using a Structural Insulated Panel (SIP) clad in a combination of Colorbond metal and timber.

SUMMARY:

The application does not comply with the relevant provisions of *Local Planning Scheme No.1, Local Law 43 – Buildings on Endowment Lands and Lime Kilns Estate* and does not meet the deemed-to-comply provisions of the *Residential Design Codes 7.3 Volume 1*. The variations are as follows:

1. Secondary street setback incursion of 90mm;
2. A reduced side lot boundary setback of 1.5m in lieu of 1.7m;
3. A reduced rear lot boundary setback of 2.359m in lieu of 6m;
4. A building height of 7.05m in lieu of 7.0m;
5. A building (garage) on the southern boundary with a nil setback which does not abut the dimensions of the existing parapet wall;
6. An outdoor screen to the verandah area that results in three sides of the area being permanently enclosed; and
7. Local Law 43 – SIP external wall construction clad in metal and timber.

Based on an individual design principles assessment, the variations identified at points 1, 2, 4, 6 and 7 are considered to be minor in nature with no adverse impact on the streetscape or adjoining neighbours. These variations are supported.

However, the variations identified at points 3, 5 are not considered to meet a design principles assessment as they are not in-keeping with the desired future character of the City Beach Precinct and have an adverse impact on the building bulk to adjoining properties.

Most of the reduced rear setback encroachment is associated with the ancillary dwelling which is integrated into the main dwelling. The smaller component of the variation is attributed to the dwelling's alfresco/verandah area. The reduced setback results in little relief to the building bulk along the western boundary. This is also the portion of the dwelling that is two-storeys due to the proposed undercroft.

The proposed garage built to the southern lot boundary adjoins an existing parapet wall. However, the proposed garage wall extends 700mm in front of the existing parapet, making it visible from the street.

Neither of these variations reflect the intent of the R-12.5 coding nor the desired character garden city character to maintain separation between buildings and preserve the open nature of the precinct.

Accordingly, it is recommended that the application be refused.

AUTHORITY/DISCRETION:

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input checked="" type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

DELEGATION:

In accordance with cl.12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason:

- *The determination of a development application under CI34. (2) of Local Planning Scheme No.1."*

Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)* requires Council to determine development applications which do not meet the requirements of *Local Law 43*.

BACKGROUND:

Address:	Lot 95 (No. 1) Lowanna Way, City Beach
Report Date:	10 November 2020
File Reference:	DA20/0234
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Planning Officer, Karen Liddell
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Development Application Plans (8 pages) 3. Annotated Development Plans (2 pages) 4. Site Photos (2 pages) 5. Schedule of Submissions (3 pages) 6. Applicant's Comments (26 pages) 7. Review of approved rear setback variations (4 pages)

Applicant:	New Home Building Brokers
Owner:	Annette Dawn Barton and Geoff Stoneman
Zoning:	Residential R12.5
Precinct:	P1: City Beach
Development Description:	New single storey dwelling with undercroft
Development Value:	\$900,000
Existing Land Use:	Dwelling – Single
Proposed Land Use:	Dwelling – Single
Land Area:	1025m ²
Heritage Listing:	Nil
Application Date:	17 July 2020
Application Process Days:	124 days (34 day time extension agreed to by applicant)

DETAILS:

Site Context

The site has an east-west orientation and is located on the corner of Lowanna Way and Hesperia Avenue within the City Beach Precinct. The site has a northerly aspect to Lowanna Way. It contains a two-storey dwelling with undercroft, presenting as three storeys to Lowanna Way, which is to be demolished. Surrounding properties contain single and two-storey dwellings of varying ages and architectural styles. There are some instances of “under crofts” and third-storey dwellings also in the vicinity.

The topography of the land has a fall of approximately 3.5m across the site from the south-eastern corner at Hesperia Avenue (Primary Street) to the north-western corner adjoining Lowanna Way (Secondary Street).

The existing character of the immediate area is comprised of new and existing dwellings, many of which have been extended and renovated.

Application History

In June 2020, the Applicant sought the Town’s comments on the proposed dwelling by way of a Request for Preliminary Comments. That assessment advised the Applicant of variations relating to buildings on the boundary, rear lot boundary setback, open space, building height, vehicular access (removal of street trees and location of crossovers), visual privacy and Local Law 43. The Applicant was advised that as the proposal was seeking variations to the identified provisions, a development application was required. The Applicant was further advised that given the identified variations, it was unlikely to be supported by the Town’s Administration.

In July 2020, an application for development approval was submitted along with justification for a design principles assessment applicable to the variations to the secondary street setback, rear lot boundary setback, buildings on the boundary, building height, vehicle access and Local Law 43.

Following advertising, a meeting was held with the Applicant in September 2020 to discuss the variations, with a focus on the proposed building on the boundary, rear lot boundary setback and the building height. The applicant was made aware of the Town’s position regarding these variations and that it was unlikely to recommend approval.

Amended plans were subsequently submitted which increased the rear setback from 1.5m to a minimum of 2.359m, reduced the building height from 7.55m to 7.056m and addressed other minor variations. The variation to buildings on the boundary was not amended and remained unchanged.

It is these latest plans stamped received 14 October 2020, which are being presented to Council as part of this report (refer **Attachment 2**).

Proposal

The application proposes to construct a new single storey dwelling with undercroft, which includes an ancillary dwelling, seeking the following variations:

1. A minor incursion of 0.09m into the secondary street setback area associated with the corner of a roofed verandah;
2. A nil side (southern) lot boundary setback to a garage which projects 700mm in front of the adjoining existing parapet wall;
3. A 1.5m side (southern) setback to bedrooms 2 and 3 and the laundry in lieu of 1.7m;

4. A minimum 2.359m rear setback to an ancillary dwelling living room and bedroom, and alfresco/verandah area, in lieu of 6m;
5. A building height of 7.05m in lieu of 7.0m;
6. An outdoor slatted and fixed aluminium screen to the verandah area, behind the secondary street setback area, that encloses the area on three sides in lieu of two sides resulting in the area being more enclosed than open; and
7. External wall construction out of structural insulated panels, in lieu of brick, stone, concrete or similar material, or of brick veneer, and clad in Colorbond metal panels and timber.

CONSULTATION:

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

In response, a total of two submissions were received all of which objected to an element of the application.

The main concerns raised during the public consultation period are summarised below.

- a) Objection was raised to the reduced rear setback due to the impact of bulk and scale.
- b) Objection was raised to the use of metal cladding as it is not considered to be in-keeping with the area, especially within the immediate vicinity of Lowanna Way. It is considered to be inappropriate and an ultra-modern 'fad' metal.
- c) There were no objections raised in regard to the other variations advertised to neighbouring properties.

A Schedule of Submissions that includes each submission in its entirety is attached to this Report (refer **Attachment 5**).

APPLICANT'S COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer **Attachment 6**).

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	Required	Proposed
Secondary Street Setback (Verandah roof)	3.75m	3.66m

<i>Clause 34 - Variations to Site and Development Requirements</i>	
"(1)	b) <i>an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i>
(2)	<i>Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i>

Local Planning Policy 3.1 – Streetscape

"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme ...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.

- a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;
- b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;
- c. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:

Assessment

The variation being sought to the secondary street setback is 0.09m due the encroachment of the north-eastern corner of the verandah roof. This encroachment is offset by a secondary street setback of over 12.5m at the western end of the structure.

This variation is considered to be minor and would not be noticeable from the street as the walls of the building will be setback behind the secondary setback area. Therefore, the variation is considered to be in-keeping with the desired character for the City Beach Precinct with no loss of amenity to the streetscape.

Having due consideration of the relevant sub-clauses of cl67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, it is considered that the minor encroachment of the verandah roof, in this particular case, will not have a significant impact on the prevailing and desired development context.

The proposed non-complying application is therefore supported.

State Planning Policy 7.3 - Residential Design Codes Volume 1 / Local Planning Policies

5.1.3 Lot boundary setback		
	Deemed-to-comply Requirement	Proposed
Side (southern) lot boundary <ul style="list-style-type: none"> • Ground floor (Bedrooms 2 and 3, Laundry) 	1.7m	1.5m
Rear (western) lot boundary <ul style="list-style-type: none"> • Undercroft (Garage, Store, Workshop) • Ground Floor (Ancillary dwelling bedroom, living; Alfresco) 	6.0m 6.0m	Min 2.359m Min 2.359m
Design Principles (of R-Codes): "P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to: <ul style="list-style-type: none"> • reduce impacts of building bulk on adjoining properties; • provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • minimise the extent of overlooking and resultant loss of privacy on adjoining properties". 		

Design Principles Assessment

Side setback variation:

The ground floor side setback variation of 1.5m in lieu of 1.7m is for a length of approximately 14m (total boundary length is 46.31m). This portion of the wall is articulated with a 2.97m section being set back approximately 3m from the southern lot boundary. It is considered this articulation and “relief” within the length of the wall will result in a reduced impact of building bulk on the adjoining property.

In addition, the adjoining property has a parapet wall for a length of 13m along this boundary. Approximately 7m of the 14m proposed wall length where the variation is sought, is adjacent to the parapet wall.

In light of the articulation to the subject wall length, and half of it being adjacent to the adjoining parapet wall, there is considered to be minimal impact of building bulk to the adjacent property, and minimal impact on direct sun and ventilation. It should be noted that overshadowing is compliant.

There are no overlooking or privacy issues associated with the variation.

For the above reasons, the application is considered to meet the associated design principles relevant to the side setback.

Rear Setback Variation:

The setback to the rear lot boundary is articulated with the minimum setback being 2.359m and the maximum being approximately 5.0m. The portion of floor area within the rear setback equates to 55m² over two floors (undercroft 23.95m² and ground 31.05m²).

The encroachment into the rear setback area is located towards the southern boundary as the dwelling has been aligned to the southern boundary to maximise exposure to the northern orientation for outdoor living. This has placed the bulk of the dwelling in the portion of the site typically reserved for open space.

Whilst there will be no impact on overshadowing, and privacy screens have been introduced to overcome any overlooking, the two-storey component of the dwelling is located within the rear setback adding to the issue of building bulk on the adjoining property. It should also be noted that this portion of the building contains the ancillary dwelling and is over the permitted 7.0m building height.

Whilst corner sites can often present difficulties with meeting rear setback requirements, where variations are sought, typically there is a reasonably substantial area of open space provided along the other ‘rear’ lot boundary (albeit not necessarily the ‘technical’ rear setback) to compensate. This therefore provides some relief to the rear of the property and those it adjoins, maintaining openness between buildings and the character of the R12.5 zone. These variations often result as the new dwelling attempts to address both street frontages.

In this regard, the proposed development does not provide a substantial area of open space at the rear of the property and thus does not minimise building bulk impacts to adjoining properties. Therefore, the impact of the rear setback variation is considered to have an adverse impact on the adjoining properties, both to the west and south, and is not in-keeping with the future desired character for the precinct to provide the open space behind the dwelling as is expected in the City Beach Precinct.

Whilst it is appreciated that the Applicant is maximising the solar orientation of the dwelling, in this instance, orientating the dwelling along the southern and western (rear) lot boundaries has resulted in little to no relief provided to either boundary. The sense of 'openness' between buildings, and landscaped area for deep soil planting that the rear setback provides, which reflects the character of the City Beach Precinct, has not been provided.

The Applicant cited examples of where the Town has approved variations to the rear setback on corner lots within City Beach and Floreat. These examples were reviewed by Administration, a summary of which is provided in **Attachment 7**. Except for one of the examples cited, all rear setback variations were offset or compensated for with a reasonable portion of open space provided along the other 'rear' lot boundary or a combination of both 'rear' boundaries, thereby meeting the existing and desired future character for openness between buildings in this precinct.

During advertising, an objection to the rear setback variation was received citing the adverse impact of building bulk.

For the above reasons, the application is not considered to meet the associated design principles in relation to lot boundary setbacks.

5.1.6 Building height		
	Deemed-to-comply Requirement	Proposed
Maximum wall height (flat/concealed roof)	7m	Approximately 7.05m (at highest point, to north-west corner of alfresco/living)
<p><u>Design Principles (of R-Codes):</u> <i>"Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:</i></p> <ul style="list-style-type: none"> • <i>adequate access to direct sun into buildings and appurtenant open spaces;</i> • <i>adequate daylight to major openings into habitable rooms; and</i> • <i>access to views of significance".</i> <p>In addition, the following considerations of <i>Local Planning Policy 3.3 - Building Height (LPP 3.3)</i> are applicable:</p> <ol style="list-style-type: none"> a) <i>"Whether the proposed building height is consistent with the predominant building height of the buildings within the surrounding area; and</i> b) <i>The natural topography of the site and whether the proposed building height considers and responds to the topography".</i> 		

Design Principles Assessment

A small portion of the dwelling (north-west corner) is approximately 0.05m (50mm) over the permitted 7.0m building height. This is predominantly due to this being the lowest part of the site. The site has a fall of approximately 3.5m with the lowest part being the north-western corner.

The variation to the proposed building height does not have any impact on access to direct sun light for adjoining properties, nor does it impact on views of significance. The proposed building height is considerably lower than the existing dwelling in this portion of the site which is currently 3 storeys.

The variation to the building height is considered to be consistent with the surrounding predominant building height which has a range of single, two and three storey (two storeys plus undercroft) dwellings.

For the above reasons, the application is considered to meet the associated design principles in relation to building height.

<i>Local Planning Policy 3.2: Buildings on the Boundary</i>		
	Deemed-to-comply Requirement	Proposed
<i>Side (southern) lot boundary</i> • Garage	1.0m	Nil
<p>Design Principles (of R-Codes): <i>"P3.1 Buildings built up to boundaries (other than the street boundary) where this:</i> <ul style="list-style-type: none"> • <i>makes more efficient use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property.</i> <i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i> <ul style="list-style-type: none"> • <i>makes more efficient use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> • <i>positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework."</i></p>		

Design Principles Assessment

The Town's *Local Planning Policy 3.2* (LPP3.2) allows walls to be built up to a boundary behind the front setback line where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.

In this instance, the proposed parapet wall of 6.51m in length, abuts an existing parapet wall of approximately 13m in length. Both walls are single storey in height.

The proposed parapet wall is setback behind the primary street setback area, however, the 'beginning' of this wall does not align with the 'beginning' of the existing adjoining wall. It is 700mm forward of the adjoining building line.

Whilst this variation may be minor, the exposed portion of new parapet wall will be visible from the primary street. As buildings on the boundary generally do not reflect the desired future character of the precinct and the R12.5 zone, and being visible from the street, this variation is considered to have an adverse impact on the streetscape.

For the above reasons, the application is not considered to meet the associated design principles in relation to buildings on the boundary.

<i>Local Planning Policy 3.12: Minor Structures behind the Street Setback Area</i>		
	Deemed-to-comply Requirement	Proposed
3. Screening Structures (i) Outdoor blinds or screens to outdoor living areas (verandahs, patios, pergolas and the like) are exempt from planning approval where:	(ii) At least two of the other sides of the area remain open; or (iii) The material used is transparent, non-reflective, lightweight and does not permanently enclose the structure	<ul style="list-style-type: none"> • Angled vertical slat fixed aluminium screen. • Approx. 4m wide x 3m high • Located to northern elevation of proposed verandah to aid privacy to adjoining property. • Permanently encloses alfresco on three sides

Design Principles (of R-Codes):

- “• Structures to be located and setback from lot boundaries so as to:*
- *Reduce impacts on building bulk on adjoining properties;*
 - *Provide adequate direct sun and ventilation to active habitable spaces, outdoor living areas and habitable rooms of adjoining properties;*
 - *Minimise the extent of overlooking and resultant loss of privacy to active habitable spaces, outdoor living areas and habitable rooms of adjoining properties; and*
 - *Make effective use of private open space without compromising the above.*
 - *The dimensions and scale of the structure should allow for maintenance of:*
 - *Adequate access to direct sun into buildings and appurtenant open spaces;*
 - *Adequate daylight to major openings into habitable rooms;*
 - *Access to views of significance.*
 - *Structures should be designed to minimise adverse impact on the amenity of adjoining properties. The extent of the structure’s visual bulk, overshadowing impacts and obstruction of views should not exceed the deemed-to-comply requirements for a wall with major openings of the equivalent length and height.”*

Design Principles Assessment

The screening is a permanent fixture located on the northern elevation of the proposed verandah area and serves as a visual privacy screen to the adjoining neighbour. Without the screen there would be a minor encroachment to visual privacy behind the street setback line of the adjoining property. The screen is located a minimum of approximately 10.5m from the secondary street, well beyond the 3.75m setback requirement.

The resulting impact of the privacy screen is that the verandah area becomes enclosed on more than two sides. However, when considered in the context of the dwelling’s frontage to the secondary street, the screen represents only 12% of the verandah length. The remainder of the frontage is unobstructed allowing for adequate ventilation of the space. In addition, full-height major openings to habitable rooms address the verandah providing for passive surveillance of the street.

There is no impact on access to direct sun, overshadowing and ventilation to the adjoining property, nor on views of significance.

For the above reasons, the proposed screen is considered to meet the associated design principles in relation to minor structures behind the street setback area.

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)

Clause 7(a)		
	General Regulation	Proposed
Construction materials	<i>All other dwelling-houses [ie. non single-storey dwellings] shall be constructed of brick, stone, concrete or similar material.</i>	Construction method of ‘Structural Insulated Panel’, Clad with Colorbond metal cladding in ‘Monument’ and Spotted Gum timber cladding.

Clause 2B

“In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–

- a) for use for a purpose which is not permitted in that district;*
- b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.*

if the Council is satisfied by an absolute majority that:–

- i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and*
- ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality”.*

Assessment

As stated in the Applicant's justification, a sustainable approach to building design has been adopted. This has resulted in an alternate construction method being proposed. The undercroft is to be constructed out of concrete, consistent with Local Law 43, whilst the ground floor is to be constructed using Structural Insulated Panels (SIPS) for the external walls and timber framed internal walls. The external panels will be clad in Colorbond metal (Monument) and Spotted Gum timber.

The design of the dwelling is such that most of northern elevation addressing the secondary street is clear glazing. Therefore, little of this alternative construction method is visible from the largest street frontage. The frontage to the primary street, the narrower frontage, is predominantly timber cladding over the SIPS walls.

As the visible portions of the dwelling that are clad in the timber and metal are predominantly to the narrowest street frontage, the impact on the streetscape is not considered to be inconsistent with other dwellings in the vicinity that have similar approved feature cladding.

Most of the SIPS panels and cladding materials are located on the southern and western elevations, both of which address side and rear lot boundaries. Therefore, there is little impact on the streetscape.

The non-compliant building material will not have any adverse effect upon the occupiers or users of the development. In fact, the materials of construction (SIPS) should have a positive impact on the occupiers in that they have higher insulation values resulting in lower running costs of the dwelling. The external cladding of the panels is not dissimilar to other dwellings within the precinct that have approved metal or timber cladding.

There was one objection received by the Town regarding the proposed metal cladding. However, for reasons outlined above, and in the context of a corner site, the cladding is considered to have little impact on the streetscape and the character of the area as the portions of the dwelling clad in metal are not easily seen from the street, but rather address the side and rear lot boundaries.

For the above reasons, the application is considered to meet Clause 2B of *Local Law 43*.

CONCLUSION:

The application seeks a number of variations relating to a secondary street setback area incursion, reduced side and rear setbacks, building height, buildings on the boundary, screen structures and Local Law 43 construction materials.

Whilst some of these variations have been supported under a design principles assessment, it is the combined impact of the building on the boundary and the ancillary dwelling portion of the dwelling located within the rear setback area, which results in a development that is not able to be supported.

The proposed dwelling has pushed out to both lot boundaries that have adjoining neighbours, and into areas of the site that should be maintained for open space. This amount of building bulk on or within close proximity to the lot boundary, is not considered to be in-keeping with the existing or future desired character of the area and if approved, may establish an undesirable precedent which may be considered in future planning decisions.

For the above reasons, it is recommended that the application be refused.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
State Planning Policy 7.3 - Residential Design Codes Volume 1
Local Planning Policies
Local Law 43 - Buildings on Endowment Lands & Limekilns Estate*

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme* and the provisions of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate*, Council REFUSES the application for a single storey dwelling with undercroft at Lot 95 (No. 1) Lowanna Way, City Beach as shown on the attached plans stamped received 14 October 2020 for the following reasons:

- 1. The proposal does not satisfy the design principles of *State Planning Policy 7.3 - Residential Design Codes* (cl 5.1.3 Lot boundary setbacks) as the proposed reduced rear lot boundary setback will have an adverse impact on the amenity of the neighbouring properties due to building bulk due to the amount of building bulk in the rear setback area and lack of open space at the rear of the site;**
- 2. The proposal does not satisfy the objectives of *Local Planning Policy 3.1 (Streetscape)* as the proposed development is not considered to be respectful of the established and desired future character and amenity of the City Beach Precinct;**

- 3. The proposal does not meet the objectives of *Local Planning Policy 3.2 (Building on the Boundary)*, as the proposed nil setback to the southern lot boundary does not align with the existing parapet wall on the adjoining property resulting in an adverse impact on the streetscape;**
- 4. Having due consideration of sub-clauses 67(b), (m) and (n) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposal is not compatible with its setting and the relationship of the development to development on adjoining land as the cumulative impact of the reduced rear lot boundary setback, lack of open space relief at the rear of the site and building on the boundary, will result in a building bulk impact that is inconsistent with the prevailing R12.5 development pattern. This is not consistent with locality or desired future character of the area; and**
- 5. Approval of the proposal will establish a precedent which may be considered in future planning decisions, and as such, is not consistent with orderly and proper planning.**

Motion put and CARRIED (5/0)

DV20.142 LOT 29 (NO. 27) HOVEA CRESCENT, CITY BEACH – ALTERATIONS AND ADDITIONS TO EXISTING TWO-STOREY DWELLING

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for alterations and additions to an existing two-storey dwelling with undercroft.

SUMMARY:

The application includes a two-storey addition to the north of the existing dwelling comprising an additional ground floor garage, carport, bedroom, bathroom, family room, store and first-floor office. Alterations to the existing dwelling include a ground floor addition to a bedroom and porch area and a first-floor balcony to the existing lounge. An existing two car garage undercroft will also be retained.

The application does not comply with *Local Planning Scheme No. 1*, nor does it meet the deemed-to-comply provisions of the *Residential Design Codes 7.3 Volume 1 and Local Planning Policies*. The variations are as follows:

1. Reduced primary street setback of 6.7m to the eave in lieu of 7.5m;
2. Secondary street setback of 3.0m to the eave in lieu of 3.75m;
3. A reduced rear lot boundary setback of 1.554m in lieu of 6m;
4. A wall height to the proposed balcony of 6.3m in lieu of 6.0m;
5. A building (alfresco) on the eastern lot boundary with a nil setback which will not abut an existing parapet wall of similar or greater dimensions; and
6. Fencing to the primary and secondary street frontages that does not meet the “open style” provisions relating to the height of solid portions of wall; and the surface area above 0.75m being 50% visually permeable.

Based on an individual design principles assessment, the variations identified at points 1, 2, 4, and 6 are supported.

However, the variations identified at points 3 and 5 are not considered to meet the associated design principles assessment as the dwelling will project building bulk within the rear setback area and along the side lot boundary, which is not compatible with surrounding development within the locality and is inconsistent with the desired future character of the City Beach Precinct.

Accordingly, it is recommended that the application be refused.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

In accordance with cl12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason:

"2 The determination of a development application under CI34. (2) of Local Planning Scheme No.1."

BACKGROUND:

Address:	Lot 29 (No. 27) Hovea Crescent, City Beach
Report Date:	10 November 2020
File Reference:	DA20/0195
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Planning Officer, Karen Liddell
Reporting Officer Interest:	Nil
Attachments:	<ol style="list-style-type: none"> 1. Aerial Plan (1 page) 2. Development Plans (8 pages) 3. Annotated Development Plans (2 pages) 4. Site Photos (2 pages) 5. Schedule of Submissions (2 pages) 6. Applicant's Comments (8 pages)

Applicant:	Daniel Cassettai Designs
Owner:	Nigel A Rhodes & Amanda C E Baker
Zoning:	Residential R12.5
Precinct:	P1: City Beach
Development Description:	Alterations and additions to existing single dwelling
Development Value:	\$650,000
Existing Land Use:	Dwelling – Single
Proposed Land Use:	Dwelling – Single
Land Area:	1153m ²
Heritage Listing:	Nil
Application Date:	26 June 2020
Application Process Days:	145 days (55 day time extension agreed to by applicant)

DETAILS:

Site Context

The site has a north-south orientation and is located on the corner of Hovea Crescent and Kingsland Avenue within the City Beach Precinct. The site has a westerly aspect to Hovea Crescent, the greater frontage. It contains an existing two-storey dwelling with undercroft and vehicular access from Hovea Crescent. Surrounding properties contain single and two-storey dwellings of varying ages and architectural styles.

The topography of the land has a fall of approximately 5.5m across the site from the north-eastern corner to the south-western corner adjoining the street intersection.

The existing character of the immediate area is comprised of new and existing dwellings, many of which have been extended and renovated.

Application History

The original application proposed a single storey extension to the north of the existing dwelling, a greater incursion into the primary and secondary street setback area, more solid street fencing and included the alfresco building on the boundary. Following lodgement, a meeting was held with the Applicant to discuss the proposed variations being sought and request amendments to the plans. Justification was requested for those variations that were not amended.

Amended plans and justification against the design principles were submitted and the application was advertised. Following advertising, a meeting was held with the Applicant in September 2020 to discuss the variations, with a focus on the proposed secondary street setback, building on the boundary, rear lot boundary setback and street fencing. The Applicant was advised that it was unlikely the Town's Administration could support the application and a further opportunity was provided for the plans to be amended.

Amended plans were subsequently submitted on 12 October 2020, which increased the secondary street setback and made alterations to the front fencing. To accommodate the increased setback to the secondary street, the proposed 'office' was relocated to the first floor of the new addition. No changes were made to the rear setback variation or building on the boundary.

As the amended plans increased the building bulk within the rear setback by way of the first-floor addition, the plans were readvertised to the adjoining neighbours for comment. No objections were received.

It is these latest plans stamped received 12 October 2020, which are being presented to Council as part of this report (refer **Attachment 2**).

Proposal

The application proposes alterations and additions to the existing dwelling, and seeks the following variations:

1. Reduced primary street setback of 6.7m to the proposed first floor balcony eave in lieu of 7.5m;
2. Secondary street setback of 3.0m to the proposed carport eave in lieu of 3.75m;
3. A reduced rear lot boundary setback of 1.554m to the ground and first floor addition in lieu of 6m;
4. A wall height to the proposed balcony of 6.3m in lieu of 6.0m;
5. A building (alfresco) on the eastern lot boundary with a nil setback for a length of 8.4m which will not abut an existing parapet wall of similar or greater dimensions; and
6. Front fencing to the primary and secondary street frontages that does not meet the "open style" provisions relating to the height of solid portions of wall and the surface area above 0.75m being 50% visually permeable.

The proposed carport and additions to the dwelling are to have 'Basalt' Colorbond roofing which complies with Local Law 43 and LPP3.1: Streetscape.

CONSULTATION:

Public Consultation

The original application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

Following advertising of the original proposal one submission was received. The submission only raised comment in relation to the proposed sightline variations resulting from the proposed carport being within the secondary street setback. This issue was addressed in the amended plans.

In response to amended plans received on 12 October 2020, the plans were readvertised to the adjoining properties affected by the addition of the first floor within the rear setback.

No submissions objecting to the proposed variations were received by the Town. A submission was received however, expressing preference for the single storey addition proposed in the original application as opposed to the current two-storey scheme.

A Schedule of Submissions that includes comments received is attached to this Report (refer **Attachment 5**).

APPLICANT'S COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer **Attachment 6**).

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	Required	Proposed
Primary Street Setback (Balcony eave)	7.5m	6.7m
Secondary Street Setback (Carport roof)	3.75m	3.0m
<u>Clause 34 - Variations to Site and Development Requirements</u>		
"(1) ... a) <i>an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i>		
(2) <i>Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i>		
<u>Local Planning Policy 3.1 – Streetscape</u>		
<i>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i>		
<i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i>		
a. <i>The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i>		
b. <i>Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i>		
c. <i>Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</i>		

Assessment

The variation being sought to the primary street setback is 0.8m due to the encroachment of the first floor balcony roof in the south-western corner of the site. The variation being sought to the secondary street setback is 0.75m due to the encroachment of the carport eave.

It is acknowledged that buildings within the primary and secondary street setback areas often don't meet the design principles and criteria of LPP3.1, however, in this case the projections are associated with the eaves of predominantly open structures being a balcony and a carport. As such, it is not expected that the encroachment into the street setback areas, when viewed from the street, will be apparent, as the walls of the buildings will be set back behind the setback line and therefore will not have a significant visual impact on the existing streetscape.

A 2.8m² section of the first floor balcony eave will encroach into the primary street setback area. The proposed addition will occupy 2.4% of the street setback area which is not considered to be significant.

A 1.3m² section of the proposed carport eave will encroach into the secondary street setback area. The proposed addition will occupy 0.9% of the street setback area which is not considered to be significant.

No concerns were received during the advertising period with regard to the proposed reduced street boundary setbacks.

Having due consideration of the relevant sub-clauses of cl67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, it is considered that the balcony and carport eaves, in this particular case, will not have a significant impact on the prevailing and desired development context.

The proposed non-complying application is therefore supported.

State Planning Policy 7.3 - Residential Design Codes Volume 1 / Local Planning Policies

<i>5.1.3 Lot boundary setback</i>		
	Deemed-to-comply Requirement	Proposed
<i>Rear (western) lot boundary</i>		
• Ground Floor (Carport, Garage, Family, Store)	6.0m	1.554m
• First Floor (Office)	6.0m	1.554m
<p><u>Design Principles (of R-Codes):</u> <i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <i>a) reduce impacts of building bulk on adjoining properties;</i> <i>b) provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>c) minimise the extent of overlooking and resultant loss of privacy on adjoining properties".</i></p>		

Design Principles Assessment

The bulk of the proposed additions have been located within the rear setback area. The additions comprise a two storey structure that includes a carport, garage, family room, store and first floor office. The minimum setback proposed is 1.554m. The portion of floor area within the rear setback equates to a total of approximately 121.9m².

The rear lot boundary has a total length of 36.17m. As viewed from the abutting northern lot, the proposed dwelling (within the 6m rear setback) has a total wall length of 22.2m, which equates to 61% of the total length of the rear lot boundary.

Whilst the finished floor level of the proposed addition will be approximately 1.8m below the adjoining lot to the north, and there will be no impact on overshadowing due to it being to the south of the adjoining lot, the addition will occupy the majority of the length of the rear boundary and includes a two-storey component. Therefore, in this context, the significantly reduced rear setback is considered to have an adverse impact of building bulk to the adjoining property.

As corner sites can often present difficulties with meeting rear setback requirements, it is acknowledged that in some instances, it is appropriate to allow a degree of flexibility to the application of the 6m rear setback requirement.

To this end, the Applicant cited examples of where the Town has approved variations to the rear setback on lots within the immediate vicinity, which were reviewed by Administration. The majority of examples provided were not comparable corner lots, and are therefore not considered to be relevant in the context of this application.

However, any flexibility should be contingent upon a reasonably substantial portion of open space being provided at the rear of the dwelling somewhere (albeit not necessarily in the 'technical' rear setback), which is characteristic of R12.5 coded lots in City Beach.

Where variations are sought, typically, there is an area of substantial open space provided along the other 'rear' lot boundary to compensate. This therefore, provides some relief to the rear of the property and those it adjoins, maintaining a sense of openness between buildings and boundaries.

In this regard, the proposed development does not provide a substantial area of open space at the rear of the property and thus does not minimise building bulk impacts to adjoining properties as it does not provide the open space behind the dwelling as is expected in the City Beach Precinct.

For the above reasons, the application is not considered to meet the associated design principles.

5.1.6 Building height		
	Deemed-to-comply Requirement	Proposed
Maximum wall height (pitched roof)	6m	Approximately 6.3m (at highest point, to south-west corner of FF balcony)
<p><u>Design Principles (of R-Codes):</u> <i>"Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:</i></p> <ul style="list-style-type: none"> • <i>adequate access to direct sun into buildings and appurtenant open spaces;</i> • <i>adequate daylight to major openings into habitable rooms; and</i> • <i>access to views of significance".</i> <p>In addition, the following considerations of <i>Local Planning Policy 3.3 - Building Height (LPP 3.3)</i> are applicable:</p> <p>a) <i>"Whether the proposed building height is consistent with the predominant building height of the buildings within the surrounding area; and</i></p> <p>b) <i>The natural topography of the site and whether the proposed building height considers and responds to the topography".</i></p>		

Design Principles Assessment

A small portion of the dwelling (north-west corner) is approximately 0.3m over the permitted 6.0m wall height. This is predominantly due to this being the lowest part of the site and the balcony being an extension of the existing roof line.

The variation to the proposed wall height does not have any impact on access to direct sun for adjoining properties, nor does it impact on views of significance (no submissions were received in regard to this variation). The proposed building height (ridge height) is compliant.

The variation to the wall height is considered to be minor in nature and consistent with the surrounding predominant building height which has a range of single, two and three storey (two storeys plus undercroft) dwellings.

For the above reasons, the application is considered to meet the associated design principles.

<i>Local Planning Policy 3.2: Buildings on the Boundary</i>		
	Deemed-to-comply Requirement	Proposed
<i>Side (eastern) lot boundary</i> <ul style="list-style-type: none"> • Alfresco 	1.0m	Nil
<p><u>Design Principles (of R-Codes):</u> <i>"P3.1 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more efficient use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property".</i> <p><i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more efficient use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> • <i>positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</i> 		

Design Principles Assessment

The Town's *Local Planning Policy 3.2* (LPP3.2) allows walls to be built up to a boundary behind the front setback line where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions. In this instance the proposed parapet wall of 8.4m in length, with an average height of 2.95m does not adjoin an existing parapet wall.

The Applicant has put forward that the proposed building on the boundary will make a more efficient use of space in that it will dispense of the required 1m setback that is unusable and becomes dead space on the site.

It is further maintained by the applicant that the proposed alfresco structure will enhance privacy for the occupants and their outdoor living areas by providing a visual barrier to the two-storey dwelling on the adjoining site. Furthermore, the two-storey dwelling on the adjoining site comprises a higher floor level and will not be impacted by loss of sun and ventilation. In addition, the building on the boundary is setback behind the street setback area and will not be visible from the street.

It is considered that the proposal doesn't provide the separation between buildings and boundaries characterised in the Precinct, and that a lot with an area in excess of 1000m² should be able to accommodate the required setbacks and appropriately site the additions without having to build on the boundary, notwithstanding the location of the existing dwelling. It is also noted there does not appear to be any visual privacy issues resulting from the adjoining two-storey dwelling. Whilst this variation is not visible from the street and received no objections during the consultation process, buildings on the boundary generally do not reflect the desired future character of the City Beach Precinct and the R12.5 coding.

For the above reasons, the application is not considered to meet the associated design principles.

<i>Local Planning Policy 3.1: Streetscape</i>		
	Deemed-to-comply Requirement	Proposed
CI 5.1 Street Walls and Fences	<p>C4.1 Street walls and fences within the primary street setback area, including along the side boundary, shall:</p> <p>i. be "open style";</p> <p>ii. be a maximum 1.8m high above NGL.</p> <p>C4.3 Street walls and fences within the secondary street setback area, behind the primary street setback area, shall:</p> <p>i. be a maximum 1.8m high above NGL.</p> <p>v. be "open style" for a minimum of 40% of the length of the street wall or fence.</p>	<p><u>Primary Street</u></p> <p>i. <i>Open Style</i>:</p> <p>1. Solid portion of wall above 0.75m (Max. 1.9m) for a length of 11.33m</p> <p>2(b) Less than 50% of surface area above 0.75m of the total street fence is open and/or visually transparent.</p> <p>ii. Maximum height 1.9m</p> <p><u>Secondary Street</u></p> <p>i. Maximum height 1.9m</p> <p>v. <i>Open Style</i>:</p> <p>1. Solid portion of wall above 0.75m (Max. 0.8m)</p>
<p><u>Design Principles (of R-Codes):</u> <i>"5.2.4 Street wall and fences</i> <i>P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2) with appropriate consideration to the need:</i></p> <ul style="list-style-type: none"> • <i>For attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and</i> • <i>For necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial."</i> <p><u>Design Principles Local Planning Policy 3.1 – Streetscape</u> <i>The relevant design principles of 5.2.4 Street wall and fences of the R-Codes [see above] in addition to:</i></p> <p>i. <i>The Objectives of this Policy; and</i></p> <p>ii. <i>The Desired Future Character of the area as outlined in the Character Descriptions section of this Policy.</i></p>		

Design Principles Assessment

The applicant proposes fencing to the primary street that does not satisfy the 'open style' requirements due to solid portions of wall, and a maximum height of 1.9m. Fencing proposed to the secondary street will have a maximum height of 1.9m and include portions of solid wall reaching a maximum height of 0.8m.

The fencing proposed responds to the orientation of the existing dwelling on the site. It is noted that the fencing is not required for privacy or noise screening due to the impact of being located on a major road.

The application seeks consideration under the design principles of Local Planning Policy 3.1 – Streetscape. The relevant policy considerations include:

“To maintain the openness of our streetscapes creating a safe and attractive pedestrian environment with passive surveillance of the street.

“To ensure the presentation, design and form of dwellings are considered as an integral part of the streetscape, connecting visually to the street and not being isolated by fencing, retaining walls, garages or other features.”

Whilst the assessment against the deemed-to-comply provisions of LPP3.1 indicate non-compliance, it is considered appropriate to acknowledge the context of the site being a corner lot and the orientation of the existing dwelling.

In this instance, the dwelling is orientated to the secondary street frontage, the larger of the lot frontages. In response to this, the proposed fencing is more 'open' than it is required to be which affords maximum opportunities for passive surveillance of the street. It also ensures that the visual connection to the street is maximised as the main entrance to the dwelling is not isolated behind solid fencing.

The smaller of the lot frontages (primary street) which presents as the secondary street in terms of dwelling orientation, is less 'open' but meets the 40% requirement applicable to secondary street fencing. As justified by the Applicant, the solid portion of wall fronting the primary street, has been located on the corner or of the site to help address headlight glare and privacy issues to the main bedroom.

Whilst not technically meeting the primary street fencing requirements, it is considered that the proposed fencing does not significantly impact on the openness of the streetscape and still affords opportunities for passive surveillance. It should be noted that the proposed first floor balcony is located adjacent to the solid portion of the fencing allowing for views over the solid wall to the street.

On balance, it is considered that the proposed fencing is an appropriate response to the site context and will maintain the openness of the streetscape remaining in-keeping with the character of the Precinct.

For the above reasons, the proposed fencing is considered to meet the associated design principles.

CONCLUSION:

The application seeks a number of variations relating to a primary and secondary street setback incursion, reduced rear setback, wall height, buildings on the boundary and street fencing.

Whilst some of these variations have been supported under a design principles assessment, it is the combined impact of the reduced rear setback and the building on the boundary that results in a development that is not able to be supported.

The bulk of the proposed additions are located within a significantly reduced rear setback area, occupying the majority of the length of the rear (northern) boundary. This amount of building bulk on or within close proximity to the lot boundary, is not considered to be in-keeping with the future desired character of the area and the R12.5 coding, and if approved, may establish an undesirable precedent which may be considered in future planning decisions.

For the above reasons, it is recommended that the application be refused.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

Metropolitan Region Scheme

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 1

State Planning Policy 7.3 - Residential Design Codes Volume 1

Local Planning Policies

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council REFUSES the application for alterations and additions to an existing two-storey dwelling at Lot 29 (No. 27) Hovea Crescent, City Beach as shown on the attached plans stamped received 12 October 2020 for the following reasons:

- 1. The proposal does not satisfy the design principles of Provision 5.1.3 - Lot boundary setback of *State Planning Policy 7.3 - Residential Design Codes Volume 1*, as the reduced rear lot boundary setback will have an adverse impact on the amenity of the locality due to the amount of building bulk in the rear setback area and lack of open space at the rear of the site;**
- 2. The proposal does not meet the objectives of *Local Planning Policy 3.2 (Building on the Boundary)* or satisfy the objectives of the City Beach Precinct, as the proposed nil setback to the eastern lot boundary does not provide the desired separation between buildings and boundaries; and**
- 3. Having due consideration of sub-clauses 67(b), (m) and (n) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposal is not compatible with its setting as the reduced rear lot boundary setback, lack of open space relief at the rear of the site and building on the boundary, will result in a building bulk impact that is inconsistent with the prevailing R12.5 development pattern. This is not consistent with the orderly and proper planning of the locality or desired future character of the area.**

Motion put and CARRIED (5/0) (unanimous)

DV20.143 LOT 1533 (NO. 12) TULLOW ROAD, FLOREAT – PROPOSED ALTERATIONS/ADDITIONS TO EXISTING SINGLE HOUSE (DEVELOPMENT COMMENCED)

PURPOSE OF REPORT:

The purpose of this report is for Council to consider a development application for proposed alterations and additions to the existing single house, including retrospective approval for the conversion of an open carport into a fully enclosed garage with a solid roller door.

SUMMARY:

The proposal seeks retrospective approval for the conversion of an existing open carport into an enclosed garage located within the secondary street setback area, and approval for a reduced side lot boundary setback to the proposed additions and 'Weathertex' cladding to the external walls of the proposed additions.

It is considered that the conversion of the carport into a garage within the secondary street setback area, in this case, does not have an adverse impact on the Glengariff Drive streetscape, as the structure blends in with the existing solid approved fencing and character of the immediate locality on the secondary street, particularly given that it is similar in height to the fencing.

It is considered that the reduced side setback of the proposed additions will not have an adverse impact on the adjoining property, as only a 0.7m section of the wall is set back less than the deemed-to-comply requirement.

The proposed 'Weathertex' cladding is considered to be consistent with similar materials in the locality and will provide a high quality aesthetic to the external walls of the proposed additions.

Accordingly, it is recommended that the application be approved.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

In accordance with cl12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason:

“2. *The determination of a development application under Cl. 34 (2) of Local Planning Scheme No. 1.*”

Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

BACKGROUND:

Address:	Lot 1533 (No. 12) Tullow Road, Floreat
Report Date:	10 November 2020
File Reference:	DA20/0270
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Senior Statutory Planning Officer, Steven Laming
Reporting Officer Interest:	Nil
Attachments:	1. Aerial Plan (1 page) 2. Development Plans Dated 21 August 2020 (5 pages) 3. Site Photos (4 pages) 4. Applicant's Comments (3 pages)

Applicant:	Nash & Gherinich Architects and Interior Designers
Owner:	Brett Kirkwood & Emma Kirkwood
Zoning:	Residential R12.5
Precinct:	P3 - Floreat
Development Description:	Alterations/Additions to Existing Single House (Development Commenced)
Development Value:	\$250,000
Existing Land Use:	Single House – “P”
Proposed Land Use:	N/A – works associated with existing use
Land Area:	779m ²
Heritage Listing:	No
Application Date:	21 August 2020
Application Process Days:	89 days

DETAILS:

Site History

On 8 October 1957, the City of Perth approved a building permit application for the construction of a single storey dwelling on the site.

On 18 October 1984, the City of Perth approved a building permit application for alterations and additions to the existing dwelling, which included a carport that was located within the primary street setback area, accessed from Tullow Road. According to Landgate historical aerial imagery, that carport was not constructed.

On 15 October 1986, the City of Perth approved a building permit application for alterations and additions to the existing dwelling, which included a 1.8m high front fence to the primary and secondary street boundaries. That fence was solid for the full length of the secondary street boundary (Glengariff Drive) and partially solid with infill panels to sections of the fencing along the primary street boundary (Tullow Road).

On 11 May 1995, the Town approved a building permit application for 1.8m high solid front fencing along the secondary street boundary and a section of the primary street boundary near the corner of the lot, which then angled inwards to the site towards the dwelling. A site visit by the Town's officers carried out as part of the subject application found that the front fencing has been constructed in accordance with the 11 May 1995 approval.

On 1 May 1987, the City of Perth approved a building permit application for an open carport addition to the existing dwelling, which was located within the secondary street setback area with a minimum setback of 2.5m from the secondary street boundary and accessed from Glengariff Drive. The approved plans show the carport consisted of six piers, a metal flat roof and low solid walls to its perimeter. According to Landgate historical aerial imagery, that carport was constructed sometime between 1987 and 1989.

According to the Applicant's comments (refer Attachment 4), the current owners purchased the property in 2009 with the existing carport having already been converted into a fully enclosed garage with a solid roller door. Google Streetview imagery shows that the carport had an off-white coloured solid roller door since as early as 2007. Between 2007 and 2014, Google Streetview imagery shows that the roller door material was modified and the colour was changed to brown.

On 24 December 2009, the Town approved a building permit application for a deck and patio addition to the front of the existing dwelling, which was partially located within the front setback and had a minimum setback of 6.6m from the primary street boundary (Glengariff Drive).

Site Context

The site is located on the corner of Tullow Road and Glengariff Drive and is within the Floreat Planning Precinct.

The site is currently occupied by a single-storey dwelling and has a crossover from Tullow Road to an uncovered single car bay in the secondary street setback area and a crossover from Glengariff Drive to the existing double garage, which was approved as an open carport, located in the secondary street setback area with a minimum setback of 3.3m from the street boundary.

The surrounding locality comprises single-storey and two-storey single houses.

The site features an approximately 1.5m slope down from the north-western corner of the lot at Tullow Road to the south-eastern corner of the site at Glengariff Drive.

Proposal

The application seeks retrospective approval for the conversion of an open carport, which was approved by the City of Perth in 1987, into a fully enclosed garage with a solid roller door that is set back 3.3m to 3.7m from the secondary street boundary. As the garage is detached from the dwelling, it is an outbuilding within the secondary street setback area and it has a maximum wall height of 3m in lieu of maximum 2.4m.

The Bed 2 to Bed 4 wall of the dwelling on the north elevation is set back minimum 1.2m from the north boundary in lieu of minimum 1.5m.

The proposal includes 'Weathertex' cladding to the external walls of the proposed additions in lieu of masonry building materials.

CONSULTATION:

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the public consultation period.

APPLICANT'S COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer Attachment 4).

STATUTORY ASSESSMENT:

Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes

<i>Clause 26(1)(b) Modification of R-Codes</i>		
	Required	Proposed
Secondary Street Setback (Conversion of existing open carport into fully enclosed garage with a solid roller door)	4.5m	3.3m
<p><u>Clause 34 - Variations to Site and Development Requirements</u> "(1)a) <i>an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i></p> <p>(2) <i>Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i></p> <p><u>Local Planning Policy 3.1 – Streetscape</u> "1. <i>Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i></p> <p><i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i></p> <p><i>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i></p> <p><i>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i></p> <p><i>c. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</i></p> <p><i>i. Do not detrimentally affect adjoining properties;</i></p> <p><i>ii. Are suitably landscaped to reduce the impact of building bulk; and</i></p> <p><i>iii. The natural topography of the land can still be interpreted, despite the retaining."</i></p>		

Assessment

It is noted that the proposed plans show the 9m primary street setback is from Glengariff Drive and the 4.5m secondary street setback is from Tullow Road, however, as the greater setback is from the Tullow Road boundary to the dwelling, Tullow Road is the primary street in accordance with the definition of a 'primary street' in the Town's *Local Planning Policy 3.1 – Streetscape* (LPP 3.1).

The garage is therefore within the secondary street setback area, with a minimum setback of 3.3m from the secondary street boundary in lieu of 4.5m.

The structure is not fully identifiable as being a solid garage when viewed from the street, as the west elevation of the garage is screened by the existing solid front fencing and the east elevation has the appearance of a solid fence, which is partially screened by thick vegetation. The garage is also not much higher than the front fencing.

Clause 5.1(C4.3) of LPP 3.1 permits fencing within the secondary street setback area in the Floreat Precinct to be solid for a maximum of 60% of the length of the fencing. It is considered that, due to the structure not being fully identifiable as a solid garage when viewed from the street, the structure rather blends in with the solid fencing.

It is recognised that the character of the area is mostly open landscaped frontages. However, the northern side of Glengariff Drive, when viewed from the street corner, is characterised by the solid front fencing and solid garage door on the subject property and the solid front fencing on the adjoining eastern property, which gives the north side of Glengariff Drive a unique outlook when compared to the southern side of the street.

Having due regard to the matters listed in Clause 67 (m) and (n) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the bulk, scale and appearance of the garage is considered to be compatible with the surrounding development and its location within the secondary street setback area is not considered to have an adverse impact on the character of the locality.

The proposed non-complying application is therefore supported subject to conditions.

State Planning Policy 7.3 - Residential Design Codes Volume 1

5.4.3 Outbuildings		
	Deemed-to-comply Requirement	Proposed
Outbuilding location	Not within the secondary street setback area	Garage is within the secondary street setback area
Maximum wall height	2.4m	3m
Design Principles (of R-Codes): <i>"P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties".</i>		

Design Principles Assessment

It is considered that the garage being within the secondary street setback area and its maximum wall height of 3m does not detract from the streetscape or the visual amenity of the neighbouring properties, as the garage is of a similar character to the existing front fencing along the secondary street setback boundary, and the height of the structure ranges from 3m down to 2.2m where it abuts the front fencing with a maximum height of 1.8m, which reduces the visual impact of the structure on the streetscape.

For the above reasons, the application is considered to meet the associated design principles.

5.1.3 Lot Boundary Setbacks		
	Deemed-to-comply Requirement	Proposed
North (Bed 2 to Bed 4)	1.2m	1.5m
Design Principles (of R-Codes): <i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties".</i> 		

Design Principles Assessment

The Bed 2 to Bed 4 wall has a minimum setback of 1.2m from the north boundary, however, the setback increases to a maximum of 6.1m due to the acute angle of the north boundary.

Due to the angle of the north boundary, only a 0.7m section of the wall has a setback that is less than the deemed-to-comply setback of 1.5m. The reduced setback is therefore not considered to have a building bulk impact on the adjoining northern property, as the majority of the proposed addition is setback greater than required.

Due to the orientation of the lot, the reduced setback will not impact the adjoining northern property's access to direct sun.

The proposed setback between 1.2m to 6.1m provides adequate space for natural ventilation between the subject and adjoining property.

The finished floor level of the proposed addition is not more than 0.5m above the natural ground level and therefore the reduced setback will not impact the visual privacy of the adjoining property.

For the above reasons, the application is considered to meet the associated design principles.

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)

Clause 7(a)		
	General Regulation	Proposed
Construction materials	<i>All other dwelling-houses [ie. non single-storey dwellings] shall be constructed of brick, stone, concrete or similar material.</i>	
Clause 2B <i>"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:-</i> <ul style="list-style-type: none"> <i>a) for use for a purpose which is not permitted in that district;</i> <i>b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</i> <i>if the Council is satisfied by an absolute majority that:-</i> <ul style="list-style-type: none"> <i>i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and</i> <i>ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".</i> 		

Assessment

The application proposes 'Weathertex' cladding to the external walls of the proposed additions.

'Weathertex' is a lightweight cladding material that is made of 97% hardwood timber and 3% natural wax.

It is considered that the proposed materials are consistent with the overall intent of the Local Law as they will provide a high quality external appearance to the facades whilst using light weight, however strong and durable, construction materials. The cladding will be in a smooth finish stained coal black, which contrast with the painted brickwork to give it a higher quality aesthetic when compared to a natural coloured timber cladding.

No submissions were received during consultation with regards to the proposed building materials.

For the above reasons, the application is considered to meet Clause 2B of Local Law 43 and it is therefore recommended that the application be approved.

CONCLUSION:

The conversion of the existing carport into a fully enclosed garage is not considered to have an adverse impact on the streetscape, as the structure is not much higher than the existing solid front fencing and it therefore blends in with the fencing.

The proposed reduced setback to the side lot boundary is not considered to have an adverse impact on the adjoining property as only a 0.7m portion of the wall is setback less than 1.5m.

It is considered that the proposed cladding materials are consistent with other materials in the Local Law 43 area and will provide a high quality finish to the façade of the proposed additions.

For the above reasons, it is recommended that the application be approved.

FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme
Planning and Development (Local Planning Schemes) Regulations 2015
Local Planning Scheme No. 1
State Planning Policy 7.3 - Residential Design Codes Volume 1
Local Planning Policies
Local Law 43 - Buildings on Endowment Lands & Limekilns Estate*

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and the provisions of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate*, Council **APPROVES BY ABSOLUTE MAJORITY the application for alterations/additions to the existing single house at Lot 1533 (No. 12) Tullow Road, Floreat as shown on the attached plans stamped received 21 August 2020, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval; and**
- 2. The 'Weathertex' cladding in smooth finish stained coal black to the external walls shall be finished and maintained thereafter by the landowner to the satisfaction of the Town.**

Standard Advice Notes to be included by the Administration.

Motion put and CARRIED (5/0) (unanimous)

**DV20.144 PROPOSED VARIATIONS TO LOCAL LAW 43 AND LOCAL PLANNING POLICY
3.1 – STREETScape**

PURPOSE OF REPORT

The purpose of this report is for Council to determine applications which are considered to comply with cl7(b) of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) and meet the design principles of Local Planning Policy 3.1 – Streetscape.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

DELEGATION:

Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

BACKGROUND:

Report Date:	10 November 2020
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Reporting Officer Interest:	Nil
Attachments:	1. Development Plans for 18 Highbury Street, Floreat (4 pages) 2. Development Plans for 10 Peebles Road, Floreat (6 pages) 3. Development Plans for 4 North Banff Road, Floreat (6 pages)

Property	Applicant/Landowner(s)
18 Highbury Street, Floreat	Applicant: Modern Ark Layout Design Landowners: Scott Cameron and Katherine Cameron
10 Peebles Road, Floreat	Applicant: Steven Crane Landowner: Steven Crane
4 North Banff Road, Floreat	Applicant: Hubble Design Landowner: Aline Barrabes

CONSULTATION:

The applications were advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the public consultation period.

STATUTORY ASSESSMENT:

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)

Property Address	Material Proposed
Lot 62 (No. 18) Highbury Street, Floreat	A two-storey addition is proposed to be constructed of 'Weatherboard' cladding to the external walls of the first floor finished in white.
Lot 845 (No. 10) Peebles Road, Floreat	A single-storey addition is proposed to be constructed of 'Corton Steel' cladding to the external walls.
Lot 921 (No. 4) North Banff Road, Floreat	A shed and deck additions are proposed with 'Scyon Axon' cladding in light grey colour to the external walls of the shed and perimeter of the decking.
Clause 2B <i>"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:-</i> <i>a) for use for a purpose which is not permitted in that district;</i> <i>b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</i> <i>if the Council is satisfied by an absolute majority that:-</i> <i>i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and</i> <i>ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".</i>	

Assessment

It is considered that the proposed materials on the walls of the buildings are not inconsistent with the overall intent of the Local Law and will provide an acceptable finish.

No submissions were received during consultation with regards to the proposed building materials.

For the above reasons, the applications are considered to meet Clause 2B of Local Law 43.

LEGISLATIVE CONSIDERATIONS:

Metropolitan Region Scheme

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 1

Local Law 43 - Buildings on Endowment Lands & Limekilns Estate

Local Planning Policy 3.1 – Streetscape

STRATEGIC DIRECTION:

The recommendations of this Report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3: Ensure new development is harmonious with established residences and respects our existing 'sense of place' and our unique character

Strategy 4.4: Enhance and respect our existing streetscapes, setbacks and green spaces.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)*, Council APPROVES BY AN ABSOLUTE MAJORITY the applications at the following locations:

- 1. Lot 62 (No. 18) Highbury Street, Floreat – Proposed weatherboard cladding;**
- 2. Lot 845 (No. 10) Peebles Road, Floreat – Proposed Corton steel cladding;**
- 3. Lot 921 (No. 4) North Banff Road, Floreat – Proposed 'Sycon Axon' cladding.**

Subject to the following conditions:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;**
- 2. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town; and**
- 3. The proposed materials shall be finished, and maintained thereafter, by the landowner to the satisfaction of the Town.**

Motion put and CARRIED (5/0)(unanimous)

DV20.145 SCHEME AMENDMENT NO. 39 - FINAL ADOPTION AND OUTCOME OF ADVERTISING

PURPOSE OF REPORT:

The purpose of this report is for Council to consider the outcomes of advertising for Scheme Amendment No. 39 (A39) and support A39 with a modification to the permissibility of the Small Bar land use.

SUMMARY:

At its meeting held on 25 August 2020, Council initiated A39 for the purposes of advertising. A39 seeks to have the land uses “Restaurant/Café” and “Small bar” to be discretionary uses for the site, which means that it is not permitted unless the local government has exercised its discretion by granting development approval.

Public advertising commenced on 11 September 2020 and concluded on 26 October 2020. A total of 62 submissions were received; 56 in support, 5 object and 1 providing comment neither in support nor objection to the amendment.

It is recommended that A39 be supported /with a modification to the permissibility of the Small Bar land use.

AUTHORITY/DISCRETION:

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	Lot 1 (No. 29) St Leonards Avenue, West Leederville
Report Date:	22/10/2020
Responsible Officer:	A/Director Planning & Development, Brett Cammell
Reporting Officer:	A/Manager Strategic Planning, Simon Shub
Contributing Officer:	n/a
Reporting Officer Interest:	Nil
Attachment(s):	1. Scheme Amendment No. 39 Report 2. Council Minutes Extract (Item DV20.64) from August 2020 3. Schedule of Submissions 4. Applicants responses to submissions

Applicant:	CF Town Planning and Development
Owner:	Mr Chin-Wern Chan
Zoning:	Residential R60
Precinct:	P5 – West Leederville
Development Description:	Standard Scheme Amendment
Development Value:	N/A
Existing Land Use:	Residential
Proposed Land Use:	Residential with additional uses: i. Restaurant/Café – “D” ii. Small Bar – “A”
Land Area:	476m ²
Heritage Listing:	Nil
Application Date:	1 May 2020
Application Process Days:	189 days

BACKGROUND:

Site Context

Lot 1 (No. 29) St Leonards Avenue, West Leederville (the site) is located on the corner of St Leonards Avenue and Cambridge Street and is zoned Residential R60. There is vehicular access available from a crossover on Cambridge Street, which provides access to 8 off-street parking bays.

Immediately adjoining the site to the north is a vacant residential lot. There is a mixture of commercial and residential uses to the east and west of the site, on both sides of Cambridge Street. There is restricted (1 hour) on-street parking available on Cambridge Street (between Tate Street and St Leonards Avenue), a small portion of Tate Street and on Woolwich Street, while permit only parking is available on the surrounding streets (St Leonards Avenue, Tate Street and Blencowe Street).

The site is located within the Cambridge Street Urban Corridor as designated by the Town of Cambridge Local Planning Strategy (LPS) and is in close proximity to the Cambridge Street Medical Precinct (to the east) and the West Leederville Activity Centre (to the west). The site is accessible by public transport and within an 800m walkable catchment of the West Leederville Train Station.

At its meeting held on 25 August 2020, Council resolved to initiate A39 for the purposes of advertising and the outcomes of advertising are discussed below.

Advertising and Referrals

Advice of Environmental Protection Authority

A39 was forwarded to the EPA for advice prior to commencing advertising. On 24 August 2020, the EPA advised that there was no advice relevant to the proposal.

Advice of other External Authorities

The Town received feedback from the following external authorities expressing either general advice or no objection:

1. Department of Biodiversity, Conservation and Attractions;
2. Department Water and Environment;
3. Department of Jobs, Tourism, Science and Innovation; and
4. Department of Health.
5. Main Roads Western Australia

The Department of Health provided general advice regarding compliance with the Government Sewerage Policy 2019, *Food Act 2008 and Health (Miscellaneous Provisions) Act 1911*.

Public Consultation

Following receipt of advice from the EPA, A39 was advertised for 45 days between Friday 11 September 2020 and Monday 26 October 2020. The following was undertaken as part of the public advertising:

1. Notification Letters to owners and occupiers within a 100m radius of the site;
2. Details of the proposal were provided on the Town's website;
3. A notice regarding the amendment was displayed at the Town's Administration building and the library, and copies of the Scheme Amendment report were available for viewing at the Administration building;
4. Advertising sign displayed on-site; and
5. Notice of the Scheme Amendment displayed in the POST Newspaper.

In total, 62 submissions (refer to **Attachment 3**) were received, of which:

1. 56 were supportive of the amendment;
2. 1 provided general comment; and
3. 5 objected to the amendment.

Of the 56 submissions that were received in support of A39, 42 were identical responses. Despite the responses being identical, these submissions have been treated as individual submissions as each submission was provided by a separate person and address.

A39 seeks to have the "Restaurant/Café" and "Small bar" land uses added to Schedule B (additional use) of Local Planning Scheme No.1. Both land uses would be discretionary, which means that they are not permitted unless the local government has exercised its discretion by granting development approval.

The objections raised are outlined below, and largely relate to matters that would be considered as part of a development application:

1. Hours of operation and noise;
2. Parking;
3. Antisocial behaviour;
4. Traffic congestion; and
5. The proximity of other scheme amendments near the site.

Hours of operation and noise

Submitters expressed noise related objections regarding:

1. The impact that a change to the site's existing operating hours would have on the amenity of the surrounding properties;
2. The impact of noise associated with a potential change of use to a small bar; and
3. The impact of delivery vehicles using the vacant lot at No.31 St Leonards Avenue, West Leederville before opening hours.

These concerns are acknowledged. A39 does not provide any details of proposed hours of operation for the café/restaurant or small bar, as these would be the subject of a development application. However, as part of the application process, the Town can impose conditions which restrict the hours of operation and ensure that the tenancy operates in accordance with an

approved management plan. Further, noise associated with venues is required to comply with the *Environmental Protection (Noise) Regulations 1997*.

With regard to the use of the vacant site before opening hours, the applicant has been made aware of this concern. No. 31 St Leonards Avenue is privately owned and the use of the site (for parking) can be restricted through an agreement between the Town and the landowner. However, there is not currently an agreement in place.

Antisocial Behaviour

Four of the five objections identified antisocial behaviour as a concern in terms of:

1. The associated increase in hours and the potential for a liquor license to be granted; and
2. Antisocial behaviour and Vandalism that has occurred at No. 31 St Leonards Avenue, West Leederville due to its proximity to the train line and Perth CBD.

As noted above, hours of operation are not proposed to be changed through A39. If a development application is lodged, the Town will require the applicant to provide details regarding the use of the business, hours of operation, patron numbers and management plans. A liquor license is determined by the Department of Racing, Gaming and Liquor, which includes an assessment of a public interest that considers (amongst other criteria):

1. Whether the amenity, quiet or good order of the locality in which the licensed premises or proposed licensed premises are, or are to be, situated might in some manner be lessened.
2. Whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises.

The concerns associated with the use of No. 31 St Leonards Avenue for antisocial behaviour and vandalism of adjoining properties, are noted, however they are not directly associated with the use of No. 29 St Leonards Avenue.

Proximity of other scheme amendments to St Leonards Avenue

One submission highlighted concerns regarding the impact of Scheme Amendment No. 28 (No. 58 St Leonards Avenue, West Leederville) and No. 69 McCourt Street (the Wine Thief), and the likely impact of A39 on the area in terms of increased pedestrian traffic, increased noise and loss of amenity.

As part of the assessment of Scheme Amendment No. 28, detailed conditions were included in Schedule B, (A6) of Local Planning Scheme No.1 to ensure that the amenity of the surrounding area was protected. At the Ordinary Council Meeting held on 25 August 2020, Council considered the planning matters associated with No. 69 McCourt Street (the Wine Thief). A scheme amendment is yet to be prepared for this site.

The concerns identified are acknowledged. As noted above, as part of the development application process, the Town can impose conditions which restrict the hours of operation and ensure that the tenancy operates in accordance with an approved management plan. The site is located within an urban corridor in between the Medical Precinct and West Leederville Activity Centre. While detailed planning associated with the corridor is scheduled to occur over the medium term (3-5 years), the LPS vision for the corridor indicates that the requested land uses could be permissible, subject to appropriate approvals, in the future and would be consistent with the LPS

Vehicle Traffic

One submission raised concerns current road arrangements (left in and left out of McCourt Street) which don't appear to facilitate safe travel for motorists travelling west, and the use of crossovers on Tate Street to do u-turns, may be exacerbated by an increase in traffic associated with a wine bar and restaurant.

The concern regarding the existing road arrangements was referred internally to the Town's traffic engineers who have advised that no actions are available to resolve the matter. However, it could be revisited as part of the preparation of an Integrated Movement Network Strategy, which will guide changes to the movement of people throughout the Town and facilitate the reduction of congestion, increased frequency of public transport and improved walkability/cyclability.

Car parking

Two submissions raised concerns with:

1. The car parking provided on-site;
2. The overflow of parking onto the surrounding streets; and
3. The use of No. 31 St Leonards Avenue (currently vacant) for parking.

The site has 8 dedicated bays accessible from Cambridge Street and the car parking provision would be assessed based on the requirements of Local Planning Policy 3.13. Surrounding the site, there is timed parking available on Woolwich Street and restricted parking (permit only) for Tate Street, St Leonards Avenue and Blencowe Street. These parking requirements are enforced by the Town's Regulatory Service Branch.

With regard to the vacant site at No. 31 St Leonards Avenue, the Town has previously had a parking arrangement with the owner whereby parking was monitored by the Towns Regulatory Service Branch. This is not currently in place, but is capable of being renewed subject to agreement with the landowner.

Conclusion

As discussed above, the matters raised in the objections are capable of being addressed as part of a development application; however it is recommended that the permissibility of the Small Bar be modified to an "A" use, which means that it is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. This will allow for resident input on the specifics of the operations to be obtained and considered as part of the development application process.

POLICY/STATUTORY IMPLICATIONS:

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the requirements for amending the Local Planning Scheme.

Following a Council recommendation, the scheme amendment will be submitted to the Western Australian Planning Commission (WAPC) who will make a recommendation to the Minister for Transport and Planning.

RISK MANAGEMENT IMPLICATIONS:

Low: As this is an applicant requested scheme amendment and is broadly consistent with the draft Local Planning Strategy. If initiated, Council will have the opportunity to consider the amendment following advertising.

FINANCIAL IMPLICATIONS:

In accordance with Regulation 48 (3) of the *Planning and Development Regulations 2009*, should Council elect to initiate the Scheme Amendment, an estimate of costs must be provided in the form of Schedule 3.

STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028: -

Our Neighbourhoods

Goal 4: Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.1 Examine and better identify through planning and consultation those features and qualities which define our individual neighbourhoods

Goal 5: Successful commercial, retail and residential hubs

Strategy 5.1: Ensure future planning recognises the emerging diverse role, mixed use potential and opportunities of our centres, and integrates change and growth with surrounding local areas.

COMMUNITY ENGAGEMENT:

Community engagement was undertaken in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* and Local Planning Policy 1.2 'Public notification of Planning Proposals'.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council:-

- SUPPORTS**, pursuant to Section 75 of the *Planning and Development Act 2005* and Part 5, Division 3, Section 50(3)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed amendment to Local Planning Scheme No. 1, as set out in attachment 1, with the following modification:

- 1.1. Amend the permissibility of the small bar land use as to be "A"**

No.	Land Particulars	Additional Uses	Development Standards/Conditions
A9	Lot 1 (No. 29) St Leonards Avenue, West Leederville	Restaurant/Café – "D" Small Bar – "D" "A"	Nil

2. **AUTHORISES** the Mayor and Chief Executive Officer and Mayor to execute the relevant amendment documentation for submission to the Western Australian Planning Commission; and
3. **NOTES** the submissions received and **NOTIFIES** all those who made a submission of Council's decision

Motion put and CARRIED (5/0) (unanimous)

DV20.146 HERITAGE GRANT PROGRAM 2020/2021 - APPLICATIONS

PURPOSE OF REPORT:

The purpose of this report is to present applications received for the 2020/2021 Heritage Grant Program for Council consideration for funding.

SUMMARY:

Four applications have been received for the 2020/2021 round of the Heritage Grant Program. A total of \$14,850.00 (including GST) is requested.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Lot 1 (No. 24A) Connolly Street, Wembley Lot 12 (No. 17) Holyrood Street, West Leederville Lot 14 (No. 21) Holyrood Street, West Leederville Lot 15 (No. 23) Holyrood Street, West Leederville
Report Date:	20 October 2020
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Acting Manager Strategic Planning, Simon Shub
Contributing Officer:	Acting Senior Strategic Planning Officer, Kimberley Macphail
Reporting Officer Interest:	Nil
Attachment(s):	1. Grant Evaluation and Heritage Advice Summary

BACKGROUND:

The Town's Heritage Grant Program is established under Local Planning Policy 1.6: Assistance for Heritage Places (LPP1.6) to support landowners with the conservation of places entered in the Heritage List or located within a Heritage Area.

Funding is offered for 50% of the total costs of a project, up to a maximum contribution of \$5,500 (including GST). Eligibility and selection criteria are detailed in LPP1.6. Grants are awarded by Council and paid once the project is completed. Successful applicants will be required to sign and submit a Heritage Grant Agreement before commencing the project.

For the purpose of the Heritage Grant Program, Conservation means:

"the management of a place in a manner that will:

- a) *enable the cultural heritage significance of that place to be retained; and*
- b) *yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place,*

and may include the preservation, stabilization, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting'.

DETAILS:

Applications for the 2020/2021 round of the Heritage Grant Program were accepted between Friday, 11 September 2020 and Monday, 19 October 2020. Four applications were received, as listed in the table below. Three of the applications are located within the Holyrood Conservation Heritage Area. The remaining application is entered on the Town's Heritage List (Category 3).

A summary of the applications, an evaluation against the LPP1.6 provisions and heritage advice is provided in **Attachment 1**. Copies of the full applications can be made available to Elected Members on request.

The heritage advice received recommended that the four applications could be supported, subject to some guidance to ensure compliance with accepted conservation principles.

It is noted that one application (23 Holyrood St) does not meet the eligibility requirements due to an outstanding rates debt of \$11.62. It is recommended that the funding contribution still be awarded subject to this outstanding amount being resolved.

All four of the applications are considered to meet the relevant LPP1.6 provisions and deliver a positive conservation outcome. It is recommended Council approve funding contributions for the applications as follows:

Heritage Place and Grant Application	Recommended Grant Contribution	
	(Ex. GST)	(Incl. GST)
24A Connolly Street, Wembley Repairs to brickwork and tuck pointing of front elevation of dwelling.	\$700.00	\$770.00
17 Holyrood Street, West Leederville Replacement of corrugated iron roof to dwelling.	\$5,000.00	\$5,500.00
21 Holyrood Street, West Leederville Repairs and repainting of verandah posts, window frames and weatherboards and gables of dwelling.	\$5,000.00	\$5,500.00
23 Holyrood Street, West Leederville Repainting and minor repairs to weatherboards of dwelling.	\$2,800.00	\$3,080.00
TOTAL	\$13,500.00	\$14,850.00

Following Council's determination, the applicants will be notified of the outcome. Successful applicants will be provided a grant agreement detailing the amount awarded and the standard terms of the grant.

POLICY/STATUTORY IMPLICATIONS:

The assessment and Council consideration is guided by the Heritage Grant Program provisions detailed in Local Planning Policy 1.6: Assistance for Heritage Places.

RISK MANAGEMENT IMPLICATIONS:

Low: Local Planning Policy 1.6: Assistance for Heritage Places outlines the Town's commitment to support owners of heritage places to conserve places of cultural significance to the locality and the Town's community. Failure to support grant applications may compromise the capacity to undertake conservation work in a timely manner.

FINANCIAL IMPLICATIONS:

The Heritage Grant Program is funded through the Planning Heritage Grants and Assessments allocation in the 2020/2021 Budget. The heritage assessment of the grant applications was obtained for \$1,200.00 (ex. GST). The current balance on the Heritage Grants and Assessment budget allocation is \$22,246.50 (ex. GST).

If the recommended grant funding amounts are supported, a total of \$13,500.00 (ex. GST) will be expended. Funding is paid on completion of the project and acceptance of grant acquittal documentation. All grants are to be acquitted by the end of the 2019/2020 financial year.

STRATEGIC DIRECTION:

The recommendations of this report are consistent with the following aspects of the Town's Strategic Community Plan 2018 - 2028:-

Our Neighbourhood

Goal 4 Neighbourhoods where individual character and quality is respected, and planning is responsive to residents

Strategy 4.3 Ensure development is harmonious with established residences and respects our existing 'sense of place' and our unique character.

Strategy 4.4 Enhance and respect our existing streetscapes, setbacks and green spaces.

Our Council

Goal 12 Advocacy for the Community

Strategy 12.3 Take actions and make decisions that adopt a locals first approach at all times.

COMMUNITY ENGAGEMENT:

The 2020/2021 round of the Heritage Grant Program opened Friday, 11 September 2020 and closed Monday, 19 October 2020. Owners of eligible heritage places were advised in writing of the grant application period.

The recommendations of this report have been assessed under the Community Engagement Policy 019 as not requiring community consultation. The applicants will be advised of the outcome of this report.

ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council, through the Heritage Grant Program, APPROVES a grant allocation of:-

- 1. \$770.00 (including GST) to Ms Rhonda Miller for the proposed brickwork and tuck pointing repairs at Lot 1 (No. 24A) Connolly Street, Wembley, subject the following condition:**
 - 1.1 the proposed repair work, including the materials used, match the existing fabric;**
- 2. \$5,500.00 (including GST) to Ms Felicity Simpson for the proposed replacement of corrugated iron roof at Lot 12 (No. 17) Holyrood Street, West Leederville, subject to the following conditions and guidance:**
 - 2.1 the details of the roof material and treatments be provided with the application for development approval to be approved by the Town;**
 - 2.2 guidance for the proposed scope of works includes:**
 - a. roof sheeting Z600 steel coating, 0.48 base metal thickness in short length sheets will achieve the best outcome;**
 - b. cut in flashings should not be used on the chimneys;**
 - c. the stepped lead flashings should be retained and repaired as required;**
- 3. \$5,500.00 (including GST) to Mr Phil Greenhalgh for the proposed repairs of weatherboards, window frames, gables and verandah at Lot 14 (No. 21) Holyrood Street, West Leederville, subject to the following conditions:**
 - 3.1 works and materials to comply with façade treatment guidance in Local Planning Policy 2.5.1: Holyrood Conservation Area;**
 - 3.2 the Town to be advised of proposed paint colour selection prior to works commencing if works and paint colours are not like-for-like to existing;**
- 4. \$3,080.00 (including GST) to Mr Dan Stinton for the proposed repainting and minor repairs to weatherboards at Lot 15 (No. 23) Holyrood Street, West Leederville, subject to the following conditions:**
 - 4.1 Arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places;**
 - 4.2 works to comply with façade treatment guidance in Local Planning Policy 2.5.1: Holyrood Conservation Area; and**
 - 4.3 the Town to be advised of proposed paint colour selection prior to works commencing if paint colours are not like-for-like to existing.**

During discussion, Members agreed that the Town should not only be advised of, but approve of the proposed paint colour selection prior to the works commencing if paint colours are not like-for-like to existing.

AMENDMENT:

Moved by Cr McKerracher, seconded by Cr Haddon-Casey

That clauses 3.2 and 4.3 be amended to read as follows:-

- 3.2 the Town to be advised of and approve of proposed paint colour selection prior to works commencing if works and paint colours are not like-for-like to existing;**
- 4.3 the Town to be advised of and approve of proposed paint colour selection prior to works commencing if paint colours are not like-for-like to existing.**

Amendment put and CARRIED (5/0) (unanimous)

COMMITTEE RECOMMENDATION:

That Council, through the Heritage Grant Program, APPROVES a grant allocation of:-

- 1. \$770.00 (including GST) to Ms Rhonda Miller for the proposed brickwork and tuck pointing repairs at Lot 1 (No. 24A) Connolly Street, Wembley, subject the following condition:**
 - 1.1 the proposed repair work, including the materials used, match the existing fabric;**
- 2. \$5,500.00 (including GST) to Ms Felicity Simpson for the proposed replacement of corrugated iron roof at Lot 12 (No. 17) Holyrood Street, West Leederville, subject to the following conditions and guidance:**
 - 2.1 the details of the roof material and treatments be provided with the application for development approval to be approved by the Town;**
 - 2.2 guidance for the proposed scope of works includes:**
 - a. roof sheeting Z600 steel coating, 0.48 base metal thickness in short length sheets will achieve the best outcome;**
 - b. cut in flashings should not be used on the chimneys;**
 - c. the stepped lead flashings should be retained and repaired as required;**
- 3. \$5,500.00 (including GST) to Mr Phil Greenhalgh for the proposed repairs of weatherboards, window frames, gables and verandah at Lot 14 (No. 21) Holyrood Street, West Leederville, subject to the following conditions:**
 - 3.1 works and materials to comply with façade treatment guidance in Local Planning Policy 2.5.1: Holyrood Conservation Area;**
 - 3.2 the Town to be advised of and approve of proposed paint colour selection prior to works commencing if works and paint colours are not like-for-like to existing;**

- 4. \$3,080.00 (including GST) to Mr Dan Stinton for the proposed repainting and minor repairs to weatherboards at Lot 15 (No. 23) Holyrood Street, West Leederville, subject to the following conditions:**
 - 4.1 Arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places;**
 - 4.2 works to comply with façade treatment guidance in Local Planning Policy 2.5.1: Holyrood Conservation Area; and**
 - 4.3 the Town to be advised of and approve of proposed paint colour selection prior to works commencing if paint colours are not like-for-like to existing.**

Motion be put and CARRIED (5/0) (unanimous)

DV20.147 LAKE MONGER COMMUNITY GARDEN – SUSTAINABLE GRANT

PURPOSE OF REPORT:

To present a further report on the Sustainable Grants allocation, recommending approval to the amount of \$3,000 under the Sustainable Grant Policy 092.

SUMMARY:

At its meeting held on 27 October 2020 (DV20.133), Council resolved to note the grant application received by the Lake Monger Community Garden (community garden) and the requirement of a further report. Initially, funding was requested for the extension of the community gardens, however, after further discussions and considerations the organisation has decided to not go ahead with the request and instead is requesting funding for internal upgrades and improved accessibility. The updated request is in line with the Sustainable Grant criteria (Policy 092) and it is recommended that the grant be awarded to the community garden.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input checked="" type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	36 Dodd Street, Wembley, Lake Monger Reserve
Report Date:	24 November 2020
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Acting Manager Strategic Planning, Simon Shrub
Contributing Officer:	Sustainability Officer, Janine Roets
Reporting Officer Interest:	Nil
Attachment(s):	1. Lake Monger Community Garden Grant Application – Updated 30 October 2020 2. Updated Sustainable Grant Assessment 2020

BACKGROUND:

The Lake Monger Community Garden is four years old and well established with a stable membership and aims to 'create a garden where people in the community can get together to grow organic produce and socialise'. The community garden supports the Town's Strategic Community Plan, by creating, 'a sense of community, pride and belonging' (Goal 1) as well as 'supporting an active, safe and inclusive community' (Goal 3).

The organisation works closely with community groups and schools, including the Town's Senior Services and offers garden beds to groups and facilitate activities. They also provide a community composting service to the public.

Initially, the organisation applied for a Sustainable Grant to the amount of \$3,000 (Large Project category) to install fencing and extend the area to allow for more garden beds and subsequently more members. However, after investigating all the aspects involved in the extension the group has decided not to pursue the project. Consideration had to be given to the contamination levels of the sub-soil when installing the fencing as well as the Aboriginal heritage of the area and further consultation with the neighbouring organisations are required.

The community garden has written a letter to the Town dated 30 October 2020 (**Attachment 1**) requesting changes to the original grant application.

DETAILS:

The updated request (**Attachment 1**) indicates funding requirements for upgrading their internal path to increase accessibility, upgrading their reticulation system to increase efficiency, the installation of signage, and the installation of additional garden beds. Increased accessibility will facilitate activities for seniors groups, including the Town of Cambridge Senior Services group.

The updated application meets the criteria of the Sustainable Grant Program (**Attachment 2**) and is recommended for approval up to the amount of \$3,000 according to the Sustainable Grants Policy (092) for a Large Project.

Other matters

The letter from the Community Garden (**Attachment 1**) raises other matters of concern to the Town, notably anti-social behaviour and the installation of CCTV cameras. These matters have been referred to the Town's Ranger Services to investigate.

Further work will also be undertaken with the organisation to address additional matters mentioned in the letter.

A further report is submitted to Council by the Corporate and Community Services (Property Management) requesting a waiver on the fees charged for water consumption and changing the Occupation Licence accordingly.

POLICY/STATUTORY IMPLICATIONS:

Community Gardens are administered through Policy 015 - Community Gardens Policy.

The Sustainable Grants Program is administered through Policy, 092 Sustainable Grants Program Policy.

RISK MANAGEMENT IMPLICATIONS:

Low: Funding for the Grants Program has been budgeted for and the administration of the Program has been carried out in accordance with Policy 092.

FINANCIAL IMPLICATIONS:

An amount of \$10,000 has been allocated for the Sustainable Grants Program from the 'Sustainability Programs' line of the 2020/2021 Budget.

The total allocated amount for the Sustainable Grants program will be \$5,046 (Excl. GST). Including the previously approved amount of \$2,046 (Excl. GST) for the West Leederville Community Garden projects and the recommended amount of \$3,000 (Excl. GST) for the updated Lake Monger Community Garden grant application.

The unspent funds allocated to the Grants Program will be incorporated into other 'Sustainability Programs' where necessary or incorporated into the final year Budget review.

STRATEGIC DIRECTION:

The recommendations embrace the following strategies of the Town's Strategic Plan 2018 - 2028:-

Goal 1: A sense of community, pride and belonging

Strategy 1.1 Encourage and support participation in a range of public activities and events where residents can gather and interact

Strategy 1.2 Promote our strong community identity and focus our responses on the needs of local residents, businesses and ratepayers

Goal 3: An active, safe and inclusive community

Strategy 3.1 Focus on improving and expanding those places where community groups interact to encourage greater participation

Strategy 3.2 Continue to deliver more programs which support local clubs and community groups and their capacity to run their community activities

Strategy 3.3 Encourage a range of activities that better align with the diverse needs of ratepayers of all ages, cultures and abilities

Strategy 3.4 Act to create and maintain safe, friendly and open environments that residents can access and enjoy

Goal 8: A community that embraces environmentally responsible practices

Strategy 8.1 Encourage the community to self-manage minimising energy consumption, water use, emissions and waste

COMMUNITY ENGAGEMENT:

The Sustainable Grants Program was advertised publically in the Cambridge News (Post Newspaper and Online Newsletter) on 4 September, and via the Town's social media platforms (31 August 2020 and 22 September 2020).

This matter has been assessed under the Community Engagement Policy 019 as "inform" with the objective to provide balanced and objective information.

Committee Meeting 17 November 2020

During discussion, the Administration was requested to provide a location plan and further information on the membership of the Lake Monger Community Garden, in particular, how many members are residents of the Town; and who owns the land prior to the next meeting of the Council.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council AWARDS the disbursement of funds for the 2020 Sustainable Grants program to the Lake Monger Community Garden to the amount of \$3,000 (Excl. GST) for internal upgrades and increased accessibility.

Motion put and CARRIED (5/0) (unanimous)

DV20.148 REVIEW OF EXPRESS DETERMINATION SERVICE FOR CHANGE OF USE DEVELOPMENT APPLICATIONS

PURPOSE OF REPORT:

The purpose of this report is to provide Council with an update on the Express Determination Service for development applications for changes of use that was implemented following the Ordinary Council Meeting held on 24 March 2020 and to recommend adopting the approach as a permanent service

SUMMARY:

The Express Determination Service came into effect after Council resolution on 24 March 2020. A total of 13 applications have been accepted to date, with ten applications decided and three still being assessed. Of those applications determined, there has been a significant reduction in assessment timeframes during the trial period when compared to the three year period prior to the implementation of the service. The improvements in time frames can be attributed to applications having a car parking shortfall of 5 vehicle bays or less not requiring consultation or further information to justify shortfall, resulting in less advertising of applications, and a less risk adverse approach from assessing officers when judging amenity impacts.

AUTHORITY / DISCRETION

- Advocacy When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative Includes adopting local laws, town planning schemes & policies.
- Review When the Council operates as a review authority on decisions made by Officers for appeal purposes.
- Quasi-Judicial When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
- Information For the Council/Committee to note.

Address/Property Location:	N/A
Report Date:	28/10/2020
Responsible Officer:	A/Director Planning & Development, Brett Cammell
Reporting Officer:	A/Manager Strategic Planning, Simon Shub
Contributing Officer:	Place Development Officer, Rowan Johns
Reporting Officer Interest:	Nil
Attachment(s):	1. Change of use statistics

BACKGROUND:

At its meeting held on 24 March 2020 (Urgent Business 11.4), Council considered a report on an express determination service for change of use development applications as part of the Town's COVID-19 Relief and Recovery Plan. Council resolved as follows:-

1. *ENDORSES the immediate implementation of an 'Express Determination Service' for development applications for changes of use, as detailed in the points below;*
2. *AGREES to waive all development application fees associated with change of use applications for 6 months;*
3. *NOTES that the Town will adopt a less 'risk-adverse' approach to determining the amenity impacts of change of use applications, for the purpose of community consultation as required by Local Planning Policy 1.2: Public notification and advertising procedures (LPP1.2);*
4. *RESOLVES that for an on-site parking shortfall of 5 vehicle bays or less associated with change of use applications and as determined by Local Planning Policy 3.13: Parking:*
 - a. *The variation will be considered 'minor' and not require consultation as per LPP1.2;*
 - b. *The variation will not require additional information to justify the shortfall (eg. parking management plan) unless other factors necessitate the need for further information; and*
 - c. *Cash in lieu contributions for the parking shortfall be deferred for a period of 12 months;*
5. *INSTRUCTS the Town to review and implement referral processes to expedite the determination of change of use applications;*
6. *INSTRUCTS the Town to provide a report that reviews the implementation of the above measures within 6 months; and*
7. *NOTES that the Town will investigate additional measures to assist local business operate and recover from the COVID-19 pandemic response, as outlined in this report.*

Pursuant to Schedule 2, Part 9, Clause 75 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the statutory timeframe to determine a development application is 60 days without advertising and 90 days if advertising is required.

As part of the Action Plan for Planning Reform and COVID Emergency response package, the State Government has been introducing a number of initiatives aimed at cutting unnecessary red tape, streamlining the planning process and improving public consultation. A Notice of Exemption was issued by the Planning Minister on 8 April 2020 which detailed a number of exemptions to local planning requirements. The majority of exemptions remain in effect until 90 days after the end of the State of Emergency.

The temporary exemptions included the requirement to obtain development approval for changes of use associated with shop, restaurant/café, convenience store, consulting rooms, and office, provided a limited number of conditions were met. Proponents were also exempted from a requirement to provide car parking facilities provided the parking shortfall is of 10 vehicle bays or less.

The State Government is also simultaneously progressing changes to the *Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regulations) to provide ongoing planning reform. The proposed changes are largely in line with the Notice of Exemptions (outlined above) and include exemptions for discretionary land uses in commercial centres, some car parking requirements, and a standardised approach to cash in lieu of parking. The Town's submission to the Department of Planning, Lands and Heritage on the proposals was authorised by Council at the Ordinary Council Meeting held on 22 September 2020 (DV20.116).

At the 23 June 2020 Council meeting (DV20.65), Council resolved to amend Local Planning Policy 1.1 'Minor use and Development Exempt from Development Approval' with the effect of removing the requirement for development approval for alfresco dining in association with an adjacent land use.

DETAILS:

As noted above, the Express Determination Service for change of use applications consisted of measures to assist local businesses by:

1. Waiving fees;
2. Taking a less risk adverse approach to determining amenity impacts associated with the advertising of change of use applications; and
3. Classifying a 'minor parking variation and guidance around supporting information;
4. Deferring cash in lieu contributions for a 12 month period.

In addition to these measures, the Town was to review and implement referral processes to expedite the determination of change of use applications.

Between April 2020 and October 2020, the Town received a total of 15 change of use applications. Of these:

1. Two were withdrawn by the applicant (leaving 13 applications)
2. A total of ten have been approved; and
3. The remaining three applications are still being processed.

A review of the express determination service, as it relates to the 13 change of use applications received during the trial period between April and October 2020, will be discussed below in terms of the fees, consultation, parking assessment, determination times and the overall benefit provided to small business within the Town.

Fees

The standard fee for a change of use application is \$295 as set out in the Town's fees and charges schedule 2020-21. A total of 13 applications represents a value of \$3,835 worth of applications fees waived by the Town.

While this was a measure to assist business, it is recommended that the application fee is not permanently waived.

Consultation

Land uses categorised under Local Planning Scheme No. 1 (the Scheme) as either:

- P – use permitted if complies with other requirements of Scheme (application for use not required);
- D – use not permitted unless granted development approval (application required); and
- A – use not permitted unless granted development approval after community consultation

Consultation of an 'A' land use is required by the Scheme and therefore cannot be waived. However, a decision whether a 'D' land use is advertised for comment relies on consideration of the nature of the use and the extent of variations of the relevant local planning policy.

LPP 1.2 requires consultation where a variation to a Scheme or Policy requirement is proposed and *'has the potential to impact the amenity of nearby residential areas or neighbours in terms of visual impact, streetscape, privacy, intensity of use, traffic generation and adequacy of parking.'*

The second part of the consultation criteria requires some qualitative assessment, or judgement, and the Town has typically adopted a conservative approach, whereby most change of use applications for a 'D' land use (and 'P' land uses where a variation to another requirement is proposed) are advertised for comment.

To provide an express determination service for change of use applications, a less risk adverse approach was taken whereby the Town's planning staff made judgements on the likelihood that the proposed use will affect the amenity of nearby areas and proceeded on that basis, without the need for public consultation. Current delegated authority and policy provisions allow for the Town's Director Planning and Development and Manager Statutory Planning to make these judgements and it is under these existing provisions that an express determination service was implemented.

A breakdown of the land use of the applications received during the trial period is provided below.

Land Use	P – Permitted	D – Discretionary	A – Requires Advertising	Use not listed
Number of applications received	3	6	3	1

Of the applications for discretionary uses received, two applications were still advertised, as:

1. One of the applications had a parking shortfall of 11 bays; and
2. Another was initially assessed as having a parking shortfall of six bays and was therefore advertised. Upon reassessment following advertising, one of the five common property visitor bays allocated for commercial units was included in the parking assessment. The application was subsequently approved with a shortfall of five bays.

This means four applications that would ordinarily be advertised were able to be approved under delegated authority without being advertised due to the less conservative approach adopted as part of the express determination service.

Parking

Most change of use proposals, particularly in traditional main street centres (e.g. Birkdale Street, Cambridge Street) or in transitional areas (e.g. Southport Street area, West Leederville), are unable to provide additional on-site vehicle parking to meet the requirements of Local Planning Policy 3.13: Parking (LPP3.13). The 13 change of use applications received since April reflect this, with the majority being for properties on Cambridge Street in either West Leederville, the Medical Precinct, Wembley, or Birkdale Street activity centres where properties largely have no street front setback and any parking is provided at the rear of the properties, often shared with multiple tenancies. Others were in the Southport precinct in West Leederville and Herdsman Parade office area.

Variations to the parking requirements then trigger community consultation (discussed above), a need for a parking management plan, further investigation into reciprocal parking arrangements, public parking, transport and other measures, and consideration of cash in lieu contributions for the parking shortfall. This assessment and requirement for information increases the assessment timeframes and costs for the applicant.

In order to provide an express determination service, parking shortfalls of five bays or less were considered as minor and were not required to be advertised as per LPP1.2.

A total of eight out of the ten applications approved by the Town during the trial period consisted of parking shortfalls of five bays or less. Of these, one application was still advertised and a cash in lieu payment was imposed equivalent to 1.5 car bays (with payment deferred for a period of 12 months). One application had a shortfall of 11 bays and the remaining application had no parking shortfall.

Parking shortfall	No shortfall	Shortfall of 5 bays or less	Shortfall of 6 bays or more
Number of applications	1	8	1

Cash in Lieu of Car Parking

Part of Council's resolution in March 2020 was to defer Cash in Lieu contributions associated with car parking shortfalls of 5 vehicle bays or less, for a period of 12 months. Since the commencement of the trial period, one cash in lieu payment was imposed and another was deferred for a period of 12 months. There is 5 months remaining on this action and it is recommended that a further report be presented to Council at the conclusion of the deferral period.

Time

The table below indicates the average time from the application date to the decision date for change of use applications from January 2017-March 2020, compared to the express determination service trial period from April-October 2020. The average time is calculated as business days only (excludes weekend and public holidays).

	January 2017- March 2020	April-October 2020 (trial period)
Total applications decided	51	10*
Average time for non-advertised applications	29 days	12 days
Average time for advertised applications	62 days	35 days
Average time for all applications	44 days	19 days

*There are three applications still being assessed, all of which have required advertising. Accordingly they have not been included in the above calculations.

Once decided, these three applications may have the effect of increasing the average time for advertised applications during the trial period.

As demonstrated in the table above, during the trial period the average number of days for applications to be determined has been significantly reduced, particularly for non-advertised applications.

Referral processes

As part of a broader project to improve business related approvals processes, a working group of the Town's officers have been reviewing current processes and identifying opportunities to streamline and simplify the Town's permit approvals for businesses. The working group have recently presented a report to managers with a set of recommendations, including actions to improve internal communications and referrals between teams. In many instances the recommended actions will be able to be applied to the development approval referral process as well as applications for fit-out, signage and other minor works.

Additional measures

On April 8 2020 the State Government introduced a Notice of Exemption from Planning Requirements, which included a number of exemptions for the purposes of facilitating a response to, or recovery from, the emergency occasioned by the COVID-19 pandemic.

In most cases, the exemptions are applied for the period of the State of Emergency and expire 90 days after the State of Emergency ceases to have effect. In essence this makes the exemptions temporary and would still require a development approval after the exemptions expire.

While the Town received a number of enquiries from businesses who intended to commence developments exempted by the Notice, in most cases the applicant decided to submit a development application to the Town as would ordinarily be the case, so that they could receive their approval and start or continue their business activities without having to worry about applying for approval after the State of Emergency ceases. Anecdotally, to utilise the State of Emergency exemption and then still have to apply for planning approval at a later date was seen as an unnecessary risk for most businesses.

At the 23 June 2020 Council meeting (DV20.65), Council resolved to amend Local Planning Policy 1.1 'Minor use and Development Exempt form Development Approval' with the effect of removing the requirement for development approval for alfresco dining in association with an adjacent land use.

There have been no new applications for Outdoor Eating Facilities since the resolution, as there has been subdued activity in new hospitality businesses opening. Where new businesses have opened they have opted not to offer alfresco dining immediately, perhaps this could be due to opening during the winter months.

With the positive results of the express determination service and work concurrently happening with approval process improvements, implementing a broader express determination service covering other small business applications such as fit-outs and signage should be achievable in the near future.

Conclusion

The results from the Express Determination Service trial between April and October demonstrate the service has been an effective planning measure to assist local business recovery from the impact of COVID-19 by removing the application fee and reducing the assessment timeframe for development applications. The service will be able to be further strengthened through improvements in the referral process, has the ability to be expanded to other development applications, and is in line with the State Government's planning reforms. It is therefore recommended to be implemented, with the change of use fee, by the Town on an ongoing permanent basis.

POLICY/STATUTORY IMPLICATIONS:

Register of Delegated Authority

12.1.4 Planning and Development Delegations

Function Delegated

1. Authority to exercise all powers and discharge all duties under the 'Deemed Provisions' Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Town Planning Scheme No.1.

Deemed Provisions (Schedule 2 of Planning and Development (Local Planning Schemes) Regulations 2015)

Reg.62 Form of application

- (1) An application for development approval must be-

...

- (c) *accompanied by any fee for an application of that type set out in the Planning and Development Regulations 2009 or prescribed under the Local Government Act 1995...*

Planning and Development Regulations 2009

Reg. 52 Local Government may waive or refund fee

'A local government may waive or refund, in the whole or in part, payment of a fee for a planning service.'

Local Planning Scheme No.1 and associated local planning policies

RISK MANAGEMENT IMPLICATIONS:

Low: The risk of negative traffic or amenity impacts resulting from an express determination service is considered low.

FINANCIAL IMPLICATIONS:

The waiving of development application fees for changes of use has totalled \$3,835 to date. To implement the Express Determination Service that included waiving the application fee permanently would result in approximately \$5,310 fees waived annually, as the Town averages approximately 18 change of use applications per year.

STRATEGIC DIRECTION:

Strategic Community Plan 2018-2028

Goal 5: Successful commercial, retail and residential hubs

Strategy 5.2: Foster and encourage local business development in the local and district centres which support our residents and the local and broader community.

Economic Development Strategy 2018-2022

Goal 1: Provide a high standard of communication and business support

COMMUNITY ENGAGEMENT:

Community engagement for this matter is not considered necessary

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council:-

- 1. NOTES the outcomes of the Express Determination Service for development applications for changes of use as detailed in this report;**
- 2. APPROVES the use of an Express Determination Service, for development applications for changes of use as a permanent service to the Town's business community, as detailed below:**
 - 2.1 the Town adopts a less 'risk-adverse' approach to determining the amenity impacts of change of use applications, for the purpose of community consultation as required by Local Planning Policy 1.2: Public notification and advertising procedures (LPP1.2);**
 - 2.2 if there is an on-site parking shortfall of 5 vehicle bays or less associated with change of use applications and as determined by Local Planning Policy 3.13: Parking:**
 - (a) The variation will be considered 'minor' and not require consultation as per LPP1.2;**
 - (b) The variation will not require additional information to justify the shortfall (eg. parking management plan) unless other factors necessitate the need for further information; and**
- 3. RECEIVES a further report regarding the deferral of Cash in Lieu contributions for parking shortfalls of less than 5 vehicle bays or less, at the April 2021 Council Meeting.**

Motion put and CARRIED (5/0) (unanimous)

DV20.149 RFT 2020-19 - TENDER FOR THE SUPPLY, INSTALLATION AND MAINTENANCE OF PAY-BY-PLATE TICKET PARKING MACHINES

PURPOSE OF REPORT:

To provide Council with the details of the submissions received for Tender 2020-19 - Supply, Installation and Maintenance of 47 Pay-By-Plate Ticket Parking Machines, document the results of the tender assessment and make a recommendation on the award of the Tender.

SUMMARY:

Tender 2020-19 - Supply, Installation and Maintenance of forty seven (47) Pay-By-Plate Ticket Parking Machines was advertised in The West Australian Newspaper and on the Town's website on 24 June 2020. The Tender is for a three (3) year period with two (2) x one (1) year option's to extend at the Town's discretion. The submission period closed on 9 September 2020 with fourteen (14) submissions received from six (6) service providers.

An evaluation process was undertaken against the assessment criteria to establish the tenderer representing the best value for the Town while addressing the essential criteria. The full details of the assessment process and recommendation is provided in the Evaluation and Recommendation Report RFT 2020-19 (**Confidential Attachment 2**).

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge
Report Date:	11 November 2020
Responsible Officer:	A/Director Planning & Development, Brett Cammell
Reporting Officer:	Manager Regulatory Services, Steve Cleaver
Contributing Officer:	Coordinator Ranger & Community Safety Services, Mark Allies
Reporting Officer Interest:	Nil
Attachment(s):	1. Evaluation and Recommendation Report RFT 2020-19 (Confidential) 2. Ticket Machine maps showing Cash In Lieu areas and funds

BACKGROUND:

At the 27 August 2019 Ordinary Council Meeting, Council resolved to:

1. *RECEIVES the report regarding the review of the 30 minute parking in identified Local Centres;*
2. *AUTHORISES the CEO to call a Request for Tender to replace twenty nine (29) ticket machines located in the identified Local Centres; and*
3. *APPROVES BY AN ABSOLUTE MAJORITY funds up to a maximum of \$300 000 to be transferred from the development contributions- parking reserve - Cambridge High Street node and Southport Street node for the acquisition and installation of parking ticket machines in those areas.*

The purpose of this tender was to correct the inability of the ticket machines to limit the number of ½ hour free tickets that the machines dispensed to one customer by upgrading to a pay by plate (vehicle numberplate) system. This tender was withdrawn 20 March 2020 after it was identified a total parking infrastructure upgrade was preferable so as to ensure the Town is implementing a supported and sustainable system that incorporated ticketless and coinless machines that further integrated with the Town's existing systems.

Currently, the Town has sixty four (64) individual Ticket Machines deployed in areas where there is a requirement for frequent turnover of bays to facilitate access to medical services and a dynamic and vibrant commercial area.

Sixty (60) Ticket Machines are currently installed in the West Leederville area, covering the:

1. Southport Street node;
2. Cambridge High St node; and
3. Medical Precinct node.

The remaining four (4) are currently installed in the following Wembley area:

1. Mathews Netball Centre; and
2. Wembley Town Centre node

The original machines were imported in 2008 from a German manufacturer, named Hectronic, by Wilson Technology Pty Ltd. In 2015 the Wilson contract was reassigned to Shiblun Pty Ltd and in 2019 the contract was again reassigned to Innopark Pty Ltd and continued to provide the town with preventative maintenance and online hosting services for the Hectronic branded infrastructure. In October 2020 the Town of Cambridge were notified that Innopark has ceased operations, reassigning the contract to a former Innopark employee Amanda Boorman to maintain client needs with respect to software licensing and ticket machine diagnostics. This has added further concern regarding the future prospects of Hectronic and their ability to provide a level of service required to reasonably maintain the current infrastructure to the Towns requirements and standards.

The Town has now had its parking ticket machine maintenance contract reassigned four times since 2008. This has left the Town vulnerable as the supplier Hectronic could only provide one Australian supplier located in NSW. This resulted in the Town being forced to accept prices for servicing and repairs that were significantly higher than the current market price for similar technologies. The Town also had no local options for major repairs which resulted in unacceptable waiting times of three (3) months when a machine failed.

Since 2008 the Town has increased the number of machines from its initial twenty machines to sixty four. The only major upgrade during this period was in 2018 when the Town initiated an essential upgrade to the Credit Card facilities which was soon to be obsolete and inoperable. This upgrade was completed at a cost to the Town of \$298,728. The then contractor Shiblun was awarded the contract for the upgrade as they were identified as the sole distributor for Hectronic technologies in Australia and therefore the only legitimate provider available. The new credit card facilities subsequently required several additional software upgrades as the technology was found to be incompatible with Australian internet and modem capabilities.

The machines are now showing obvious signs of wear and tear and are no longer compatible with current technologies including Licence Plate Recognition (LPR) and Optical Character Recognition (OCR). The machines are at end of life and will require significant expenditure just to maintain the current infrastructure, which will soon be obsolete.

Currently, sixty two (62) of the sixty four (64) machines are compatible only with the 3G network and Telstra have advised that all access to the 3G network will cease in 2022. Telstra have already upgraded infrastructure around Cambridge to the new 5G frequency and have stated that bandwidth available to the 3G network has already been significantly reduced and may cause an increase in communication issues. The 3G network provides Ticket Machines real time communications through the internet, carrying credit card data and diagnostics. Credit Cards account for about 60% - 70% of all transactions and the diagnostics and statistical data is essential to ensure the ticket machines are appropriately maintained and secure.

It was determined by the Administration prior to the completion of the original tender process that new technologies could significantly reduce the number of Ticket Machines required to service the Town. This is because ticketless machines do not require the user to return to their car to display the ticket reducing walking distances. Reduced walking distances allow for the use of less machines. Additionally the use of Licence Plate Recognition will substantially improve the interaction for the customers who use the parking facilities.

The costs for installation and maintenance of a new and total system would be more economic and improve efficiencies in the long term than simply maintaining the existing Hectronic machines. It also allows the Town to provide an enhanced customer experience.

DETAILS:

Tender 2020-19 - Supply, Installation and Maintenance of 47 Pay-By-Plate Ticket Parking Machines was advertised in The West Australian Newspaper and on the Town's website on 24 June 2020 and subsequently closed on 9 September 2020 with six (6) service providers providing submissions. (Attachment 2)

Specifications for new Ticket Machine and Parking system included:

1. Reduction in Ticket Machines from sixty four (64) to forty seven (47). This will minimise any impact on the aesthetic appeal of the Town while significantly reducing ongoing costs for management, maintenance and replacement.
2. Ticket Machines will be ticketless to reduce our environmental footprint and improve the convenience to our customers who will no longer have to walk back to vehicle to display the ticket.
3. Licence Plate Recognition (LPR) and Optical Character Recognition (OCR) scanning technologies will be incorporated to facilitate the ticketless function and digital permit system.
4. Digital Permits will help the Town to reduce the number of permits issued as it afford the resident absolute autonomy to assign permits to a vehicle of their choice. This will empower

- the bearer, reduce administration time and costs as well as reduce the potential for abuse of the system.
5. Online Images to allow people to input an infringement number into an online portal engine and view the infringement and associated evidence (i.e. photos) prior to lodging an appeal.
 6. 5G compatibility - Currently the ticket machines communicate using the 3G network and will soon be rendered obsolete when Telstra ceases support for this service in 2022. The new machines are all 4G compliant with the capacity for upgrade to 5G when necessary.
 7. Local preventative and reactive maintenance services are to be included to minimise downtime of parking services and allow Rangers to focus on the enforcement and education aspects of Parking. Currently Rangers are responsible for diagnosing and repairing faulty machines.

Only two (2) of the six (6) providers submitted conforming tenders. Tender Respondent C provided one of these submissions in the amount of \$454,173.75 exclusive of GST for initial supply and installation of eq. Annual operational fees for maintenance and software licencing were costed at \$83,640 ex GST annually. The second submission was provided by Tender Respondent D.

Table A:

Provider	Supply & Installation	Annual Costs	Contract Term Cost
Tender Respondent C	\$ 454,173.75	\$ 83,640	\$ 788,733.75
Tender Respondent D	\$ 445,796	\$ 109,869	\$ 885,272

When assessing the only two (2) conforming tenders and the total amount calculated over the five (5) year term of the contract, a saving of \$96,538.25 exists by choosing Tender Respondent C over Tender Respondent D.

Submissions by Tender Respondent A, B, E and F failed address the full scope detailed within the Request for Tender and were deemed non-conforming.

POLICY/STATUTORY IMPLICATIONS:

Policy 3.2.1 Purchasing and the Local Government Functions and General Regulations 1996 provides guidance for setting up tenders and contracts.

The *Local Government Act 1995* requires Requests for Tenders to be conducted when the total contract value, including any extension options, exceeds \$250,000. This tender and contract award process has enabled the Town to procure the required goods in an accountable, transparent, ethical and financially sustainable manner.

RISK MANAGEMENT IMPLICATIONS:

- Low:** The Town of Cambridge will mitigate potential risk by engaging contractors who are suitably licensed and qualified and we have implemented minimum specification requirements to protect assets against environmental and human factors.

FINANCIAL IMPLICATIONS:

Provisional funds for the replacement of the Town's Ticket Machines was allocated in the 2020/2021 Capital Budget under Plant & Equipment/Parking Control as budgeted expenditure in the amount of \$728,000 funded from a reserve transfer from the parking cash in lieu reserve.

However, expenditure to fund the supply and installation costs of this project requires an amendment to the 2020/21 budgeted reserve transfer from Cash-In-Lieu of parking contributions to fund the respective machines inside and outside of the various parking nodes. This is because the Planning and Development Act will only permit expenditure of cash in lieu obtained from developments within various development nodes.

Expenditure for parking ticket machines inside the respective nodes results in a reduced reserve transfer from the Cash-In-Lieu of parking contributions, of \$333,887.91. The remaining parking ticket machines located outside the Cash-In-Lieu nodes will now be required to be funded from a transfer of \$120,285.78 from the asset management reserve to the municipal fund.

The below table details available funds in each Cash-In-Lieu precinct and how it will be dispersed.

Table B:

Precinct	Available Funds	Funds Required	Outstanding
Southport Node	\$ 624,106	\$ 154,612.32	Nil
Cambridge/High St Node	\$ 15,000	\$ 67,642.89	\$ 52,642.89
Medical Precinct Node	\$ 376,700	\$ 154,612.32	Nil
Wembley Town Centre Node	\$ 40,000	\$ 9663.27	Nil
Locations not subject to Cash-In-Lieu		\$ 67,642.89	\$ 67,642.89
			\$ 120,285.78

The Town therefore recommends that Council accepts the offer submitted by Tender C in the amount of \$454,173.75 exclusive of GST for the supply and installation of a new parking infrastructure. Tender C will also provide operational services that will include maintenance and software licencing at an annual cost of \$83,640 ex GST following the first year of operation.

STRATEGIC DIRECTION:

Goal 5: Successful commercial, retail and residential hubs

Strategy 5.3 Ensure a high standard of public infrastructure is maintained in and around our centres throughout the Town

Goal 7: The Town is environmentally responsible and leads by example

Strategy 7.3 Improve energy efficiency

Goal 11: An efficient local government

Strategy 11.3 Embrace innovation and continuously strive to improve services delivered to the community

COMMUNITY ENGAGEMENT:

Nil

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council:-

- 1. APPROVES the award of tender RFT 2020-19 – Supply, Installation and Maintenance of ‘Pay-By-Plate’ Ticket Parking Machines, as outlined in Confidential Attachment 1;**
- 2. ACCEPTS the tender of \$788,734 (ex GST) provided by Tender Respondent C as the most acceptable to the Town to supply, install and maintain forty seven (47) replacement ‘Pay-By-Plate’ parking ticket machines over five (5 years), consisting of the following expenditure:**

No:	Year	Amount:
1.1	2020/21	\$454,174
1.2	2021/22	\$83,640
1.3	2022/23	\$83,640
1.4	2023/24	\$83,640
1.5	2024/25	\$83,640

- 3. APPROVES BY AN ABSOLUTE MAJORITY expenditure of \$454,174 in the 2020/21 budget funded from transfers to the Municipal fund from the following reserve transfers:-**
 - 3.1 \$333,888 to be transferred from the development contributions - parking reserve - Southport Street node, Cambridge High Street node, Medical Precinct Node and Wembley Town Centre node for the acquisition and installation of parking ticket machines in those areas;**
 - 3.2 \$120,286 from the Asset Management Reserve for all parking ticket machines outside those areas; and**
- 4. AUTHORISES the CEO to undertake any negotiations and to sign the contract.**

Motion put and CARRIED (5/0) (unanimous)

DV20.150 DELEGATED DECISIONS AND NOTIFICATIONS – OCTOBER 2020

PURPOSE OF REPORT:

The purpose of this report is to receive the register of Planning Delegated Decisions.

SUMMARY:

To report on matters which have been dealt with under delegated authority.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input checked="" type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Not applicable
Report Date:	1 November 2020
Responsible Officer:	Acting Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Statutory Planning, Jennifer Heyes
Contributing Officer:	Administration Officer, Nancy Vanden Bergh
Reporting Officer Interest:	Nil
Attachment(s):	1. Delegated Decisions and Notifications for October 2020

DETAILS:

The Planning applications listed in **Attachment 1** have been dealt with under delegated authority, in accordance with Council's policy, as they were deemed to comply in all respects with the requirements of the Town Planning Scheme and Council Policy:-

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK IMPLICATONS:

There are no Risk Implications related to this report.

FINANCIAL IMPLICATIONS:

There are no Financial Implications related to this report.

STRATEGIC DIRECTION:

The recommendations of this report are consistent with the following aspects of the Town's Strategic Community Plan 2018-2028:-

Our Community Life

Goal 3 An active and, safe and inclusive community.

Strategy 3.4 Act to create and maintain safe, friendly and open environments that residents can access and enjoy

Our Council

Goal 11 An efficient local government

Strategy 11.3 Embrace innovation and continuously strive to improve services delivered to the community

COMMUNITY ENGAGEMENT:

Nil

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That the Council RECEIVES the report on Delegated Decisions and Notifications dealt with under delegated authority for the period of October 2020.

Motion put and CARRIED (5/0) (unanimous)

DV20.151 BUILDING PERMITS APPROVED UNDER DELEGATED AUTHORITY- OCTOBER 2020

PURPOSE OF REPORT:

The purpose of this report is to receive the register of Building Permits issued under delegated Authority.

SUMMARY:

The report details building approvals issued under delegated authority.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input checked="" type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	N/A
Report Date:	2/11/2020
Responsible Officer:	Acting, Director Planning and Development, Brett Cammell
Reporting Officer:	Manager Regulatory Services, Stephen Cleaver
Contributing Officer:	N/A
Reporting Officer Interest:	Nil
Attachment(s):	3. Building Approvals (Confidential)

BACKGROUND:

Listed below are the total numbers of permits issued for the month of October 2020. Also shown are the comparative figures of the numbers of permits issued on the same month of the previous year and year to date fields.

	October 2020	October 2019	Financial Year to date 2020/2021	Corresponding Financial Year to date 2019/2020
Building Permits (Certified)	59	30	165	140
Building Permits (Uncertified)	14	5	57	40
Demolition Permits	6	1	25	12

Building Approval Certificate (Unauthorised Work)	1	1	5	8
Building Approval Certificate (Strata)	0	0	0	1
Occupancy Permits	0	3	3	2
Occupancy Permits (strata)	0	0	0	0
Total	80	40	255	203
Value of Construction	\$16,713,517.84	\$7,598,856.22	\$67,087,144.20	\$35,680,050.37

DETAILS:

Nil

POLICY/STATUTORY IMPLICATIONS:

Building Act 2011.

RISK MANAGEMENT IMPLICATIONS:

Low: As the approvals have already been issued under delegated authority by the Town's Building Surveyor, the risks to the Council are low.

FINANCIAL IMPLICATIONS:

There are no financial implications related to this report.

STRATEGIC DIRECTION:

The recommendations of this report are consistent with the following aspects of the Town's Strategic Community Plan 2018-2028:-

Our Community Life

Goal 3 **An active and, safe and inclusive community**
Strategy 3.4 Act to create and maintain safe, friendly and open environments that residents can access and enjoy

Our Council

Goal 11 **An efficient local government**
Strategy 11.3 Embrace innovation and continuously strive to improve services delivered to the community

COMMUNITY ENGAGEMENT:

Nil

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Mayor Shannon, seconded by Cr Haddon-Casey

That Council RECEIVES the Schedule of Building and Demolition Permits approved under delegated authority for the month of October 2020 as attached to and forming part of the notice paper.

Motion put and CARRIED (5/0) (unanimous)

8. CONFIDENTIAL REPORTS

PROCEDURAL MOTION:

Meeting Behind Closed Doors

Moved by Cr Everett, seconded by Cr Haddon-Casey

That the following matters be regarded as confidential in accordance with Section 5.23 (2) of the *Local Government Act 1995*.

Procedural Motion put and CARRIED (4/1)

For: Crs Barlow, Bradley, Mack and Timmermanis
Against: Mayor Shannon

At 7.16 pm, the Presiding Member, Cr Everett requested all persons other than Elected Members and Council Officers to leave the Council Chamber.

**DV20.152 LOT 501 (NO. 135-137) CAMBRIDGE STREET WEST LEEDERVILLE –
COMPENSATION CLAIM REPORT**

REASON FOR CONFIDENTIALITY

The report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following reasons:

(d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995* and a minor breach under s 5.105 of the *Local Government Act 1995*.

Committee Meeting 17 November 2020

Financial Interest Declaration – Cr McKerracher

Prior to consideration of the item, Cr McKerracher, in accordance with Section 5.65 of the Local Government Act 1995, declared a financial interest in this matter as “my husband’s employer and being a company of which he is a director is s property manager of a property at the above address and would receive a property management fee for managing such a property which may include dealing with issues related to this item”.

Cr McKerracher departed the meeting at 7.17 pm.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Haddon-Casey, seconded by Cr McKerracher

That Council NOTES the report on the claim for compensation in relation to the cladding replacement costs at Lot 501 (No. 135-137) Cambridge Street, West Leederville.

Motion put and CARRIED (4/0)
(Cr McKerracher not present at the meeting)

Cr McKerracher returned to the meeting at 7.23 pm.

DV20.153 LOT 416 (NO. 106) GROVEDALE ROAD, FLOREAT – COMPLIANCE MATTER
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REASON FOR CONFIDENTIALITY

The report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following reasons:

- (b) *personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (f) *a matter that if disclosed, could be reasonably expected to-*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995* and a minor breach under s 5.105 of the *Local Government Act 1995*.

COMMITTEE RECOMMENDATION:

Moved by Cr Everett, seconded by Cr Haddon-Casey

That Council APPROVES the Confidential Recommendation, as amended and detailed in the Confidential Report.

Motion put and CARRIED (5/0) (unanimous)

PROCEDURAL MOTION:

Moved by Cr McKerracher, seconded by Cr Haddon-Casey

That the meeting be re-opened to the public

Motion put and CARRIED (5/0) (unanimous)

MINUTES

COMMUNITY AND RESOURCES COMMITTEE

16 NOVEMBER 2020

ORDER OF BUSINESS

1. DECLARATION OF OPENING
2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE
3. PUBLIC QUESTION TIME
4. DEPUTATIONS AND PETITIONS
5. CONFIRMATION OF MINUTES
6. DECLARATION OF MEMBERS' INTERESTS
7. REPORTS

7.1 INFRASTRUCTURE

CR20.137 Tender RFT 2020-2021 Provision of Wet Plant and Labour Hire Services	3
CR20.138 Tender RFT 2020-23 Alderbury Sports Ground Lighting Replacement	6
CR20.139 Tender RFT 2020-18 Electrical Maintenance Services	9
CR20.140 Council Policy Review – Infrastructure and Works	12
CR20.141 Town of Cambridge – Safe Active Streets	15

7.2 COMMUNITY SERVICES

CR20.142 Wembley Golf Course – Bushland Fire Risk Management Strategy	21
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7.3 CORPORATE BUSINESS

CR20.143 Cambridge Bowling Club – Request to Construct and Sub Lease	24
CR20.144 Lake Monger Community Garden - Water Consumption Waiver	30

7.4 FINANCE

CR20.145 Payment of Accounts – October 2020	34
CR20.146 Investment Schedule – October 2020	36

7.5 GOVERNANCE AND LEGAL

CR20.147 Documents Sealed – November 2020	41
CR20.148 Delegation of Authority Register 2020-2021 – Annual Review	43
CR20.149 Proposed Local Government (Model Code of Conduct) Regulations 2020 – Approval to Make a Submission	49
CR20.150 Proposed Local Government (Administration) Amendment Regulations (No.2) 2020 – Approval to Make a Submission	54

8. CONFIDENTIAL REPORT

CR20.151 Ocean Gardens (Inc) – Appointment of Director 59

9. CLOSURE

MINUTES OF THE MEETING OF COMMUNITY AND RESOURCES COMMITTEE OF THE TOWN OF CAMBRIDGE HELD AT THE ADMINISTRATION/CIVIC CENTRE, 1 BOLD PARK DRIVE, FLOREAT ON 16 NOVEMBER 2020.

1. DECLARATION OF OPENING

The Presiding Member, Cr Andres Timmermanis, declared the meeting of the Community and Resources Committee open at 6.00 pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Present:	Time of Entering	Time of Leaving
Members:		
Cr Andres Timmermanis (Presiding Member)	6.00 pm	6.57 pm
Mayor Keri Shannon (In at 6.12 pm)	6.00 pm	6.57 pm
Cr Kate Barlow	6.00 pm	6.57 pm
Cr Rod Bradley	6.00 pm	6.57 pm
Cr Gary Mack	6.00 pm	6.57 pm

Observers:

Cr Robert Fredericks

Officers:

John Giorgi, JP, Chief Executive Officer
Kelton Hincks, Director Infrastructure & Works
Roy Ruitenga, Acting Director Corporate & Community Services
Andrew Head, Manager Parks & Natural Environment (Until 6.41 pm)
Paul O'Keefe, Acting Manager Corporate Business (Until 6.48 pm)
Josh Madden, Wembley Golf Course General Manager (Until 6.48 pm)
Lee Gyomorei, Coordinator Governance & Office of CEO
Denise Ribbands, Senior Governance Officer
Jane Carrott, Governance Administration Officer

Members of the Public:

2 persons

Media:

1 person

Adjournments:

Nil

Time meeting closed:

6.57 pm

APOLOGIES/LEAVE OF ABSENCE

Nil

3. PUBLIC QUESTION TIME

Nil

4. DEPUTATIONS AND PETITIONS

Item CR20.143 – Geoff Jones, President, Cambridge Bowling Club
Tuko Maia, CEO, Beach Arena Pty Ltd

5. CONFIRMATION OF MINUTES

Moved by Cr Mack, seconded by Cr Barlow

That the Minutes of the Ordinary meeting of the Community and Resources Committee held on 19 October 2020 as contained in the September 2020 Council Notice Paper be confirmed.

Motion put and CARRIED (4/0) (unanimous)
(Mayor Shannon not present at the meeting)

6. DECLARATION OF MEMBERS' INTERESTS

Nil

7. REPORTS

CR20.137 TENDER RFT 2020-21 PROVISION OF WET PLANT AND LABOUR HIRE SERVICES

PURPOSE OF REPORT:

To provide Council with the details of the submissions received for Tender 2020-21 Provision of Wet Plant and Labour Services, document the results of the Tender assessment and make a recommendation on the award of the Contract.

SUMMARY:

This contract has been developed to replace the contract RFT34-16 Truck and Skid Hire Services which has expired. Additional services have been added within the provision of wet plant and labour hire services. These changes will provide greater flexibility, efficiency and better reflect the services required to undertake earthmoving and construction works across the Towns public open spaces and natural areas.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge
Report Date	12 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Parks and Natural Environment, Andrew Head
Contributing Officer:	Senior Landscape Officer, Patrick Bewley
Reporting Officer Interest:	Nil
Attachments:	1. Confidential Evaluation and Recommendation Report

BACKGROUND:

On 26 August 2020, the Town issued an request for tender (RFT) seeking submissions from contractors for the provision of wet plant hire and labour services. The purpose of the tender is to engage a contractor to provide professional wet hire services for earthmoving and construction machinery for maintenance and capital projects throughout the Town's parks, reserves and natural areas.

DETAILS:

The RFT submission period closed 7 October 2020, with four submissions received from the following respondents:

1. Tonca Earthmoving;
2. J&V Earthmoving Contractors PTY LTD;
3. Radonich Contracting PTY LTD; and
4. Castle Civil PTY LTD.

An evaluation panel (the Panel) comprising Coordinator Parks and two Senior Landscape Officers' assessed three submissions as compliant; in accordance to the Town's Purchasing Policy 072 and as per the specifications of the RFT document.

An assessment of the submissions was performed against the following Qualitative Criteria:

- | | |
|---|---------------|
| a) Value for Money | Weighting 30% |
| b) Demonstrated Understanding of the Required Tasks | Weighting 20% |
| c) Capacity to Supply Goods/or Services | Weighting 20% |
| d) Demonstrated Record of Delivering Similar Projects | Weighting 25% |
| e) Social and Economic Effects of the Local Community | Weighting 5% |

POLICY/STATUTORY IMPLICATIONS:

Purchasing Policy 072 and *the Local Government Functions and General Regulations 1996* provides guidance for setting up tenders and contracts. *The Local Government Act 1995* requires Requests for Tenders to be conducted when the total contract value, including any extension options, exceeds \$250,000. This tender and contract award process has enabled the Town to procure the required goods in an accountable, transparent, ethical and financially prudent manner.

RISK MANAGEMENT IMPLICATIONS:

Low: The Town will mitigate risk by engaging contractors who are fully licensed and qualified to provide construction services in accordance with the appropriate Australian Standards and professional work practices.

FINANCIAL IMPLICATIONS:

The Town's expenditure on truck and skid steer services for the previous three years is as follows;

- | | |
|--------------|--------------|
| a) 2017-2018 | \$404,573.02 |
| b) 2018-2019 | \$299,272.75 |
| c) 2019-2020 | \$239,069.55 |

Adequate funds have been allocated in the 2020/2021 Budget to cover this service contract.

STRATEGIC DIRECTION:

RFT 2020-21 Wet Plant Hire and Labour Services Contract, through the RFT procurement process embraces the following strategies of the Town's Strategic Community Plan 2018/2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities

Strategy 10.1 Ensure appropriate resources are allocated to the preparation and implementation of day to day decision making, broader strategic planning and major projects

Strategy 10.2 Promote equity and transparency in the provision of infrastructure and services throughout the Town

Strategy 10.3 Ensure sound and sustainable financial planning, management and reporting.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria, it was determined that community engagement is not required as the matter is Administrative.

COMMITTEE AND ADMINISTRATION RECOMMENDATION

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES the award of tender RFT2020-21 - Provision of Wet Plant Hire and Labour Services as outlined in Confidential Attachment 1.

Mayor Shannon entered the meeting at 6.12 pm.

Motion put and CARRIED (5/0) (unanimous)

CR20.138 TENDER RFT 2020-23 ALDERBURY SPORTS GROUND LIGHTING REPLACEMENT

PURPOSE OF REPORT:

To provide Council with the details of the submissions received for Tender 2020-23 Alderbury Sports Ground Lighting Replacement, document the results of the Tender assessment and make a recommendation on the award of the Tender.

SUMMARY:

This contract has been created to facilitate the replacement of the 40 year old sport lighting for hockey training at Alderbury Reserve. New LED luminaires and mid hinge poles will be used to lower ongoing service and operating costs in line with Councils sustainability strategic goals.

Co-funding of the project has been confirmed through the Department of Local Government Sporting and Cultural Industries' Community Sports and Recreational Facilities Fund (CSRFF) grant program which will allow the upgrade to take place before the hockey season commences in April.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Alderbury Sports Ground
Report Date	12 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Parks and Natural Environment, Andrew Head
Contributing Officer:	Coordinator Parks, Mark Williams
Reporting Officer Interest:	Nil
Attachments:	2. Confidential Evaluation and Recommendation Report

BACKGROUND:

On 19 September 2020, the Town issued an RFT (2020 – 23) seeking submissions from suitable contractors for the supply and installation of sports ground flood lighting at Alderbury Reserve. The need for replacement was identified through a structural engineering inspection and report undertaken by Alliance Engineering in 2019.

DETAILS:

The purpose of the Tender is to seek a suitably qualified and experienced contractor to upgrade of sports lighting for the hockey field at Alderbury Reserve, Floreat. There were two Options within the price schedule; Option 1 to supply and install rigid floodlight columns; and Option 2 to supply and install mid hinge floodlight columns.

The RFT submission period closed 7 October 2020, with 17 submissions received from the following 12 Respondents:

1. Auriemma Electrical Services;
2. Downings Electrical;
3. Fredon (WA) Electrical;
4. Future Power WA;
5. Gillmore Electrical;
6. Green Lite Electrical;
7. Industrial Automation Group Pty Ltd (incomplete);
8. Janissen Electrics;
9. Pole Installation Australia;
10. Prestige Electrical;
11. Stiles Electrical and Communication; and
12. Tracc Civil Pty Ltd.

An Evaluation Panel comprising of Coordinator Parks and both Senior Landscape Officers assessed 11 submissions as compliant; in accordance to the Town's Purchasing Policy 072 and as per the specifications of the RFT document.

An assessment of the RFT was performed against the following qualitative criteria:

- | | |
|---|---------------|
| 1. Demonstrated understanding of the required tasks | Weighting 20% |
| 2. Capacity | Weighting 20% |
| 3. Demonstrated Experience in completing similar projects | Weighting 25% |
| 4. Value for money | Weighting 30% |
| 5. Social and economic effects on the local community | Weighting 5% |

POLICY/STATUTORY IMPLICATIONS:

Purchasing Policy 072 and the Local Government (Functions and General) Regulations 1996 provides guidance for setting up tenders and contracts. The *Local Government Act 1995* requires Requests for Tenders to be conducted when the total contract value, including any extension options, exceeds \$250,000. This tender and contract award process has enabled the Town to procure the required goods in an accountable, transparent, ethical and financially prudent manner.

RISK MANAGEMENT IMPLICATIONS:

Low: The Town of Cambridge will mitigate risk by engaging contractors who are fully licensed and qualified to provide construction services in accordance with the appropriate Australian Standards and professional work practices.

FINANCIAL IMPLICATIONS:

An amount of \$150,000.00 has been allocated for the project in the in the 2020/2021 Budget. An additional amount of \$80,000.00 has been successfully obtained through a grant submission through The Department of Local Government Sport and Cultural Industries. This has resulted in an amount of \$230,000 being allocated for this project.

STRATEGIC DIRECTION:

RFT 2020-23 Alderbury Sports Ground Lighting Replacement Contract, through the RFT procurement process embraces the following strategies of the Town's Strategic Community Plan 2018/2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities

Strategy 10.1 Ensure appropriate resources are allocated to the preparation and implementation of day to day decision making, broader strategic planning and major projects

Strategy 10.2 Promote equity and transparency in the provision of infrastructure and services throughout the Town

Strategy 10.3 Ensure sound and sustainable financial planning, management and reporting

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria, it was determined that community engagement is not required as the matter is Administrative.

COMMITTEE AND ADMINISTRATION RECOMMENDATION

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES the award of Tender RFT2020-23 Alderbury Sports Ground Lighting Replacement as outlined in Confidential Attachment 1.

Motion put and CARRIED (5/0) (unanimous)

CR20.139 TENDER RFT 2020-18 ELECTRICAL MAINTENANCE SERVICES

PURPOSE OF REPORT:

To provide Council with the details of the submissions received for Tender 2020-18 - Electrical Maintenance Services 2020 - 2023, document the results of the Tender assessment and make a recommendation on the award of the Tender.

SUMMARY:

This three year contract replaces RFT14-17 Panel Contractors for Electrical Services which has recently expired. This panel contract provides greater responsiveness and agility to manage the day to day ongoing maintenance of electrical infrastructure throughout the Towns buildings, reserves and public areas.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. Eg. Adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge
Report Date:	12 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Asset Management, Peter Maloney
Contributing Officers:	Acting Coordinator Building Maintenance, Charlie Reynolds Building Maintenance Officers, Mark Mackney, Steve Kesich
Reporting Officer Interest:	Nil
Attachment(s):	1. Confidential Evaluation and Recommendation Report.

BACKGROUND:

The Town utilises a panel of three registered electrical contractors to provide electrical services such as minor project works, scheduled maintenance and reactive repairs to the Town's buildings and properties. The contract for the electrical maintenance services expired on 30 September 2020. The provision of ongoing services is an operational requirement for the Town's Administration.

Electrical maintenance services required for the Town's Administration are categorised as follows:

- a) Essential statutory electrical services testing (RCD tests, testing and tagging of appliances, emergency and exit lighting etc.);
- b) Electrical repairs (lighting, power and communications);
- c) Electrical installation (security lighting, bore pumps, barbecues and general power installation etc.); and
- d) Electrical maintenance services (internal building lighting and external car park lighting replacement, electrical distribution board maintenance etc.)

This appointment also assists the Town's staff when there is a requirement for:

- a) maintenance services required at short notice;
- b) emergency repairs;
- c) emergency after hours call out requirements;
- d) the need for licensed electricians on specific projects; and
- e) assistance with unplanned electrical outages.

DETAILS:

An advertisement for tenders was placed in the Western Australian newspaper on 29 July 2020 and closed on 23 September 2020. The contract is for a three year period. 20 submissions were received from the following tenderers:

1. AE Hoskins Building Services;
2. Auriemma Electrical Services (AES);
3. AWBCo;
4. Boyan Electrical Services;
5. DM Roads;
6. EOS Electrical;
7. Gillmore Electrical Services Pty Ltd;
8. Gilmour and Jooste Electrical;
9. Harrison Electrical Pty Ltd;
10. Janissen Electrics;
11. Lightspeed Communications & Electrical;
12. Mechanical and Electrical Services;
13. Nido Electrical Pty Ltd;
14. Northlake Electrical Pty Ltd
15. Oasis Electrical Engineering Pty Ltd;
16. Pearmans Electrical and Mechanical Services;
17. Powerlux WA;
18. Rhysco Electrical Services;
19. Stevlec Electrical Pty Ltd; and
20. Techworks Electrical.

All submissions were evaluated by a panel comprising of three Town Officers, in accordance with Policy 072 - 'Purchasing Policy' and as per the specifications in the Tender documentation.

An assessment of the submissions was carried out against the following criteria:

- | | |
|---|-----|
| 1. Value for Money | 40% |
| 2. Capacity to Perform the Works | 30% |
| 3. Record of Delivering Similar Projects | 25% |
| 4. Social and Economic Effects On The Local Community | 5% |

POLICY/STATUTORY IMPLICATIONS:

Policy 072 - 'Purchasing Policy' and the *Local Government Functions and General Regulations 1996* provides guidance for setting up tenders and contracts. The *Local Government Act 1995* requires Requests for Tenders to be conducted when the total contract value, including any extension options, exceeds \$250,000. This tender and contract award process has enabled the Town to procure the required goods in an accountable, transparent, ethical and financially prudent manner.

RISK MANAGEMENT IMPLICATIONS:

Low: The Town of Cambridge will mitigate risk by engaging contractors who are fully licensed and qualified to provide electrical services in accordance with the appropriate Australian Standards and professional work practices.

FINANCIAL IMPLICATIONS:

The Town's last three years of expenditure for this service is shown below:

1.	2017-2018 Financial Year	\$359,583
2.	2018-2019 Financial Year	\$548,209
3.	2019-2020 Financial Year	\$429,890

Funds for this contract have been allowed for in the 2020 - 2021 Budget.

STRATEGIC DIRECTION:

The report reflects the following Goals and Strategies of the Town's Strategic Community Plan:

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities.

Strategy 10.2: Promote equity and transparency in the provision of infrastructure and services throughout the Town.

COMMUNITY ENGAGEMENT:

This Tender has been assessed in line with Policy 019 - Community Engagement Policy. Community consultation is not required as it is administrative in nature.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES the award of Tender 2020-18 – Electrical Maintenance Services 2020 - 2023 as outlined in Confidential Attachment 1.

Motion put and CARRIED (5/0) (unanimous)

CR20.140 COUNCIL POLICY REVIEW - INFRASTRUCTURE AND WORKS

PURPOSE OF REPORT:

To provide Council with the details of the changes made to Council Policies 066 – Parking Restrictions and 110 – Bulk Waste Collection Service.

SUMMARY:

This report details the changes made to Council Policies 066 – ‘Parking Restrictions’ and 110 – ‘Bulk Waste Collection Service’. The changes are necessary due to the duplication of residential parking permit clauses in Policies 066 and 065; and to align Policy 110 to the bulk waste collection service (Verge Valet) trial currently underway.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	1 Bold Park Drive, Floreat
Report Date:	12 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Technical Services and Works, Peter Foxcroft
Contributing Officers:	Waste Minimisation Officer, Carey Wright
Reporting Officer Interest:	Nil
Attachment(s):	1. Policy No: 066 – Parking Restrictions 2. Policy No: 110 – Bulk Waste Collection Service

BACKGROUND:

Earlier this year, all Council Policies were updated and were subsequently adopted by Council in June 2020. Since then, the Town has implemented a trial bulk waste collection service provided through the Western Metropolitan Regional Council (WMRC). This change in service provision requires Council Policy 110 – ‘Waste Removal Services - Bulk Verge Collection’ to be aligned with this decision.

In addition, Council Policy 066 – ‘Parking Restrictions’ includes a section relating to residential and visitor parking permits which is also covered in Policy 065 – ‘Parking Permits’. To reduce confusion and future complications, this Policy also required an update.

DETAILS:

Council Policy No: 066 – ‘Parking Restrictions’ has been updated to remove section 5 – Parking Permits in Residential Areas. This section of the document is covered in Council Policy No: 065 – ‘Parking Permits’.

Council Policy No: 110 – ‘Waste Removal Services - Bulk Verge Collection’ has been renamed to “Bulk Waste Collection Service” to better reflect the objectives in the Policy. The Policy Statements within the document have been updated to align with the Verge Valet waste collection trial currently underway.

Marked up versions of the amended policies are included in the report attachments.

POLICY/STATUTORY IMPLICATIONS:

Nil

RISK MANAGEMENT IMPLICATIONS:

Low: There is a low risk of future implications resulting from the changes in these policies. However, there is a medium risk if the policies are not corrected to align with updated laws, regulations and other relevant corporate documents.

FINANCIAL IMPLICATIONS:

There are no financial implications related to this report.

STRATEGIC DIRECTION:

The report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:

Our Council

Goal 9 Transparent, accountable governance

Strategy 9.1 Implement initiatives that strengthen governance skills and knowledge.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy No: 019 as "inform" with the objective to provide balanced and objective information.

The amended policies will be available on the Town's website following approval.

ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES the updated Council Policies No: 066 – ‘Parking Restrictions’ and No: 110 – ‘Bulk Waste Collection Service’, as detailed in the report and the changes be incorporated into the Town’s Policy Manual.

During discussion, Cr Timmermanis stated that the Verge Valet waste collection is currently being trialled at the moment therefore he considered that the current Policy No: 110 should remain in place, and amended to include a clause relating to the trial and its end date, until it is confirmed that the verge valet waste collection has been adopted.

AMENDMENT:

Moved by Cr Timmermanis, seconded by Cr Barlow

That the motion be amended to read as follows:-

That Council APPROVES:-

- 1. the updated Council Policy No: 066 – ‘Parking Restrictions’; and**
- 2. the updated Council Policy No: 110 – ‘Bulk Waste Collection Service’;**

as detailed in the report and the changes be incorporated into the Town’s Policy Manual.

Amendment put and CARRIED (5/0) (unanimous)

Discussion ensued and the Presiding Member, Cr Timmermanis advised that, in accordance with Clause 9.8 of the *Town of Cambridge Meeting Procedures Local Law 2019*, the motion be divided into two separate motions.

That Council APPROVES updated Council Policy No: 066 – ‘Parking Restrictions’, as detailed in the report and the changes be incorporated into the Town’s Policy Manual.

Motion put and CARRIED (5/0) (unanimous)

That Council APPROVES updated Council Policy No: 110 – ‘Bulk Waste Collection Service’, as detailed in the report and the changes be incorporated into the Town’s Policy Manual.

Cr Mack suggested that there could be a Policy No: 110 (a) which deals only with the trial.

PROCEDURAL MOTION:

Moved by Mayor Shannon, seconded by Cr Mack

That Council DEFERS Council Policy No: 110 – ‘Bulk Waste Collection Service’ to enable the policy to be renumbered as a separate policy with an end date relative to the trial.

Procedural motion put and CARRIED (5/0) (unanimous)

COMMITTEE RECOMMENDATION:

That Council:-

- 1. APPROVES updated Council Policy No: No: 066 – ‘Parking Restrictions’, as detailed in the report and the changes be incorporated into the Town’s Policy Manual; and**
- 2. DEFERS Council Policy No: 110 – ‘Bulk Waste Collection Service’ to enable the policy to be renumbered as a separate policy with an end date relative to the trial.**

CR20.141 TOWN OF CAMBRIDGE - SAFE ACTIVE STREETS

PURPOSE OF REPORT:

The purpose of the report is to inform Council of the feedback from the Safe Active Streets (SAS) community engagement and seek approval to progress the project to the detailed design and construction milestones.

SUMMARY:

The Town has concluded the SAS community engagement process as part of the Department of Transport (DoT) funding agreement.

The consultation period for submissions opened 15 September and closed 26 October 2020, with the Town receiving 234 submissions in total. The results indicated that 72% of respondents strongly support the introduction of the project in the Wembley/West Leederville area.

This report summarises the results of the community engagement and recommends to proceed to the project's detailed design and construction stages as per the DoT agreement.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Ruislip, Bournville, Kimberley, Northwood, Woolwich, Tower, Holyrood, Kerr and Southport Street, West Leederville.
Report Date:	12 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks,
Reporting Officer:	Manager Technical Services and Works, Peter Foxcroft
Contributing Officer:	Nil
Reporting Officer Interest:	Nil
Attachment(s):	1. Location Plan 2. On line survey form

BACKGROUND:

The SAS program is a DoT innovative strategy that aligns with the objectives of the Town's Bike Plan 2018. The program identifies missing links in the DoT strategic bike network that redefines the function of local streets by providing safe walking and cycling routes to local amenities. This is achieved by introducing traffic reduction and traffic calming measures to decrease traffic volumes and lower vehicle speeds to 30 km/h, thus improving neighbourhood amenity.

The Town was successful in obtaining a \$2,200,000 grant for the design and construction of a SAS along Ruislip Street. The Ruislip Street SAS is proposed to be an east to west route that connects the Leederville Train Station to the coast via the existing Boulevard shared path. During the planning stage, the DoT identified that the existing traffic treatments the Town had installed along Ruislip Street would reduce the project scope, saving considerable cost to the project. After further discussions, the DoT committed the available funds to extend the scope of the project to include a north to south route that would link Lake Monger recreational reserve to Subiaco.

As part of the DoT agreement, the Town has to adhere to the timeframes listed below to activate the funding milestones for the project.

DoT Funding Agreement Milestones	Timeframe	Status
Concept Design Stage	August 2020	Complete
Design Peer Review	September 2020	Outstanding
Communication and Engagement Plan	August 2020	Complete
Community Engagement	September 2020	Complete
Detailed Design	February 2021	Pending
Construction Drawing Approval	February 2021	Pending
Construction	April - May 2021	Pending
Practical Completion	May 2021	Pending
Construction Audit	May 2021	Pending
Road Safety Audit	June 2021	Pending

DETAILS:

The community engagement period for submissions opened 15 September and closed 26 October 2020.

The community engagement consisted of the following:

1. a letter drop to 1,323 affected residents/owners with the associated project information;
2. a series of eight social media channel posts (Instagram, Facebook and Twitter) totalling 24 posts;
3. lead story in the Cambridge News, 19 September 2020 edition – both print and e-newsletter
4. featured in the Cambridge News e-newsletter 2 October 2020 edition;
5. featured in the Cambridge News e-newsletter 17 October 2020 edition (informing the community on the extended consultation period);
6. Ruislip St SAS featured as a slider on the homepage of the Town’s website throughout the consultation period; and
7. a dedicated webpage with an online survey, map and individual drawings for each section of the route

A summary of the results from the community engagement survey are as follows:

Do you support SAS project?	No. of Responses
YES	168
NO	66
Grand Total	234

Survey of Demographic Information:

No. Respondents by Suburb	YES	NO
City Beach	4	3
Floreat	18	2
Wembley	55	27
West Leederville	81	26
West Perth	1	0
Other	9	8
Grand Total	168	66

No. Respondents by Street	YES	NO
Bournville Street	3	1
Northwood Street	16	4
Ruislip Street	11	13
Woolwich Street	2	2
Grand Total	32	20

(NB: Streets listed above are the streets selected for the SAS route from survey results)

Below are the results from the online survey:

Number	Question	Answer	Number of responses
1	Do you support the Ruislip Street SAS project?	Yes	168
		No	66
		Total	234
2	What do you believe are the main benefits of the project? (if answered yes to question 1)	Increased safety for myself and family.	126
		Makes it easier to commute to work, convenient to access public transport and the CBD.	70
		Slower speed limits and reduced vehicle traffic in my neighbourhood.	106
		Greener and more vibrant streets	113
		Encourages an active healthier lifestyle as an alternative to driving	123
		Increased connection to local amenities and attractions	83
		Other - Benefits are safer bike access from West Leederville to Bob Hawke College, safer for all children who play and commute in the area and kids riding to school becomes a viable alternative.	3

3	Please explain why you do not support this project (if answered no to question 1)	Reasons given for not supporting project are: 1. Less safer for cyclists 2. Commuters “rat running” through area; 3. Difficulty accessing properties; 4. 30 km/h speed limit too restrictive; 5. Devaluing properties in the area; 6. Loss of street parking; 7. Encourage antisocial behaviour; 8. Remove all speed humps; 9. Improve the access onto Cambridge Street and Railway Parade; 10. Have cycling lanes instead of road narrowing; 11. Waste of ratepayer’s money; 12. Driver’s impatience behind cyclists using the road; 13. Street is ok as it is; and 14. Proposed north to south route is too steep.	Comments emanating from the 66 respondents not supporting the project.
4	Please indicate your preferred north to south link option	Option 1 – Kimberley Street Option 2 – Northwood Street Neither Total	68 98 2 168
5	Please indicate your preferred street to be used for the eastern connection to (Leederville public transport):	Woolwich Street Tower Street Both Other Total	62 39 64 3 (Lake Monger Drive and 2 x neither) 168
6	Do you support a pedestrian crossing connecting the route to West Leederville Train Station across Railway Parade?	Yes No	209 25
7	Please explain the reason you do not support the pedestrian crossing (if answered no to question 6)	Reasons given for not supporting project are: 1. Increased crime in area; 2. Misunderstanding of the type of crossing to be installed; 3. Loss of business; 4. Restricted traffic flow; 5. Waste of money; 6. Loss of parking on Railway Parade; and 7. OK as it is.	Comments emanating from the 25 respondents not supporting the project.

8	Please provide any further comments on the project (optional)	<p>For:</p> <ol style="list-style-type: none"> 1. Effective traffic calming; 2. Reduced speed limit; 3. Including a bicycle repair station; 4. Bike lanes over current proposal; 5. Improved walking opportunity for elderly residents; 6. Improving greening of the streets; 7. Lake Monger Drive pedestrian crossing; 8. Harborne Street pedestrian crossing; 9. Possible increase use of public transport; 10. Removing the narrowing of Cambridge Street at Coles; and 11. Increase width of medians to cross the busy streets <p>Against:</p> <ol style="list-style-type: none"> 1. Safety concerns crossing Harborne/Ruislip Street; 2. Safety concerns at West Leederville School drop off zone; 3. Too steep on north to south link; 4. Non supportive of proposal; 5. Waste of money; 6. Increased traffic congestion; 7. Loss of parking; and 8. Possible increase in "rat running". 	General comments from respondents.
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POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: The Town has sought community feedback for the proposed SAS project and the majority of the respondents from the community engagement support the project. The Town considered the risk to be low from a reputational risk point of view and low from a financial risk as the project is funded by the DoT.

FINANCIAL IMPLICATIONS:

The project is 100% funded by the Department of Transport with a \$2,200,000 grant. Approximately \$100,000 has been expended to date on the project for a feature survey of the proposed route, concept design works and community consultation. There are no financial implications to the Town, but if the project is not completed by 30 June 2021, the DoT may request the unspent funds to be returned.

STRATEGIC DIRECTION:

The report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:

Goal 6: Efficient transport networks

Strategy 6.1 Coordinate our approach to transport planning, acknowledge transport pressures and respond to local needs and broader district and regional initiatives

COMMUNITY ENGAGEMENT:

Community engagement has been undertaken for this project via an approved Communications and Engagement Plan. The plan consisted of a consultation letter with concept plans mailed out to all affected residents, social media, newsletters, newspaper advertisements and the Town's website seeking feedback on the SAS project.

COMMENTS:

Overall from the survey results, the preferred east to west SAS route linking the Boulevard shared path via Bournville, Ruislip, Woolwich and Southport Street to the Leederville train station is supported. It is noted for Ruislip Street that 13 residents opposed the scheme with 11 residents in favour, but unfortunately Ruislip Street is the critical connecting link to the project with no suitable alternative.

For the north to south SAS route linking Lake Monger recreational reserve to the West Leederville train station, Northwood Street had stronger support over the Kimberley Street alternative. This link would provide a cycling and walking route for Bob Hawke College students, connecting the school's northern catchment area to the school via the proposed Railway Parade pedestrian crossing and the West Leederville underpass.

It is also noted that the Town did receive requests from residents to modify some of the proposed traffic calming treatments which will be reviewed at the detailed design stage.

As a result of the feedback received, it is recommended to progress the project to the detailed design and construction stages.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council:-

1. **RECEIVES** the results of the Town's Safe Active Streets community engagement; and
2. **APPROVES** the Town to progress the project to the following stages as stated in the funding agreement:
 - 2.1 **Department of Transport design panel review and subsequent approval;**
 - 2.2 **Detailed design stage; and**
 - 2.3 **Construction stage.**

Motion put and CARRIED (3/2)

For: Mayor Shannon, Crs Barlow and Mack
Against: Crs Bradley and Timmermanis

CR20.142 WEMBLEY GOLF COURSE - BUSHLAND FIRE RISK MANAGEMENT STRATEGY

PURPOSE OF REPORT:

To seek Council approval to spend \$15,000 of unbudgeted funds to address recommendations and bush fire risk management strategies raised from discussions held with the Department of Fire and Emergency Services (DFES).

SUMMARY:

As a result of meetings with DFES, a number of fire threats have been identified at the WGC. This report outlines the approach to these threats including a long-term plan to continually maintain, improve and minimise the risk to the property.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input checked="" type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	Wembley Golf Course
Report Date:	12 November 2020
Responsible Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Reporting Officer:	WGC General Manager, Josh Madden
Contributing Officer:	Nil
Reporting Officer Interest	Nil
Attachment(s):	Attachment (1) diagram fire prone zones in and around WGC

BACKGROUND:

A review by current WGC management and Head Superintendent of the WGC operations reaffirmed that historically there has been very little management or implementation of bush fire mitigation strategies with respect to the current fire zones within the golf course's perimeters over the past twenty years. This has allowed significant proliferation of fuel, undergrowth, fallen trees etc. providing a high-risk fire area. This fire risk should be addressed as a matter of priority providing a pro-active approach to fixing the issue given the deliberate bush fire earlier this year, WGC and TOC management have an obligation to mitigate the risks of such incidences reoccurring.

DETAILS:

Following discussions held with DFES and the Town's Rangers, the following risk mitigation strategies have been recommended to be implemented each year. It is proposed that these strategies be carried out via a planned annual maintenance program, at a budgeted cost of \$15,000 per annum, as follows:

1. The thinning out of undergrowth around the golf course fence line. The will be ongoing works dependent on budget restrictions or savings each year.
2. Financial Year 2020/2021 - Creation of vehicle access tracks, one additional access gate (across from Newman College) and ongoing rotation of scheduled general maintenance of designated bush blocks within the golf course grounds subject to Council approval.. The implementation of phase one can and should be completed before the end of December 2020.
3. Financial Year 2021/2022 - Implementation of a strategic weed spraying program that controls undergrowth and fine fuels. To be carried out from late 2020 and during 2021 and completed before fire season commences in November 2021.
4. Financial Year 2022/2023 - Creation of an additional access gate to bushland areas (primarily to the SE and NE corners) to accommodate large fire trucks. To be completed before fire season commences in November 2022.
5. Financial Year 2023/2024 - Mechanical removal of fuel loading to include:
 - a. Pruning
 - b. Mulching
 - c. Thinning of vegetation

The above tasks to be reviewed before fire season commences in November 2023.

6. Financial Year 2024/2025 – Possible fuel reduction burns (in small parcels to reduce fuel loadings). This action may not be required after completion of the above strategies but should be considered moving forward. If this action is required, it would be prior to the fire season commencing in November 2024.

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Medium to High: The matter of fire safety at the Wembley Golf Course has been identified as a medium to high risk. Back burning and load reduction of the bushland has not been carried out for many years and this has increased the fire risk significantly.

FINANCIAL IMPLICATIONS:

An amount of \$15,000 is required to action the recommendations made, for which no budget has been set aside. The required expenditure can be absorbed within the current WGC budget. From 2020/2021 an annual budget amount will be set aside to manage ongoing bush fire management.

STRATEGIC DIRECTION:

The recommendation detailed in this report embraces the following strategies of the Town's Strategic Community Plan 2018-2028:

Our Environment

Goal 7 The Town is environmentally responsible and leads by example

Strategy 7.5 Promote our environmental assets and opportunities and recognise the impacts of climate change in our strategies

Our Council

Goal 9 Transparent, accountable governance.

Goal 11 An efficient local government.

COMMUNITY ENGAGEMENT:

This matter has been assessed under Policy 019 – Community Engagement, and does not require community consultation, as this matter is administrative in nature.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council:-

- 1. APPROVES BY AN ABSOLUTE MAJORITY to re-allocate unbudgeted funds of \$15,000 to carry out bush fire risk mitigation strategies at the Wembley Golf Course (WGC); and**
- 2. NOTES the indicative funds which will be required for the years 2021-2024.**

Motion put and CARRIED (5/0) (unanimous)

CR20.143 CAMBRIDGE BOWLING CLUB - REQUEST TO CONSTRUCT AND SUB LEASE

PURPOSE OF REPORT:

To approve the sub-leasing of a designated area at the Cambridge Bowling Club (CBC) for the provision of Beach Tennis/Sporting area at the facility.

SUMMARY:

The CBC is seeking approval to sub-lease its unused Bowling Green (Green D – approximately 620m²) to Beach Arena Pty Ltd, for the purpose of establishing a Beach Tennis/Sporting arena.

The CBC wish to sub-lease Green D to Beach Arena Pty Ltd, who intend to establish, implement and manage Beach Tennis and Beach Sporting Competitions. The initial term of the sub-lease will be five (5) years, with a further five (5) years, six (6) month option, which will coincide with the end of the CBC Lease in 2031.

Subject to Council approval, all capital costs of developing the facility, plus all ongoing costs, will be met by Beach Arena Pty Ltd, who intend to commence its Beach Tennis and Beach Sporting Competitions as soon as practicable.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Cambridge Bowling Club, 39 Chandler Avenue West, Floreat
Report Date:	6 November 2020
Responsible Officer:	Acting Director Corporate and Community Service, Roy Ruitenga
Reporting Officer:	Acting Manager Corporate Business, Paul O'Keefe
Contributing Officer:	Nil
Reporting Officer Interest	Nil
Attachment(s):	Nil

BACKGROUND:

The Cambridge Bowling Club (CBC) facilities were constructed in 2006 as part of the Floreat Sporting Precinct works, as a result of the amalgamation between the City Beach and Floreat Park Bowling Clubs. The CBC facilities encompassed a new clubroom, change rooms, car-parking, landscaping and bowling greens.

Over the years, a number of trends have occurred with bowling club membership numbers decreasing and grass greens being replaced with synthetic ones. Since 2006, playing members at CBC have decreased from 700 to approximately 400 in 2015. Currently, the Club has 250 members with three (3) playing greens now synthetic.

In 2016, the Town approved the dis-used Green E being sub-leased to Fox Football Fives Pty Ltd, who introduced and subsequently manages the five-a-side soccer competition, which has proven to be immensely successful.

The CBC has a long term lease with the Town until 2031, which includes all the land and buildings on the site.

DETAILS:

Beach Tennis is a fast-paced sand sport, which is particularly popular amongst university educated professionals and young adults. Beach Arena Pty Ltd have identified a significant gap in the market, which represents an excellent opportunity for investment in the Town's Floreat Sports Precinct.

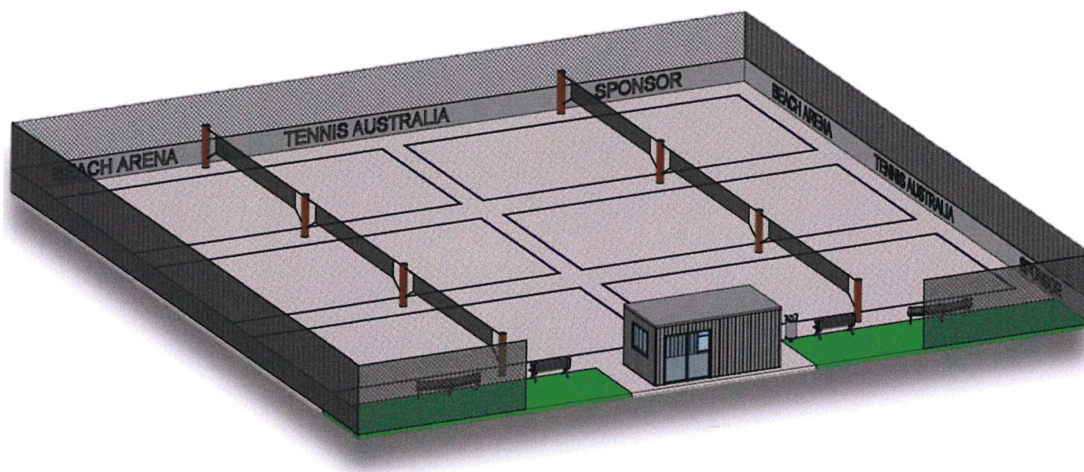
The three (3) largest indoor/outdoor beach volleyball facilities operating in Perth are at capacity, which is more evident in summer when the Beach Volleyball facility at the Floreat Surf Lifesaving Club is fully booked out.

The ability for participants to train more frequently is generally restricted to low quality, temporary facilities with limited opening hours and weather restrictions. Those interested in learning any beach sports find it difficult to locate and attend novice classes held during off peak time slots located at indoor sport centres or high school gyms.

There are currently no plans to construct a dedicated Beach Tennis Facility either by Tennis Australia or any of its constituent Clubs. While there are a large number of tennis clubs in existence, these are exclusive to tennis only. The CBC facility, however, is a shared facility with other sports to attract a variety of clients.

The proposed Beach Arena will be established as the first dedicated Beach Tennis/Sporting facility in Australia, in an endeavour to meet the growing demand, with a primary focus on the Beach Tennis market, while also providing facilities for other sports during off-peak periods. The proposed Beach Arena will be a vertically integrated, full service centre, including court hire, permanent completion grade courts, outdoor fitness facilities, equipment sales, hire and repair, storage facilities, group classes and individual coaching. Beach Arena members will also become consumers for the CBC cafe and licenced bar, thereby generating additional revenue for the CBC.

At present, Beach Arena Pty Ltd run Beach Tennis programs at Perth Modern School with the aim to attract more schools into the facility during school hours and after school programs. Beach Arena Pty Ltd also intends to run exchange programs with sister clubs/federations in major Beach Tennis nations such as the Italian Tennis Federation, Metta Beach Tennis and Astra Indoor Club of Brazil. The proposed Beach Arena will have six (6) sand courts, outdoor fitness, bar, BBQ and shop, with the venue to be approximately 1225m² as shown below.



The venue investment and renovation will include the following:

1. Approximately 429m³ of screened white sand, estimated cost \$30,000;
2. 140 meter high fence around the courts, estimated cost \$15,000;
3. Courts (lines nets, posts, hooks, ropes), estimated cost \$4,100;
4. Light Systems complying with Tennis Australia standards, estimated cost TBA;
5. Estimated renovation cost \$100,000;
6. Six (6) dedicated official sand courts at 16 metres by 8 metres;
7. Permanent scoring systems;
8. Capacity for over 30 recreational/competitive athletes at any given time;
9. Social Lounge;
10. Hire equipment for up to 50 participants for classes, schools and corporate events;
11. Fully equipped outdoor gym which includes free weights and benches, stretch and yoga area and Beach Tennis training targets;
12. Day and night time venue hire for elite athletes to enable their ideal training programs;
13. Competitions across all disciplines;
14. The only outdoor facility with official sand court sizes in the Town.

The completion of the project will vary due to many factors:

1. Terms of the contract;
2. Investors;
3. Contractor Deliver Times (logistics have been affected by current the COVID-19 situation);
and
4. Weather.

The project will be financed in collaboration from private capital investors, public support and sponsors. Beach Tennis West has launched a tax deductible campaign with the Australian Sports Foundation, in order to raise funds to develop the headquarters and lighting improvements. Support from the Town is fundamental for the project development and success. The Reabold Tennis Club, who will reside next door to the Beach Arena, have given the project its full support.

The proposed expiration date of the new Sub-Lease aligns with the CBC head Lease, which ceases on 30 June 2031, noting a difference of one (1) day between, in order to avoid any assignment of *the lease* at law issues.

POLICY/STATUTORY IMPLICATIONS:

Town Planning Scheme No.1 Metropolitan Region Scheme

The CBC is reserved under the Metropolitan Region Scheme for 'Parks and Recreation'. The use of the land for sporting activities is consistent with the Parks and Recreation reservation of the site. As such, planning approval from the Western Australian Planning Commission is not required for this activity.

Policy 014: Community Facilities, Parks and Reserves – Conditions of Hire

The TOC Community Facilities, Parks and Reserves – Conditions of Hire requires any proposals for installation of external lighting to:

1. Demonstrate that the lighting will result in a substantial increase in the use of the facility;
2. Comply with Australian Standards in relation to the acceptable level of spill and the appropriate Lux standards for the particular sport;
3. Ensure lighting will be turned off by 10.30 pm; and
4. Confirm that all operating costs relating to the lighting, including electricity and maintenance, will be borne by the sub-lessee.

All these conditions will be met by the CBC, through their sub-lease with Beach Arena Pty Ltd.

With the CBC bordered by the Reabold Tennis Club, Cambridge Croquet Club, the Floreat Oval (all of which have lights) the Floreat Primary School and the Floreat Forum Shopping Centre, there would be minimal impact upon nearby residents in relation to lighting. It is therefore, not recommended to consult with nearby residents in relation to lighting.

Cambridge Bowling Club Lease

Clause 7.1 (a) of the lease between the Town and the CBC states that subletting of the premises requires the prior written consent of the Town, which consent the Town may refuse or grant (with or without conditions) in the Town's absolute and unlimited discretion.

Asset Management – Community Facilities Policy 007

Beach Arena Pty Ltd will meet the costs of the renewal of the lighting and beach surface during the term of the Sub-Lease. The Town will not be contributing the 2/3rd maintenance cost to Green D. From the Town's perspective, the request by the CBC to use an area within their lease for a Beach Tennis/Sporting facility is supported for a number of reasons:

1. It provides an opportunity for the local community to participate in another sporting activity;
2. It provides the CBC with an income source to assist them in their financial sustainability; and
3. It allows the CBC to replace synthetic green bowling greens with no reliance on funding from the Town.

RISK MANAGEMENT IMPLICATIONS:

Medium: Not supporting this Sub-Lease between the CBC and Beach Arena Pty Ltd would result in a loss of income, which would affect the Club's operating budget to support other Clubs and activities at CBC.

FINANCIAL IMPLICATIONS:

In relation to the capital expenditure, there will be no cost to Council or the CBC, as the installation of the new infrastructure will be fully borne by Beach Arena Pty Ltd. In addition, all operating costs associated with the Facility such as electricity, cleaning, repairs and maintenance will be met by Beach Arena Pty Ltd through its Sub-Lease with CBC.

Beach Arena Pty Ltd will pay the CBC an annual rent, which will be set aside for replacement of their bowling greens. If for some reason, it does not prove financially viable, the cost to remove any infrastructure will also be the responsibility of Beach Arena Pty Ltd and/or the CBC pursuant to the Sub-Lease.

STRATEGIC DIRECTION:

The report supports a number of priority areas and goals of the Town's Strategic Community Plan 2018 - 2028 specifically:

Our Community

Goal 3: An active, safe and inclusive community Strategies

Strategy 3.1 Focus on improving and expanding those places where community groups interact to encourage greater participation.

Strategy 3.2 Continue to deliver more programs which support local clubs and community groups and their capacity to run their community activities.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy and does not require community consultation as this matter is administrative in nature.

ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council:-

- 1. APPROVES Cambridge Bowling Club's request to re-purpose its disused Bowling Green (Green D) for the purpose of sub-letting the area for the provision of a Beach Tennis/Sporting arena at the facility;**
- 2. APPROVES Cambridge Bowling Club entering into a Sub-Lease Agreement with Beach Arena Pty Ltd, for usage of Green D to enable the establishment of a Beach Tennis/Sporting arena;**
- 3. NOTES the proposed terms of the Sub-Lease is as follows:**

Initial Term	Five (5) Years	Expiring 1 January 2026
Option	Five (5) Years Six (6) months	Expiring 29 June 2031

- 4. NOTES the proposed Beach Arena, will be subject to:**
 - 4.1. All relevant statutory approvals being obtained, prior to the commencement of the proposed Beach Arena construction and renovations works;**
 - 4.2. All costs associated with the construction and renovation works will be borne by Beach Arena Pty Ltd; and**

4.3. All work must be completed to the Town's satisfaction and in compliance with all statutory regulations.

During discussion, Members requested further information be provided on the terms of the lease prior to the next meeting of Council.

PROCEDURAL MOTION:

Moved by Mayor Shannon, seconded by Cr Bradley

That the item relating to Cambridge Bowling Club – Request to Construct and Sub Lease be submitted to Council for determination.

Procedural Motion put and CARRIED (5/0) (unanimous)

CR20.144 LAKE MONGER COMMUNITY GARDEN WATER - CONSUMPTION WAIVER

PURPOSE OF REPORT:

To vary the current Occupation Licence to incorporate a water consumption waiver, up to \$500 per annum towards water charges payable by the Lake Monger Community Garden.

SUMMARY:

Water usage charges represent a considerable cost to the organisation in proportion to the group's membership income, noting similar community gardens within the area (West Leederville and Joondanna in the City of Stirling) are not charged for their respective water usage.

Given the ongoing benefits to the local community and alignment to the Town's Strategic Community Plan 2018-2028 and Sustainability Strategy 2019-2023, this report recommends a waiver, up to \$500 per annum, is approved.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Lake Monger Reserve, 36 Dodd Street, Wembley
Report Date:	5 November 2020
Responsible Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Reporting Officer:	Acting Manager Corporate Business, Paul O'Keefe
Contributing Officer:	Sustainability Officer, Janine Roets
Reporting Officer Interest	Nil
Attachment(s):	1. Lake Monger Community Shed Occupational Licence 2018 (Confidential) 2. Lake Monger Community Garden – Water Waiver Letter 17 August 2020 (Confidential)

BACKGROUND:

The Lake Monger Community Garden (Garden) was established in 2016 and is situated adjacent to the Bold Park Community School and currently has 19 members and 19 allocated lots. An annual fee of \$60 is charged per member, which contributes towards insurance payments, gardening equipment and associated scheme water charges. The low annual fee is an endeavour to ensure inclusivity of the greater community.

The Garden's aim is to 'create a garden where people in the community can get together to grow organic produce and socialise'. Their activities support local schools and seniors' programs and provide public community composting stations.

A short term Occupation Licence was initially granted on 1 April 2016 (CR16.37). On 27 February 2018, Council endorsed a new Occupation Licence for a 10 year period (DV18.11), commencing 1 April 2018 (refer to **Attachment 1**). Under the terms of this Licence, the Garden is required to pay for all services, including electricity, gas, telecommunications and scheme water.

Water consumed by the Garden is supplied from the Town's scheme water supply, which also supplies the public toilets and drink fountains in the area. The supply point is sub-metered and consumption is charged every six (6) months, according to the Occupation Licence requirements (**Attachment 1**).

In a letter dated 17 August 2020, the Garden requested a waiver on their water fees (refer to **Attachment 2**), due to financial hardships being experienced by their members.

Surrounding Community Gardens

According to the Garden, the neighbouring West Leederville Community Garden is not charged for their bore water consumption, while surrounding Local Government Community Gardens are not charged for scheme water consumption, including the Joondanna Community Garden (City of Stirling).

West Leederville Community Garden

The West Leederville Community Garden, located on Cambridge Street, near the Leederville Town Hall, West Leederville was established in 2007. No formal Occupation Licence exists as this garden is supplied with bore water, which also services the Bowling Club and Memorial Gardens. No charge is imposed by the Town for this water usage, due predominantly to the small amount of water supplied from the bore.

Unfortunately, the Lake Monger Community Garden is unable to utilise bore water from an adjacent bore as it is situated on a historical landfill site. The Department of Health, along with the Department of Water and Environmental Regulation, require installation of raised garden beds and scheme water irrigation.

DETAILS:

Waiver of water usage charges

The Garden has requested a waiver of water bills, citing the following reasons:

1. Consistency with neighbouring community gardens who do not pay for water usage;
2. Water consumption charges representing a very high proportion of its total expenses, required to be funded from the limited income generated through group membership fees;
3. A high consumption water tariff rate is charged (approximately \$2.40/kL compared to \$1.82/kL), due to their water supply being metered from the higher consumption facilities in the locality; and
4. Unusually high recent water usage, due to alleged water 'theft' from builders at an adjoining site.

Water consumption over the last four, six monthly periods is detailed in the following table:

Period	Consumption (kL)	Amount charged (incl. GST) by Town at approx. \$2.40/kL	Comparison charge at \$1.82/kL
May 2018 – October 2018	22	\$52.92	\$44.21
November 2018 – April 2019	113	\$305.40	\$227.10
May 2019 – October 2019	89	\$246.51	\$178.86
November 2019 – April 2020	225	\$623.20	\$452.18

The Garden is well established and serves an important role in the community, in alignment to the Town's Strategic Community Plan 2018-2028 and Sustainability Strategy 2019-2023.

Water consumption represents a considerable expense to the Garden, proportionate to its annual membership income.

In order to support the Garden's request, the following three (3) options have been considered:

1. Waive (and refund) the water charges for the most recent period in recognition of the unusually high water consumption.
2. Amend the Occupational Licence to remove the requirement for the Garden to pay for water usage, either by:
 - (a) Unlimited, noting the usage is metered and can be monitored by the Town; or
 - (b) Up to a nominated maximum amount per year (e.g. \$500), with the application of the Water Corporation's low rate of \$1.82/kl being applied to water consumed.

Given the alignment with the Town's strategic objectives and similar community garden not charged for water usage, it is recommended that Option 3.1 is endorsed.

Other matters

In its letter, the Garden raised other matters of concern, notably anti-social behaviour, plus the installation of CCTV cameras. These matters have been referred to the Town's Ranger Services to investigate.

The Garden has also requested funds totalling \$3,000, through the Sustainable Grants Program, which forms part of a separate report to the 24 November 2020 Ordinary Council meeting.

POLICY/STATUTORY IMPLICATIONS:

Community Gardens are administered through Policy 015 - Community Gardens Policy.

RISK MANAGEMENT IMPLICATIONS:

Low: Water consumption will be monitored through the sub-meter and a water logger.

FINANCIAL IMPLICATIONS:

Funding for the proposed waived amount, will be provided for under the Sustainability Programs 2020-21 Budget.

STRATEGIC DIRECTION:

The recommendations embrace the following strategies of the Town's Strategic Plan 2018 - 2028:-

Goal 1: A sense of community, pride and belonging

Strategy 1.1 Encourage and support participation in a range of public activities and events where residents can gather and interact.

Strategy 1.2 Promote our strong community identity and focus our responses on the needs of local residents, businesses and ratepayers.

Goal 3: An active, safe and inclusive community

Strategy 3.1 Focus on improving and expanding those places where community groups interact to encourage greater participation.

Strategy 3.2 Continue to deliver more programs which support local clubs and community groups and their capacity to run their community activities.

Strategy 3.3 Encourage a range of activities that better align with the diverse needs of ratepayers of all ages, cultures and abilities.

Strategy 3.4 Act to create and maintain safe, friendly and open environments that residents can access and enjoy.

Goal 8: A community that embraces environmentally responsible practices

Strategy 8.1 Encourage the community to self-manage minimising energy consumption, water use, emissions and waste

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Policy 019 - Community Engagement Policy as "inform" with the objective to provide balanced and objective information.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES BY AN ABSOLUTE MAJORITY a variation to the Lake Monger Community Garden Occupation Licence, through the introduction of a water consumption waiver, up to \$500 per annum.

Motion put and CARRIED (5/0)(unanimous)

CR20.145 PAYMENT OF ACCOUNTS – OCTOBER 2020

PURPOSE OF REPORT:

To provide and confirm the schedule of payments for the month of October 2020 in accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

SUMMARY:

Under the Local Government (*Financial Management*) Regulations 1996, payments of accounts made by the Town are to be submitted to Council. The report contains a summary of payments made for the month with detailed payment listings attached providing more information.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. |
| <input checked="" type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	N/A
Report Date:	6 November 2020
Responsible Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Reporting Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Contributing Officer:	N/A
Reporting Officer Interest:	Nil
Attachment(s):	1. Account Payment Listing

BACKGROUND:

Section 6.10 of the *Local Government Act 1995* requires the keeping of financial records and general management of payments, which is further specified in regulation 13 of the *Local Government (Financial Management) Regulation 1996*. A list of accounts is to be prepared each month which is to be presented to the Ordinary meeting of Council showing the payee's name, the amount of payment, the date of the payment and sufficient information to identify the transaction.

DETAILS:

A list of the cheques raised and Electronic Funds Transfers for the payment of accounts from the Municipal Account (and Trust Account where applicable) for the past month.

POLICY/STATUTORY IMPLICATIONS:

Payments are in accordance with Policy No.008 "Bank Accounts and Payments".

RISK MANAGEMENT IMPLICATIONS:

Low: The schedule of payments has been produced in accordance with applicable local government legislation.

FINANCIAL IMPLICATIONS:

Expenses incurred are charged to the appropriate items included in the annual budget.

STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Community Plan 2018-2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria it was determined that community engagement is not required.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council CONFIRMS, in accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, the schedule of accounts, as detailed below and attached.

(i) CHEQUE PAYMENTS

	Date From	Date To	Details	Amount
Municipal Fund	02-October-2020	02-October-2020	058711 - 058725	\$29,047.75
Municipal Fund	03-October-2020	09-October-2020	058726 - 058744	\$29,491.23
Municipal Fund	10-October-2020	16-October-2020	058745 - 058760	\$74,329.60
Municipal Fund	17-October-2020	22-October-2020	058761 - 058785	\$33,202.30
Municipal Fund	23-October-2020	30-October-2020	058786 - 058804	\$44,963.74
				\$211,034.62

(ii) ELECTRONIC FUND TRANSFERS (EFT'S)

	Date From	Date To	Details	Amount
Investments	01-October-2020	31-October-2020	INV1210 - INV1215	\$10,546,889.03
Direct Bank Charges	01-October-2020	31-October-2020	Sup569 - Sup571	\$25,297.51
WGC Direct Debits	01-October-2020	31-October-2020	DD601 - DD606	\$48,340.34
Accounts Payable	25-September-2020	30-September-2020	E43766 - E43848	\$291,726.19
Accounts Payable	01-October-2020	06-October-2020	E43849 - E43955	\$746,577.19
Accounts Payable	07-October-2020	09-October-2020	E43956 - E44078	\$1,257,628.94
Accounts Payable	10-October-2020	16-October-2020	E44079 - E44171	\$559,155.76
Accounts Payable	17-October-2020	22-October-2020	E44172 - E44305	\$830,010.40
Payroll	01-October-2020	31-October-2020	Pay1231 - Pay1235	\$1,004,662.96
				\$15,310,288.32
Total EFT Payments				\$15,310,288.32
				\$15,521,322.94
TOTAL PAYMENTS				\$15,521,322.94

Motion put and CARRIED (5/0) (unanimous)

CR20.146 INVESTMENT SCHEDULE – OCTOBER 2020

PURPOSE OF REPORT:

To provide information to Council in relation to its investment portfolio performance during the month of October 2020.

SUMMARY:

The Council invests funds that are surplus to operational requirements with various financial institutions and reports on the amounts invested, the distribution of those funds and the financial performance of each investment, being interest earned, against year to date budget.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
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| <input checked="" type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	N/A
Report Date:	6 November 2020
Responsible Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Reporting Officer:	N/A
Contributing Officer:	N/A
Reporting Officer Interest	Nil
Attachment(s):	Prudential Consolidated Investment Report – October 2020

BACKGROUND:

Council's Investment Policy No. 052 allows for investing of funds into direct investment products and managed funds which comply with both the credit risk rating and terms to maturity guidelines as set out in the policy.

DETAILS:

Investment Portfolio Performance

At its November 2020 meeting, the Reserve Bank of Australia decided to cut the cash rate to another historical low since March 2020 this year, setting the official cash rate at 0.10%.

The global economy has been recovering from the initial virus outbreaks, with the recovery most advanced in China. Even so, output in most countries remains well short of pre-pandemic levels and recent virus outbreaks pose a downside risk to the outlook, particularly in Europe.

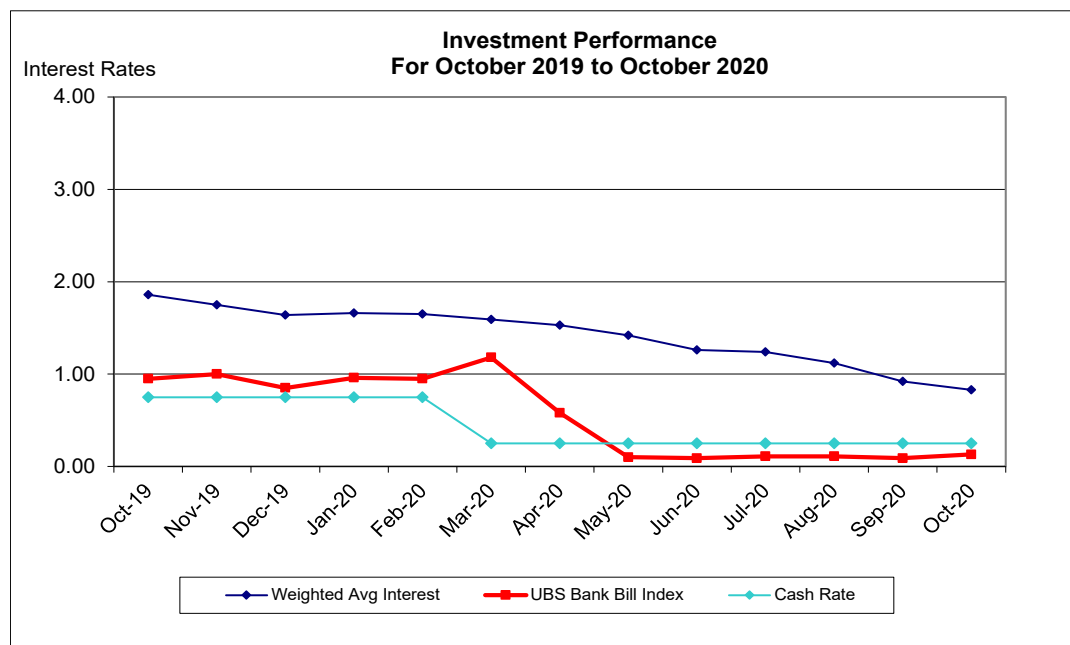
In Australia, the economy recovery is under way and positive GDP growth is now expected in the September quarter. GDP growth is expected to be around 6 per cent over the year to June 2021 and 4 per cent in 2022. The unemployment rate is expected to remain high, but to peak at below 8 per cent. Inflation is forecast to be 1 per cent in 2021 and 1.5 percent in 2022. In the most recent quarter, year-ended CPI inflation was 0.7 per cent and, in underlying terms, inflation was 1.25 per cent.

Looking forward, in terms of the Town's investment portfolio, interest rates have declined as a result of the Reserve Bank's low cash rate. The major bank rates for one to three month terms are on average 0.31%, for terms of four to six months on average 0.50% and for terms of seven months to nine months on average 0.52%. The UBS Bank Bill Index rate (an index measuring performance of interest rates over a 90 day period) was 0.13% for October 2020. The 90 days BBSW or Bank Bill Swap rate (a measure of future interest rates) was 0.06% as at 30 October 2020. As Council's investment portfolio is predominantly short term cash products, the cash rate of 0.25% for October 2020 is the more appropriate performance measure.

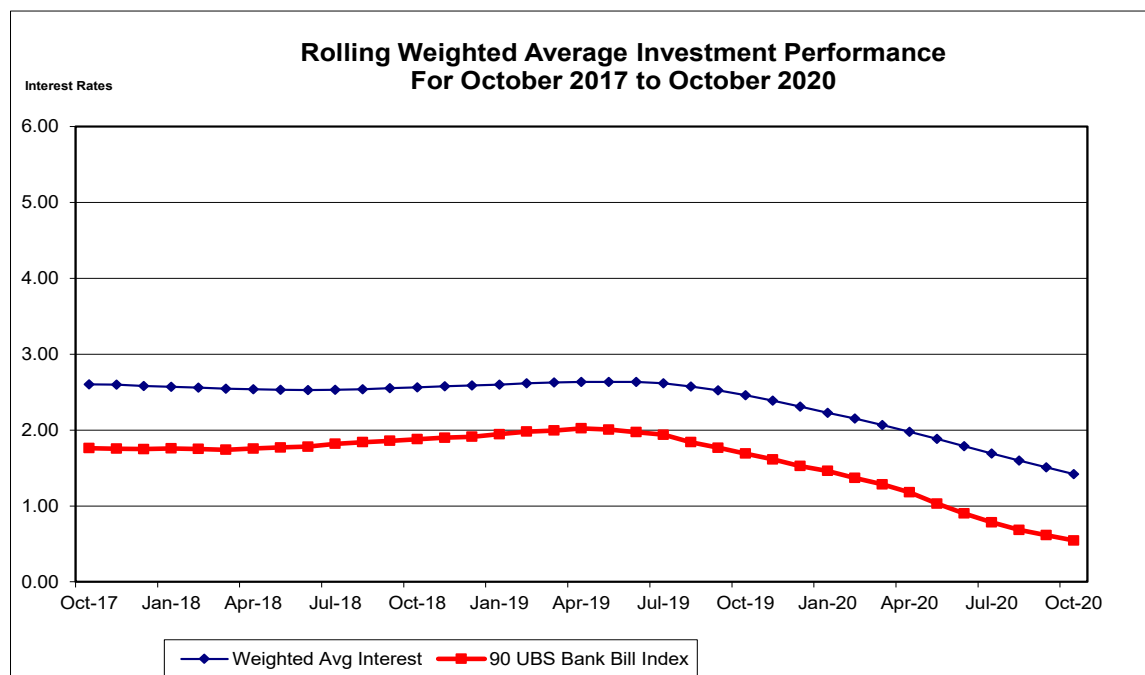
Against these interest rate indicators, the Town's investment portfolio outperformed the cash rate with a weighted average interest rate of 0.83%. The weighted average investment period of 269 days (approximately nine months) is consistent with term deposit rates (with the major Australian banks) which for this period were an average of 0.53%.

Investment Portfolio Performance for October 2020

The graphs below show the interest rate performance of the Town's investment portfolio for the 12 month period, specifically October 2019 to October 2020.

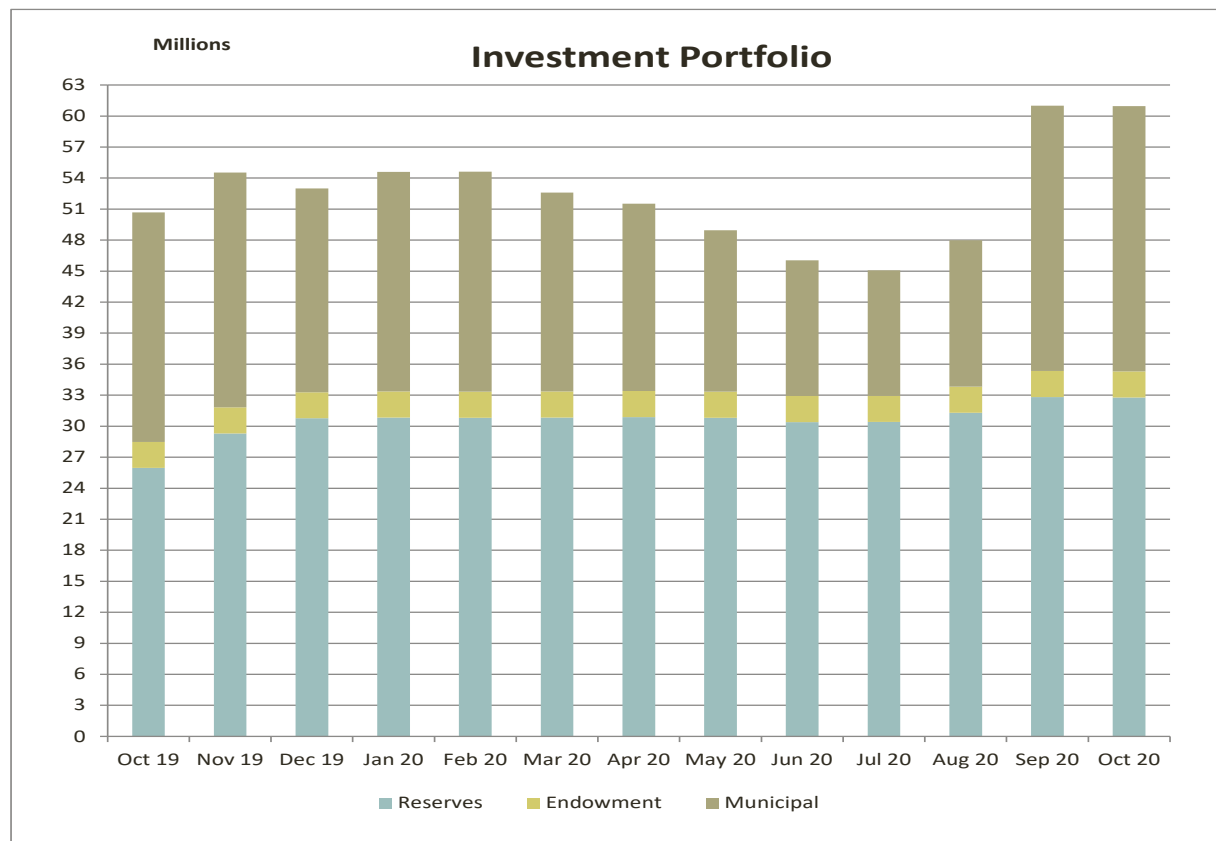


The graph below shows the rolling 12 month weighted average investment performance of the Town's investment portfolio, since October 2017.



The total investment at the end of October 2020 is \$61 million which consists of Municipal Funds of \$25.7 million, Reserve Funds of \$32.8 million and Endowment Lands Funds of \$2.5 million.

The graph below represents the total investment portfolio of the Town from October 2019 to October 2020.



The Managed Cash Funds performance as at the end of October 2020 is as follows:

	Term (Days)	Rating	Current Interest Rate	Maturity Date	October 2020 Income	Total Amount Invested	% of Funds Invested	Weighted Average Interest	
Floating Rate Notes									
Emerald Reverse Mortgage		"AA"	0.54%		\$241	\$517,079	0.85%	0.00%	
Sub-total					\$241	\$517,079	0.85%	0.00%	
Term Deposits and Bank Bills									
ANZ - Term Deposit		266	"A1+"	0.84%	02 Mar 2021	\$713	\$1,003,337	1.65%	0.01%
ANZ - Term Deposit		273	"A1+"	1.49%	10 Nov 2020	\$1,265	\$1,010,777	1.66%	0.02%
ANZ - Term Deposit		202	"A1+"	0.81%	14 Dec 2020	\$688	\$1,003,528	1.65%	0.01%
ANZ - Term Deposit		223	"A1+"	0.82%	04 Jan 2021	\$708	\$1,020,278	1.67%	0.01%
ANZ - Term Deposit		308	"A1+"	0.78%	08 Jun 2021	\$662	\$1,001,902	1.64%	0.01%
ANZ - Term Deposit		266	"A1+"	0.77%	11 May 2021	\$1,308	\$2,003,164	3.29%	0.03%
ANZ - Term Deposit		217	"A1+"	0.69%	30 Mar 2021	\$586	\$1,001,285	1.64%	0.01%
ANZ - Term Deposit		231	"A1+"	0.69%	13 Apr 2021	\$586	\$1,001,285	1.64%	0.01%
ANZ - Term Deposit		181	"A1+"	0.66%	16 Mar 2021	\$561	\$1,000,832	1.64%	0.01%
ANZ - Term Deposit		244	"A1+"	0.68%	18 May 2021	\$578	\$1,000,857	1.64%	0.01%
ANZ - Term Deposit		230	"A1+"	0.68%	04 May 2021	\$578	\$1,000,857	1.64%	0.01%
NAB - Term Deposit		364	"A1+"	0.85%	03 Aug 2021	\$735	\$1,019,969	1.67%	0.01%
NAB - Term Deposit		293	"A1+"	0.73%	28 Jun 2021	\$946	\$1,527,175	2.51%	0.02%
NAB - Term Deposit		322	"A1+"	0.75%	20 Jul 2021	\$1,294	\$2,033,558	3.34%	0.03%
NAB - Term Deposit		237	"A1+"	0.98%	18 Jan 2021	\$838	\$1,011,007	1.66%	0.02%
NAB - Term Deposit		209	"A1+"	0.85%	01 Feb 2021	\$725	\$1,007,571	1.65%	0.01%
NAB - Term Deposit		364	"A1+"	0.95%	29 Jun 2021	\$1,614	\$2,006,455	3.29%	0.03%
NAB - Term Deposit		245	"A1+"	0.73%	27 Apr 2021	\$620	\$1,001,360	1.64%	0.01%
NAB - Term Deposit		306	"A1+"	0.75%	06 Jul 2021	\$1,274	\$2,002,425	3.28%	0.02%
NAB - Term Deposit		165	"A1+"	0.70%	23 Feb 2021	\$595	\$1,000,978	1.64%	0.01%
NAB - Term Deposit		186	"A1+"	0.70%	16 Mar 2021	\$595	\$1,000,978	1.64%	0.01%
NAB - Term Deposit		256	"A1+"	0.71%	25 May 2021	\$603	\$1,000,992	1.64%	0.01%
NAB - Term Deposit		217	"A1+"	0.67%	20 Apr 2021	\$569	\$1,000,863	1.64%	0.01%
NAB - Term Deposit		280	"A1+"	0.70%	22 Jun 2021	\$595	\$1,000,901	1.64%	0.01%
NAB - Term Deposit		137	"A1+"	0.60%	09 Feb 2021	\$510	\$1,000,608	1.64%	0.01%
NAB - Term Deposit		326	"A1+"	0.64%	17 Aug 2021	\$544	\$1,000,649	1.64%	0.01%
Westpac - Term Deposit		364	"A1+"	0.90%	01 Jun 2021	\$1,219	\$1,596,867	2.62%	0.02%
Westpac - Term Deposit		365	"A1+"	0.80%	05 Aug 2021	\$1,359	\$2,003,858	3.29%	0.03%
Westpac - Term Deposit		361	"A1+"	0.70%	07 Sep 2021	\$2,081	\$3,503,423	5.75%	0.04%
Westpac - Term Deposit		367	"A1+"	0.70%	27 Sep 2021	\$595	\$1,000,710	1.64%	0.01%
Westpac - Term Deposit		365	"A1+"	0.70%	07 Oct 2021	\$479	\$1,000,479	1.64%	0.01%
Westpac - Term Deposit		231	"A1+"	0.60%	26 May 2021	\$822	\$2,000,822	3.28%	0.02%
Westpac - Term Deposit		365	"A1+"	0.60%	21 Oct 2021	\$542	\$3,000,542	4.92%	0.03%
Westpac - Term Deposit		365	"A1+"	0.60%	26 Oct 2021	\$197	\$2,000,197	3.28%	0.02%
Macquarie - Term Deposit		272	"A1"	1.60%	24 Nov 2020	\$2,718	\$2,021,830	3.32%	0.05%
Macquarie - Term Deposit		275	"A1"	1.65%	04 Dec 2020	\$2,803	\$2,021,879	3.32%	0.05%
Macquarie - Term Deposit		244	"A1"	1.70%	21 Dec 2020	\$2,189	\$1,529,527	2.51%	0.04%
Macquarie - Term Deposit		230	"A1"	1.70%	07 Dec 2020	\$2,174	\$1,519,574	2.49%	0.04%
Suncorp - Term Deposit		182	"A1"	0.60%	06 Apr 2021	\$657	\$1,538,249	2.52%	0.02%
Suncorp - Term Deposit		273	"A1"	1.70%	15 Dec 2020	\$1,444	\$1,010,666	1.66%	0.03%
Suncorp - Term Deposit		363	"A1"	1.60%	16 Mar 2021	\$1,359	\$1,009,995	1.66%	0.03%
Suncorp - Term Deposit		147	"A1"	0.55%	09 Mar 2021	\$289	\$1,009,586	1.66%	0.01%
Suncorp - Term Deposit		175	"A1"	0.70%	16 Feb 2021	\$595	\$1,001,304	1.64%	0.01%
Suncorp - Term Deposit		336	"A1"	0.60%	31 Aug 2021	\$514	\$1,009,303	1.66%	0.01%
TD Matured in October					\$4,933				
Sub-total					\$47,255	\$60,442,405	99.15%	0.83%	
Total Investments					\$47,496	\$60,959,484	100.00%	0.83%	
Weighted Average		269		0.83%					

POLICY/STATUTORY IMPLICATIONS:

The general, reserves and Endowment Lands funds are invested in accordance with the guidelines set down in the Town's Policy No. 052 – Investment.

RISK MANAGEMENT IMPLICATIONS:

Low: The investments are in accordance with Council's adopted Investment Policy 052 and applicable local government legislation.

FINANCIAL IMPLICATIONS:

Interest from investments represents a significant revenue item in the Council's Budget and it is therefore important that the Council's investment performance is monitored closely. Detailed monthly reports together with detailed policy investment guidelines support this.

The Investment Schedule, as circulated, provides details of the performance of each individual investment to date. A summary of the investment performance to budget is provided below:

	Actual as at June 2020	Budget 2020/2021	YTD Budget October 2020	Actual as at October 2020	%
General *	324,365	250,000	77,000	72,968	29.2%
Reserves	457,552	345,200	115,000	106,109	30.7%
Endowment Lands	37,444	25,000	8,300	9,313	37.3%
External Investments	819,361	620,200	200,300	188,391	30.4%
Reserve (Internal Loan)	257,291	246,500	83,500	83,385	33.8%
Endowment Lands (Internal Loan)	649,759	659,200	210,700	210,512	31.9%
Internal Loans	907,050	905,700	294,200	293,896	32.4%
Total Investments	1,726,411	1,525,900	494,500	482,287	31.6%

* Includes Bank Account Interest of \$217.

STRATEGIC DIRECTION:

The investment of Council funds is consistent with the Town's Strategic Community Plan, specifically:

Our Council

Goal: 11 An efficient local government.

Strategy: 11.1 Invest our wealth wisely so that current and future generations benefit.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria it was determined that community engagement is not required.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council RECEIVES the Investment Schedule for 31 October 2020, as attached.

Motion put and CARRIED (5/0) (unanimous)

CR20.147 DOCUMENTS SEALED – NOVEMBER 2020

PURPOSE:

The purpose of this report is to inform the Council of the use of the Council Common Seal.

SUMMARY:

To advise Council of documents those have been affixed with the Common Seal of the Town of Cambridge.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input checked="" type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	1 Bold Park Drive, Floreat WA 6014
Report Date:	10 November 2020
Responsible Officer:	Chief Executive Officer, John Giorgi, JP
Reporting Officer:	Executive & Elected Member Liaison Officer, Tracey Jackson
Reporting Officer Interest:	Nil
Contributing Officers:	Nil
Attachments:	Not Applicable

BACKGROUND:

There is a statutory requirement for the affixing of the Common Seal to be placed on documents. Council Policy directs the type of documentation to which the seal may be affixed, and requires a subsequent report to Council for noting.

DETAILS:

A schedule of documents affixed with the Common Seal of the Town of Cambridge appears below:

Date Sealed	Document Details	Purpose	No. Copies
06.11.2020	Access Deed for Sub. Co Pty Ltd	The Town has entered into an agreement with Sub. Co Pty Ltd for a telecommunications cable to be drilled and run underneath Fred Burton Car Park out to sea.	2

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: The use of the Council's Common Seal is a routine administrative matter. Accordingly, the risk is considered to be low.

FINANCIAL IMPLICATIONS:

There are no Financial Implications related to this report.

STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria it was determined that community engagement is not required as the matter is administrative.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council NOTES the Town of Cambridge Common Seal has been affixed to the documents as detailed in this report.

Motion put and CARRIED (5/0) (unanimous)

CR20.148 DELEGATION OF AUTHORITY REGISTER 2020-2021 - ANNUAL REVIEW

PURPOSE OF REPORT:

This report seeks to obtain Council approval, by absolute majority decision, to accept the annual review of the Council Register of Delegated Authority for the 2020-2021 year.

SUMMARY:

This report provides details of the annual statutory review by the Town’s Administration, and is presented to the Council for approval by absolute majority decision.

At the Ordinary Meeting of Council held on 26 November 2019, it was resolved to adopt a Council Register of Delegated Authority for the 2019-20 financial year.

AUTHORITY / DISCRETION

- Advocacy When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative Includes adopting local laws, town planning schemes & policies.
- Review When the Council operates as a review authority on decisions made by Officers for appeal purposes.
- Quasi-Judicial When the Council determines an application/matter that directly affects a person’s right and interests.
- Information For the Council/Committee to note.

Address/Property Location:	Town of Cambridge - 1 Bold Park Drive, Floreat
Report Date:	11 November 2020
Responsible Officer:	Chief Executive Officer, John Giorgi, JP
Reporting Officer:	Chief Executive Officer, John Giorgi, JP
Contributing Officer:	Not Applicable
Reporting Officer Interest:	Nil
Attachment:	1. Council Register of Delegated Authority 2020-2021.

BACKGROUND:

Section 5.46 of the *Local Government Act 1995* requires that delegations from the Council to the Chief Executive Officer (CEO) are to be reviewed by the Council at least once every financial year. The previous statutory review for the 2019-2020 financial year was considered by the Council at its meeting held on 26 November 2019.

A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under the Act, other than those such as any decision requiring an absolute majority, accepting major tenders, appointing an auditor, or borrowing money. A full listing of the exceptions can be found at section 5.43 of the *Local Government Act 1995*.

The CEO may also delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s duties under this Act, other than the power of delegation.

The Department of Local Government, Sports and Cultural Industries has an operational guideline which discusses the principles, concepts and approach to delegations. [LG Operational Guideline 17 Delegations](#).

DETAILS:

At the ordinary meeting held on 26 November 2019, the Council considered and adopted its review of the Register of Delegated Authority ('the Register').

Review Methodology:

1. Comparison with other Local Governments:

In conducting this review of the Town's Register of Delegations, a comparison has also been made to the Delegation Register of a number of other metropolitan local governments. Cognisance was also given to the Western Australian Local Government Association (WALGA) updated template.

The comparison has revealed that each of their Registers were comprehensive and detailed, and the extent of the information specified for each delegation varied for each local government. Some Registers also contain matters which are carried out by 'acting through' a person – and legally are therefore not required to be included.

Changes Made during 2020:

A number of minor administrative changes have been made during the past year, as shown in the Table below. These changes are of an administrative nature and are designed to allow the Town's Governance Officer to track all changes. The changes do not affect the delegations and do not require Council approval.

Delegation Number	Amendment made	Date
1.2.13	<ol style="list-style-type: none"> 1. New Item 3 added. 2. Notice of Motion – Cr Timmermanis – Council 25 August 2020 – Report 12.2 – Amendment of Delegated Authorities. 3. Control Panel updated. 	25.08.2020
1.2.17	<ol style="list-style-type: none"> 1. Express Power of Duty Delegated: Reg 11(2) added. 2. Function Delegated: Functions 9 and 10 added. 3. Control Panel updated. 	25.06.2020
1.2.19	<ol style="list-style-type: none"> 1. Sub Delegate(s): Deleted Senior Supervisors (x2) and added WGC Superintendent to reflect correct position titles and authority. 2. Control Panel updated. 	04.06.2020
1.2.20	<ol style="list-style-type: none"> 1. Express Power or Duty Delegated: s6.12 – Power to vary fee schedule added. 2. Function Delegated: Functions 3 and 4 added. 3. Control Panel updated 4. Council Conditions on Delegation – Items 1 and 2 amended to permit the waiving of minor rate or service charges. Approved by CEO Friday, 14 August 2020. 5. Control Panel updated. 	25.06.2020 14.08.2020
1.2.23	<ol style="list-style-type: none"> 1. Control Panel updated. 	25.06.2020
1.2.34	<ol style="list-style-type: none"> 1. CEO Conditions on this Sub Delegation: Clause 5 added. 2. Control Panel updated. 	05.06.2020
12.2.1	<ol style="list-style-type: none"> 1. Inclusion of new Item 4 – Authority to endorse guiding principles during the preparation of Local Planning Scheme No 2. 2. Council Resolution DV20.100 – New Local Planning Scheme – Change to Register of Delegated Authority 25 August 2020. 3. Control Panel updated. 	25.08.2020

Recommended Changes to the 2020-2021 Delegated Authority Register:

1. Minor word changes have been made (shown in **RED** font)
2. Word changes throughout the Register, as shown by **red font**, strike-thru and underlining.
3. A small number of sub delegations made by the CEO have been included.
4. A number of new delegations, as shown in **red font**, and summarised below:

Titles and the Numbering of Council Policies:

The titles and numbering of Council Policies have been changed to reflect a new Policy Manual format. Council Policies were adopted by Council as follows:

- | | | |
|-------------------------------------|---------------------------------|----------------|
| 1. Infrastructure and Works | Adopted by Council 29 June 2020 | Report CR20.73 |
| 2. Corporate and Community Services | Adopted by Council 28 July 2020 | Report CR20.85 |
| 3. Office of the CEO | Adopted by Council 28 July 2020 | Report CR20.88 |

Local Government Act 1995

No new delegations have been recommended.

Sub delegations do not require Council approval and have been included in the Register to inform Council as to how the delegations are administered by the Town's Administration.

Building Act 2011

No new delegations have been recommended.

Delegations made under the Building Act are not required to be reviewed annually and were last considered by the Council in December 2018. Section 127(1)(3) of the Building Act permits delegation to the Local Government and its employees. Minor word changes have been made (shown in **red font**), however these do not change the intent of the delegations.

Bush Fires Act 1954

No new delegations have been recommended.

Delegations made under the Bushfires Act are not required to be reviewed annually and were last considered by the Council in December 2018. Delegations made under the Bush Fires Act are not commonly used in the Town of Cambridge, however they may be necessary in an emergency.

Cat Act 2011

No new delegations have been recommended.

Delegations made under the Cat Act are required to be reviewed annually and were last considered by the Council in November 2019. Section 44 of the Cat Act permits delegation to the Local Government and its employees.

Dog Act 1976

No new delegations have been recommended.

Delegations made under the Dog Act are required to be reviewed annually and were last considered by the Council in November 2019. Section 10AA of the Dog Act permits delegation to the Local Government and its employees.

Food Act 2008

No new delegations have been recommended.

Delegations made under the Food Act are not required to be reviewed annually and were last considered by the Council in November 2019. Section 118 of the Food Act permits delegation to the Local Government and its employees, however, there is no power of sub delegation unless specifically authorised by the Regulations. All delegations must be made to the officer who will be responsible for the decision making.

Graffiti Vandalism Act 2016

No new delegations have been recommended.

Delegations made under the Graffiti Vandalism Act are not required to be reviewed annually and were last considered by the Council in November 2019. Section 16 of the Graffiti Vandalism Act permits delegation to the Local Government and its employees.

Health (Miscellaneous Provisions) Act 1911

No new delegations have been recommended.

Delegations made under the Health (Miscellaneous Provisions) Act are not required to be reviewed annually and were last considered by the Council in November 2019. Section 21 of the Public Health Act permits delegation to the Local Government and its employees.

Liquor Control Act 1998

No new delegations have been recommended.

Delegations made under the Liquor Control Act 1998 are not required to be reviewed annually and were last considered by the Council in November 2019.

Public Health Act 2016

No new delegations have been recommended.

Delegations made under the Public Health Act are not required to be reviewed annually and were last considered by the Council in November 2019. Section 21 of the Public Health Act permits delegation to the Local Government and its employees.

Planning and Development Act 2005

No new delegations have been recommended

Delegations made under the Planning and Development Act are required to be reviewed annually. Delegations were last reviewed by the Council in November 2019.

Statutory Authorisations and Delegations to Local Government from State Government Entities:

The delegations are unchanged.

13.1 Environmental Protection Act 1986

The delegations are unchanged.

13.2 Planning and Development Act 2005

The delegations are unchanged.

13.3 Main Roads Act 1930

The delegations are unchanged.

13.4 Road Traffic (Vehicles) Act 2012

The delegations are unchanged.

POLICY/STATUTORY IMPLICATIONS:

There is a direct relationship between Council policies and delegated authority, as the Chief Executive Officer will be guided by Council policy when exercising any delegated authority. Relevant powers and duties are delegated to the Chief Executive Officer in accordance with section 5.42 of the Local Government Act, subject to the limitations specified in section 5.43.

Section 5.46 requires that the Chief Executive Officer is to maintain a register of delegations made.

Related Documents:

1. Local Government Operational Guidelines Number 17 – Delegations.
2. WALGA Template Delegation Register - amended as at 27 November 2018.

RISK MANAGEMENT IMPLICATIONS:

Low: This matter is considered to have a low risk. Failure to carry out the annual statutory review would result in a breach of the *Local Government Act 1995*.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC DIRECTION:

Our Council

Goal 9: Transparent, accountable governance.

Strategy 9.1: Implement initiatives that strengthen governance skills and knowledge

COMMUNITY ENGAGEMENT:

Not Applicable.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That the Council:

1. **RECEIVES** the report of the annual review of the Council Delegated Authority Register for the financial year 2020-2021, as required by s5.46 of the *Local Government Act 1995*;
2. **ENDORSES** the review of its delegations in accordance with sections 5.42 and 5.46 (2) of the *Local Government Act 1995*;
3. **APPROVES BY AN ABSOLUTE MAJORITY** the delegation of the exercise of its powers and duties contained in the Council's Register of Delegated Authority 2020-2021, to the Chief Executive Officer or other Officer as shown in Attachment 1, in accordance with:
 - (a) Section 5.42 of the *Local Government Act 1995*;
 - (b) Section 127 of the *Building Act 2011*;
 - (c) Section 48 of the *Bush Fires Act 1954*;
 - (d) Section 44 of the *Cat Act 2011*;
 - (e) Section 10AA of the *Dog Act 1976*;
 - (f) Section 118 of the *Food Act 2008*;
 - (g) Section 16 of the *Graffiti Vandalism Act 2008*;
 - (h) Section 26 of the *Health (Miscellaneous Provisions) Act 1911*;
 - (i) Sections 39, 40 and 60 of the *Liquor Control Act 1998*;
 - (j) Section 21 of the *Public Health Act 2016*;
 - (k) Section 214 of the *Planning and Development Act 2005*; and
 - (l) Clause 82 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;

4. **APPROVES BY AN ABSOLUTE MAJORITY** the delegation of the exercise of its powers and duties contained in the Council's Register of Delegated Authority, as shown in Attachment 1, to the Audit Committee, in accordance with:
 - (a) Sections 5.16 and 5.42 of the *Local Government Act 1995*; and

5. **APPROVES BY AN ABSOLUTE MAJORITY** the delegation of the exercise of its powers and duties contained in the Council's Register of Delegated Authority, as shown in Attachment 1, to the Development Committee, in accordance with:
 - (a) Sections 5.16 and 5.42 of the *Local Government Act 1995*; and
 - (b) Clause 82 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Motion put and CARRIED (5/0) (unanimous)

**CR20.149 PROPOSED LOCAL GOVERNMENT (MODEL CODE OF CONDUCT)
REGULATIONS 2020 - APPROVAL TO MAKE A SUBMISSION**

PURPOSE OF REPORT:

To obtain Council approval to lodge a submission with the Department of Local Government, Sports and Cultural Industries (DLGSCI) and the Western Australian Local Government Association (WALGA) concerning the proposed *Local Government (Model Code of Conduct) Regulations 2020*.

SUMMARY:

On 27 June 2019, the *Local Government Legislation Amendment Act 2019* was passed in Parliament. The Act includes a requirement for the introduction of a mandatory code of conduct for council members, committee members and candidates. Submissions are to be lodged by 6 December 2020.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge - 1 Bold Park Drive, Floreat
Report Date:	11 November 2020
Responsible Officer:	Chief Executive Officer - John Giorgi, JP
Reporting Officer:	Chief Executive Officer - John Giorgi, JP
Contributing Officer:	Nil
Reporting Officer Interests:	Nil
Attachments:	1. Draft <i>Local Government (Model Code of Conduct) Regulations 2020</i> . 2. WALGA Info Page

BACKGROUND:

The Department of Local Government, Sports and Cultural Industries ('the Department') is currently seeking submissions on the proposed legislation. These Regulations will bring into effect sections 48 to 51 of the Local Government Legislation Amendment Act 2019. In particular sections 5.102A, 5.103, 5.104 and 5.105 of the Act will take effect.

The following are Explanatory Notes for the proposed Regulations:

No:	Regulation	Explanation
3	Model Code of Conduct	These regulations provide for the model code of conduct for council members, committee members and candidates in Schedule 1.
4	<i>Local Government (Rules of Conduct) Regulation 2007</i> repealed.	The new Local Government (Model Code of Conduct) Regulations repeal the Rules of Conduct regulations as the rules now form part of the Model Code.
5	<i>Local Government (Administration) Regulations 1996</i> amended	<p>This clause amends Administration Regulation 29 (Information to be available for public inspection) to delete the requirement to keep a register maintained under regulation 12(5) of the Rules of Conduct. This regulation was deleted when the new gifts framework was introduced in 2019.</p> <p>This clause also inserts new Part 9A – Minor breaches by council members. It replaces regulation 4 of the existing Rules of Conduct Regulations (Contravention of certain local laws) and inserts it into the Administration Regulations.</p> <p>It provides that a contravention of a local law that relates to the conduct of people at council or committee meetings is a minor breach for the purposes of section 5.105(1)(b) of the Act. This is not a rule of conduct, which is why it is separate to the provisions in the Model Code.</p>
6	<i>Local Government (Audit) Regulations 1996</i> amended	This clause amends the statutory requirements for the compliance audit return to capture the adoption of the Model Code under section 5.104 and deletes the reference to the Rules of Conduct Regulations.
7	<i>Local Government (Constitution) Regulations 1998</i> amended	This clause amends Schedule 1 Form 7 (Declaration by elected member of council) of the Constitution Regulations, to reference the code of conduct adopted by the relevant local government, rather than Rules of Conduct Regulations.
	Schedule 1 – Model code of conduct	
1	Citation	<p>New section 5.104 of the Local Government Act will require local governments to adopt the model code of conduct within three months of these Regulations coming into operation.</p> <p>The Model Code, as drafted, provides a template for local governments to adopt the code as their own by inserting their local government name.</p> <p>In accordance with section 5.104(3), local governments can include additional behaviours under Division 3 that are not inconsistent with the Code, which may not currently be represented.</p> <p>To adopt the code, a resolution needs to be passed by an absolute majority. Once the code is adopted, it must be published on the local government's website.</p>
2	Terms Used	This clause defines Act, candidate and publish. All other terms used that are also in the Act have the same meaning, unless the contrary intention appears.
	Division 2 – General principles	

3	Overview of Division	As per new section 5.103(2)(a), the Model Code is to contain general principles to guide behaviour. These are set out in Division 2. Throughout the Model Code, where appropriate, the principles, behaviours and rules of conduct are separated into three categories; personal integrity, relationships with others and accountability.
4	Personal Integrity	This clause outlines specific personal integrity principles, including the need to: <ul style="list-style-type: none"> • act with reasonable care, diligence, honesty and integrity • act lawfully • avoid damage to the reputation of the local government • act in accordance with the trust placed in council members and committee members, and • participate in decision-making in an honest, fair, impartial and timely manner.
5	Relationships with others	This clause outlines principles for relationships with others, including the need to treat others with respect and maintain and contribute to a harmonious, safe and productive work environment.
6	Accountability	This clause outlines principles for accountability, including the need for decisions to be based on relevant and factually correct information, and to make decisions on merit.
	Division 3 - Behaviour	
7	Overview of Division	As per new section 5.103(2)(b), the Model Code is to contain requirements relating to behaviour. This division sets the standards of behaviour which enable and empower council members to meeting the principles outlined in Division 2. Division 3 behaviour breaches are managed by local governments, and so the division also includes provisions about how to manage complaints. The emphasis should be on an educative role to establish sound working relationships and avoid repeated breaches, rather than punishment.
8	Personal Integrity	This clause provides behaviours for council members, committee members and candidates, as well as behaviours specific to council and committee members. It includes a behaviour that the use of social media and other forms of communication complies with the code.
9	Relationships with others	This clause provides for behaviours related to relationships with others, including the requirement to: <ul style="list-style-type: none"> • deal with the media in a positive, informative and appropriate manner • not disparage the character of another council member, committee member, candidate or local government employee • not impute dishonest or unethical motives to another council member, committee member, candidate of local government employee • not make a statement that the member of candidate knows, or could reasonably be expected to know, is false or misleading.
10	Complaints about alleged breach	This clause provides that a person may make a complaint alleging a breach of Division 3 by submitting the complaint in writing (in a form approved by the local government) within one month of the alleged breach occurring. The local government is to authorise at least one person to accept the complaints.
11	Local government to deal with complaints	The process for consideration of a complaint is at the discretion of the local government, however, the Code requires that after considering the complaint, the local government must make a finding as to whether the breach occurred.

		<p>A local government is also required to dismiss a complaint if it is satisfied that the complaint relates to behaviour which occurred at a council or committee meeting that has already been dealt with or the person responsible for the behaviour has taken remedial action in accordance with the meeting procedures local law.</p> <p>It is a requirement, in accordance with 11(3), that before making a finding, the person to whom the complaint relates, is given a reasonable opportunity to be heard.</p> <p>A finding about whether the breach has occurred should be based on whether it is more likely than not that the breach occurred. This is the same premise used by the Standards Panel in its decision making.</p> <p>After a finding has been made, written notice of the outcome should be given to the complaint and the person to whom the complaint relates.</p> <p>If a finding of breach is made, the local government can choose to take no further action or develop a plan to address the person's behaviour. This could include training, mediation, counselling or any other action considered appropriate.</p>
12	Other provisions about complaints	<p>Clause 12 provides that the procedure for dealing with complaints is a matter for the local government (to the extent it is not inconsistent with clause 11). If a complaint is made about a candidate, the alleged breach cannot be dealt with unless the candidate is elected as a council member.</p>
	Division 4 – Rules of conduct	
13	Overview of Division	<p>As per section 5.103(2)(c), the Code contains specific rules of conduct. The rules of conduct are specific rules, for which alleged breaches are referred to the Standards Panel.</p> <p>A reference to a council member in this division includes a council member acting as a committee member.</p>
14	Misuse of local government resources	<p>This is based on current regulation 8 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Misuse of local government resources.</p>
15	Securing personal advantage or disadvantaging others	<p>This is based on current regulation 7 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Securing personal advantage or disadvantaging others.</p>
16	Prohibition against involvement in administration	<p>This is based on current regulation 9 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Prohibition against involvement in administration.</p>
17	Relations with local government employees	<p>This is based on current regulation 10 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Relations with local government employees. This regulation also applies to candidates.</p>
18	Disclosure of information	<p>This is based on current regulation 6 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Use of information.</p>
19	Disclosure of interest	<p>This is based on current regulation 11 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Disclosure of interest.</p>

Effect of the Proposed Regulations

The proposed regulations will require local governments to deal with complaints against the Model Code. This will increase the work load of a local government. Complaints of alleged breaches of the proposed regulations will still be dealt with by the Standards Panel.

Closing Date for Submissions

The DLGSCI has advised that submissions close on 6 December 2020.

A WALGA InfoPage is shown at **Attachment 2**.

POLICY/STATUTORY IMPLICATIONS:

The Council will be required to review its Code of Conduct to meet the legislative requirements.

RISK MANAGEMENT IMPLICATIONS:

Low: This matter has been assessed as having a low risk.

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1: Implement initiatives that strengthen governance skills and knowledge

COMMUNITY ENGAGEMENT:

This matter has been assessed in line with the Town's Community Engagement Policy No: 019 as not requiring community consultation.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES of the Chief Executive Officer to lodge a submission with the Department of Local Government, Sports and Cultural Industries and the Western Australian Local Government Association which SUPPORTS the proposed *Local Government (Model Code of Conduct) Regulations 2020*, as shown in Attachment 1.

Motion put and CARRIED (5/0) (unanimous)

CR20.150 PROPOSED LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS (NO 2) 2020 - APPROVAL TO MAKE A SUBMISSION

PURPOSE OF REPORT:

To obtain Council approval to lodge a submission with the Department of Local Government, Sports and Cultural Industries (DLGSCI) and the Western Australian Local Government Association (WALGA) concerning the proposed *Local Government (Administration) Amendment (No 2) Regulations 2020*.

SUMMARY:

On 27 June 2019, the *Local Government Legislation Amendment Act 2019* was passed in Parliament. The Act includes a requirement for the introduction of a mandatory code of conduct for council members, committee members and candidates. Submissions are to be lodged by 6 December 2020.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge - 1 Bold Park Drive, Floreat
Report Date:	11 November 2020
Responsible Officer:	Chief Executive Officer - John Giorgi, JP
Reporting Officer:	Chief Executive Officer - John Giorgi, JP
Contributing Officer:	Nil
Reporting Officer Interests:	Nil
Attachments:	1. Town of Cambridge Submission 2. Draft <i>Local Government (Administration) Amendment (No 2) Regulations 2020</i> . 3. WALGA Info Page

BACKGROUND:

The Department of Local Government, Sports and Cultural Industries ('the Department') is currently seeking submissions on the proposed legislation. These Regulations will bring into effect section 22 of the Local Government Legislation Amendment Act 2019. In particular sections 5.39A, 5.39B and 5.39C of the Act will take effect.

Explanatory Notes for the proposed Regulations are shown in **Attachment 2**, together with the recommended Town position. WALGA have also provided an Info Page, which is shown at **Attachment 3**.

Effect of the Proposed Regulations:

The proposed regulations will require local governments to be more detailed in their recruitment and/or termination process of their Chief Executive Officer. The proposed regulations will give the Department an oversight role in the process.

The current regulations have been in place for some considerable time and appear to be working satisfactorily.

There have been several instances where the dismissal of a local government CEO has caused difficulties to the local government and the employee. This has often resulted in adverse publicity and expensive litigation. (For example, the City of Cockburn CEO termination resulted in legal costs in excess of \$300,000, action in the Fair work Commission and adverse publicity).

Clauses Not Supported:

Overall, the majority proposed regulations are an improvement of the process, without adding too much cost or administrative burden, however, the following proposed clause are not supported:

Section in Amendment Act	Section in LG Act	Topic	Town of Cambridge Position
Regulation	Amends	Explanation	
Regulation 18FB – Certification of compliance with adopted standards for CEO recruitment (Act s.5.39B(7))	<i>Local Government (Administration) Regulations 1996</i> – 18FB is a new clause .	Regulation 18FB requires local governments to certify that they have adopted the standards under section 5.39B of the Act. 18FB applies in relation to the recruitment and appointment of a local government CEO. A copy of the resolution to appoint the CEO in accordance with the adopted standards must be provided to the Department of Local Government, Sport and Cultural Industries within 14 days of the decision to appoint.	Not Support-Reason: There does not appear to have any logic for the involvement by the Department in the process.
Regulation 18FC – Certification of compliance with adopted standards for CEO termination (Act s.5.39B(7)).	<i>Local Government (Administration) Regulations 1996</i> – 18FC is a new clause	Regulation FC requires a local government to certify that they have adopted the standards under section 5.39B of the Act. 18FC applies in relation to the termination of a CEO’s employment contract. If a local government makes the decision to terminate the employment of the CEO, it must certify that the CEO’s employment contract was	Not Support-Reason: There does not appear to have any logic for the involvement by the Department in the process.

		terminated in accordance with the adopted standards for termination as outlined in regulations.	
Regulation 6 – Advertising Requirements	<i>Local Government (Administration) Regulations 1996</i> – Reg 6 is a new clause .	Regulation 6 deals with advertising the position of CEO where the position becomes vacant or the incumbent has held the position for 10 or more consecutive years. It is a requirement of the Local Government Act (s 5.36(4)) that upon the position of CEO becoming vacant, it must be advertised in a manner prescribed. Regulation 18A of the <i>Local Government (Administration) Regulations 1996</i> sets out the requirements for State-wide advertising.	Not Support Reason: There does not appear to have any logic for such an imposition after a period of 10 years. In addition, it will add costs to a local government recruitment process.
Regulation 8 – Establishment of selection panel for appointment of CEO.	<i>Local Government (Administration) Regulations 1996</i> – Reg 8 is a new clause .	Regulation 8 requires a local government to establish a selection panel to conduct the selection and recruitment process for appointment of a person to the position of CEO. The selection panel must comprise of council members and at least one independent person who is not a councillor nor an employee of the local government. It is recommended that the independent person or persons have relevant experience in the recruitment and selection of CEO's and / or senior executives. It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF. It is at the discretion of the local government to determine the number of people on the selection panel.	Not Support Reason: There does not appear to have any logic for such an imposition of an independent person to a local government recruitment process. In addition, it will add costs to a local government recruitment process.
Regulation 13 – Recruitment to be undertaken on expiry of certain CEO contracts.	<i>Local Government (Administration) Regulations 1996</i> – Reg 13 is a new clause .	Regulation 13 applies if a local government CEO has held the position for a period of 10 or more consecutive years upon expiry of the CEO's contract. Regulation 13 also applies if a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position has occurred and the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.	Not Support Reason: There does not appear to have any logic for such an imposition after a period of 10 years. In addition, it will add costs to a local government recruitment process.

		<p>Subclause 13(2)(a)(ii) is drafted to allow for the possibility that a CEO who has, for example, held office for 10 years and has their contract renewed for another 5-year term following the recruitment and selection process. In that case, clause 13(2)(a)(ii) will operate to ensure that another 10 years can pass before another recruitment process is required. In the absence of clause 13(2)(a)(ii), when the renewed term came to an end, the CEO would have held the position for 15 consecutive years and clause 13(2)(a)(i) would operate to require a process to be undertaken.</p> <p>The local government must carry out the recruitment and selection process before expiry of the incumbent CEO's contract.</p> <p>The incumbent CEO may have their contract of employment renewed upon expiry if they are selected in accordance with the recruitment and selection process at subclause (3).</p>	
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Closing Date for Submissions

The DLGSCI has advised that submissions close on 6 December 2020.

POLICY/STATUTORY IMPLICATIONS:

The Council will be required to review its Code of Conduct to meet the legislative requirements.

RISK MANAGEMENT IMPLICATIONS:

Low: This matter has been assessed as having a low risk.

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

Our Council

Goal 9: Transparent, accountable governance

Strategy 9.1: Implement initiatives that strengthen governance skills and knowledge

COMMUNITY ENGAGEMENT:

This matter has been assessed in line with the Town's Community Engagement Policy No: 019 as not requiring community consultation.

ADMINISTRATION RECOMMENDATION

Moved by Cr Mack, seconded by Cr Barlow

That Council APPROVES of the Chief Executive Officer to lodge a submission, as detailed in Attachment 1, with the Department of Local Government, Sports and Cultural Industries and the Western Australian Local Government Association concerning the proposed *Local Government (Administration) Amendment (No 2) Regulations 2020*, as shown in Attachment 2.

During discussion, Cr Mack foreshadowed that should the motion presently before Council be lost, he intended to move that new Regulation 8 requiring an independent person being involved in the CEO recruitment process be supported.

PROCEDURAL MOTION:

Moved by Mayor Shannon, seconded by Cr Mack

That the item relating to the Proposed Local Government (Administration) Amendment Regulations (No.2) 2020 be submitted to Council for determination to allow all Elected Members to provide comment.

Procedural Motion put and CARRIED (5/0) (unanimous)

8. CONFIDENTIAL REPORT

PROCEDURAL MOTION:

Meeting Behind Closed Doors

Moved by Cr Barlow, seconded by

That the following matter be regarded as confidential in accordance with Section 5.23(2)(b) and (e) of the Local Government Act 1995.

Motion lapsed for want of a seconder.

CR20.151 OCEAN GARDENS (INC) - APPOINTMENT OF DIRECTOR

REASON FOR CONFIDENTIALITY:

This report is CONFIDENTIAL in accordance with Section 5.23(2) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- “(b) the personal affairs of any person; and*
- (e) a matter that if disclosed, would reveal —*
 - (iii) information about the business, professional, commercial or financial affairs of a person.”*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995*.

PURPOSE:

The purpose of this report is to seek Council approval of the Appointment of a Director for the Ocean Gardens Retirement Village (Inc) Board.

SUMMARY:

The Board of Ocean Gardens (Inc.) (**the Board**) has written to the Town on 28 October 2020, to advise Mr Anthony Kinder's tenure as a director including his role as Chair will be coming to an end on 22 November 2020. Ocean Gardens (Inc.) will therefore have five (5) directors appointed. Clause 10 of the Ocean Gardens (Inc.) Constitution allows for the appointment of up to six directors and the Board is now seeking to fill this sixth (6) position.

Clause 10(3) of the Ocean Garden's Constitution requires the nomination for appointment of its Directors by the Board and appointment by the Town. The Board at its meeting held on 22 October 2020 nominated Mr Geoff Parnell for the Director position, the nomination for the appointment of Mr Geoff Parnell is now submitted for the Council's consideration and approval.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice..
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	60 Kalinda Drive, City Beach
Report Date:	18 November 2020
Responsible Officer:	Chief Executive Officer, Mr John Giorgi, JP
Reporting Officer:	Executive and Elected Member Liaison Officer, Tracey Jackson
Contributing Officer:	Nil
Reporting Officer Interest:	Nil
Attachment(s):	1. Confidential Letter; 2. Confidential Competency Profile (as completed by the Board) – Mr Geoff Parnell; and 3. Capability Statement.

BACKGROUND:

The Board, at its meeting of 4 May 2017, completed a review of its performance and an assessment of the skills and experience it determined necessary to competently perform its duties and obligations into the future.

Clause 10 of the Ocean Gardens (Inc.) constitution provides (*inter alia*) that:-

- (3)(a) *The Directors shall be nominated by the Board and appointed by the Town in accordance with this clause.*
- (b) *The Board shall determine the eligibility requirements for the selection of those persons to be nominated by the Board as Directors, and notify the Town of those requirements from time to time.*
- (c) *The Town must, within 60 days of the date of receipt of the nomination from the Board, in its absolute discretion appoint or reject any person nominated by the Board by notice to the Board in writing.*
- (d) *If the Town does not within 60 days appoint or reject any person nominated under this clause, the Town will be deemed to have appointed that person as a Director.*
- (4)(a) *Subject to clause 10(4)(b), the term of appointment for each Director is up to three (3) years. If no term is specified at the time of appointment, a Director's appointment shall expire on the third anniversary of their appointment.*
- (b) *A Director is eligible for reappointment but a person may not be a Director for more than nine (9) years in aggregate.*

- (c) *A Director seeking reappointment may be nominated and reappointed under clause 10(3) at any time within 3 months before the expiry of their current term in which case the reappointed Director's new term of office commences on the first day after the expiry of their current term.*

The competency assessment framework that is used to determine the eligibility requirements for selection of persons to be nominated as determined by the Board in accordance with Clause 10(3)(b) is shown at **Attachment No. 2**.

Under Clause 10 of the constitution, the Board shall comprise up to six Directors, with a quorum of four Directors. The term of appointment for each Director is three years and a person may not be a Director for more than nine years in aggregate.

The table below provides details on the terms of the current Directors and their maximum nine year term.

	Director	Term Commencement	Expiry of Current Term	Maximum Term 9 Years
1.	Ray Glickman	27 April 2019	26 April 2022	26 April 2025
2.	Felicite Black	20 October 2019	19 October 2022	19 October 2025
3.	Lee Verios	29 April 2020	29 April 2023	29 April 2023
4.	Kylie Gilbey	24 August 2020	23 August 2023	23 August 2026
5.	Darren Cooper	23 April 2020	22 April 2023	24 April 2029
6.	Geoff Parnell	1 December 2020	30 November 2023	30 November 2029

DETAILS:

The Board has advised that the tenure of Director and Chairman, Mr Anthony Kinder is due to expire on 22 November 2020. Clause 10 of the Ocean Gardens (Inc.) Constitution allows for the appointment of up to six (6) directors and the Board has worked on the succession for the past 12 months and is now seeking to fill a director role from the 1st of December 2020 due to the departure of Mr Kinder.

The Board, at its meeting of 22 October 2020, completed a review of its performance and an assessment of the skills and experience it determined necessary to competently perform its duties and obligations into the future. Following this review, the Board approved a motion supporting the nomination of Mr Geoff Parnell.

In support of the nomination for appointment of Mr Parnell, the Board has submitted the Confidential Assessment of the Board Composition and Director Competencies, and Capability Statement for the nominee. The Confidential Assessment is shown at **Attachment No. 2**. The Board has advised that an appropriate level of investigation has been undertaken to confirm the accuracy of the details contained in the competency profile and resume.

The nomination for appointment of Director, Mr Geoff Parnell has been reviewed against the eligibility criteria submitted and it is considered that the nominee satisfies the requirements and is therefore recommended for reappointment as a Director of Ocean Gardens (Inc.) in accordance with the provisions of Clauses 10(3) and 10(4) of the Ocean Gardens (Inc.) Constitution.

POLICY/STATUTORY IMPLICATIONS:

Clause 10(3) of the Ocean Gardens (Inc.) constitution requires that reappointment of Directors shall be nominated by the Board and appointed by the Town.

RISK MANAGEMENT IMPLICATIONS:

Low: The risk in this matter has been assessed as low.

FINANCIAL IMPLICATIONS:

There are no Financial Implications related to this report.

STRATEGIC DIRECTION:

Not applicable

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Consultation Policy No. 1.2.11. Consultation is not proposed as it is a matter for Council to consider and determine.

COMMITTEE AND ADMINISTRATION RECOMMENDATION:

Moved by Cr Bradley, seconded by Cr Barlow

That in accordance with the provisions of clause 10(3) and 10(4) of the Ocean Gardens (Inc.) Constitution, Mr Geoff Parnell, as detailed in the Confidential Attachment No. 2, Council APPROVES the appointment of Mr Geoff Parnell as a Director of the Ocean Gardens (Inc.) Board for a three year period, effective from 1 December 2020 and expiring on 30 November 2023.

Motion put and CARRIED (5/0) (unanimous)

10. COUNCIL REPORTS

10.1 MONTHLY FINANCIAL STATEMENTS, REVIEW AND VARIANCES - OCTOBER 2020

ADMINISTRATION RECOMMENDATION:

That Council:-

1. **RECEIVES** the report on the Financial Statements for period ended 31 October 2020;
2. **APPROVES BY AN ABSOLUTE MAJORITY:-**
 - 2.1 **an unbudgeted increase of \$6,000 for specific works “Cambridge Library – External Cladding Replacement”;** and
 - 2.2 **a budget re-allocation of \$17,000 for specific works “Lake Monger Recreation Club Facilities Redevelopment Design” from the DAIP Program, funded from Asset Management Reserve.**

PURPOSE OF REPORT:

To receive the Financial Statements for period ended 31 October 2020 and to approve various amendments to the 2020/2021 adopted budget as detailed in the report.

SUMMARY:

The October 2020 financial statements have been completed. Comments have been provided on the financial position compared to budget including any permanent and timing variances that have occurred during the period and their impact on financial results with respect for the period year to date 31 October 2020.

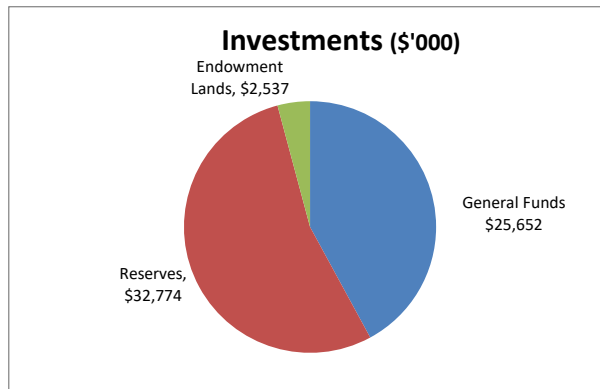
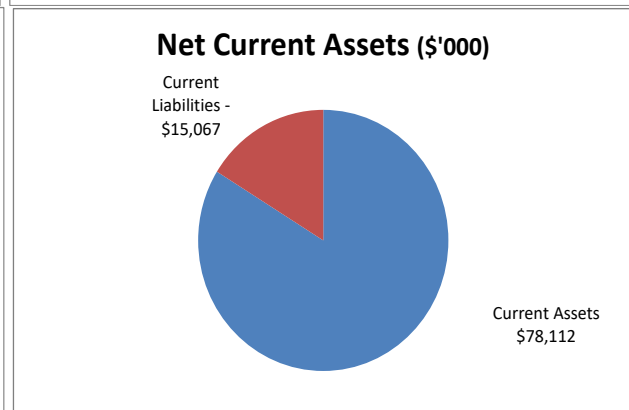
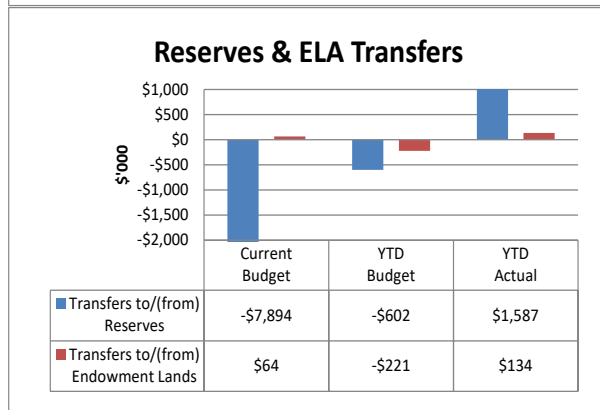
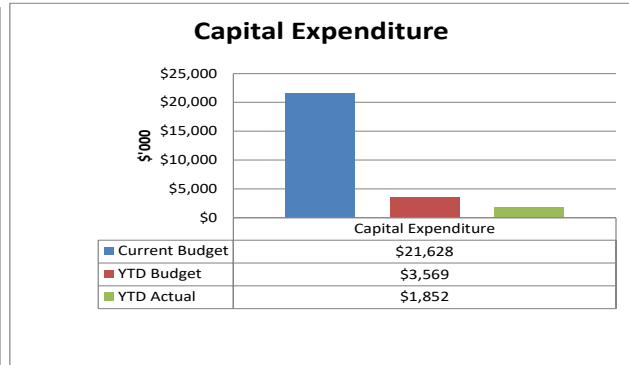
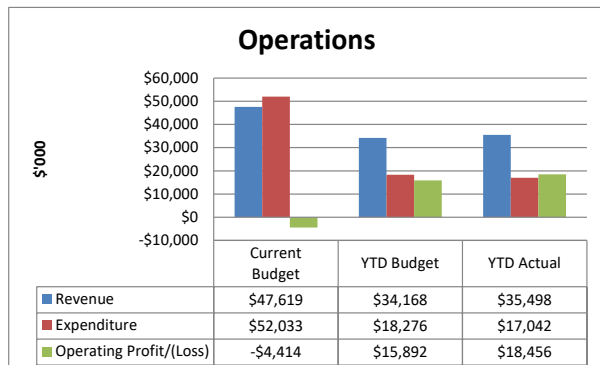
AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	N/A
Report Date:	17 November 2020
Responsible Officer:	Acting Director Corporate and Community Services, Roy Ruitenga
Reporting Officer:	N/A
Contributing Officer	N/A
Reporting Officer Interest:	Nil
Attachments:	1. Financial Statements October 2020

DETAILS:

Charts of key financial indicators are provided below comparing year to date actual figures against the year to date budget.



The following comments are provided and should be read in conjunction with the Statement of Financial Activity for October 2020 (Rate Setting Statement) in **Attachment 1**.

1. Operating Revenue

Operating revenue year to date is \$35.5 million compared to YTD budget of \$34.2 million, giving a favourable variance of \$1.3 million. Significant variances are as follow:

a. Fees and Charges

Actual fees and charges for October 2020 YTD is \$8.7 million compared to YTD budget of \$7.5 million, giving a favourable variance of \$1.2 million or 16.7%. Favourable variances include the Bold Park Aquatic fees \$133k over YTD budget and Wembley Golf Course, with

patronage well above expectations during the month of October, with green fees (\$391k), driving range fees (\$664k), miniature golf (\$80k) and golf shop (\$185k) over YTD budget.

The following timing variances exist:

Fees & Charges

Items	YTD Budget \$'000	31 Oct Actual \$'000	Variance \$'000	Variance %
WGC - Driving Range	884	1,548	664	75%
WGC - Green Fees	1,056	1,447	391	37%
WGC - Golf Shop	346	530	185	53%
WGC - Miniature Golf	262	342	80	31%
BPAC Fees	572	705	133	23%
Parking Control	660	541	(119)	-18%
Total	3,780	5,113	1,334	

2. Operating Expenses

Operating expenses year to date is \$17 million compared to YTD budget of \$18.2 million, giving a favourable variance of \$1.2 million or 6.7%. Significant variances are as follows:

a. Materials and Contracts

Actual expenditure for October YTD is \$5 million against YTD budget of \$6 million, giving a favourable variance of \$970k or 16.2%.

The following timing variances exist:

Material & Contracts

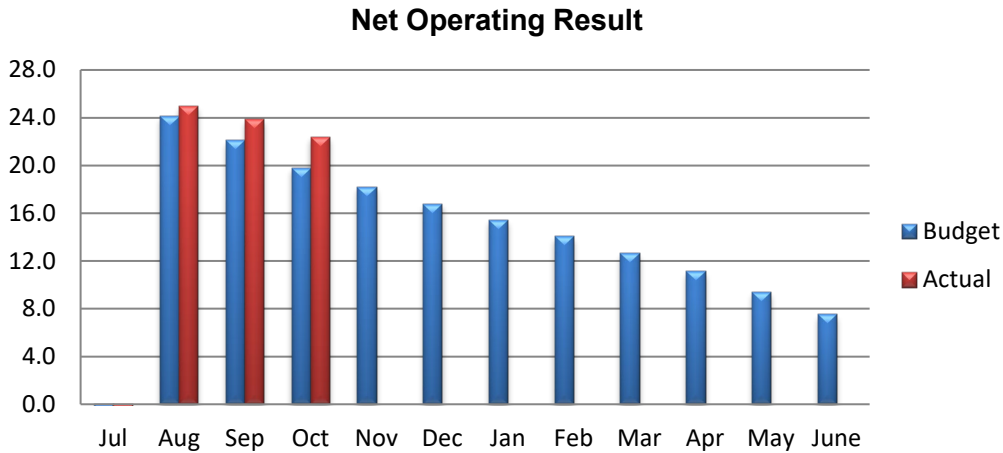
Items	YTD Budget \$'000	31 Oct Actual \$'000	Variance \$'000	Variance %
Clubs leased premises	224	71	(153)	-68%
Information Technology - Software Licences	533	415	(118)	-22%
Waste - Verge Collection	117	6	(111)	-95%
Road Reserves maintenance	311	221	(90)	-29%
City of Perth Surf Life Saving Club	78	1	(77)	-99%
Ocean beaches ground maintenance	200	130	(70)	-35%
Sports ground maintenance	230	171	(59)	-26%
Waste - Refuse site operation	488	433	(55)	-11%
Sustainability Mgmt non capital works	40	0	(40)	-100%
Quarry Amphitheatre non capital works	42	4	(38)	-90%
Admin Centre building maintenance	143	108	(34)	-24%
BPAC non-capital works	45	22	(23)	-51%
Total	2,450	1,581	(869)	

b. Employee Costs

Actual expenditure for October YTD is \$6.3 million compared to YTD budget of \$6.5 million, giving a favourable variance of \$147k or 2.3%.

3. Net Operating Result

The net operating surplus from operations is \$22.4 million compared to YTD budget of \$19.8 million, giving a favourable variance of \$2.6 million.



4. Capital Works Programs

The total amount of funds spent on the Town’s capital works program for the period ended 31 October 2020 is \$1.8 million against budget of \$3.5 million, giving a favourable variance of \$1.7 million.

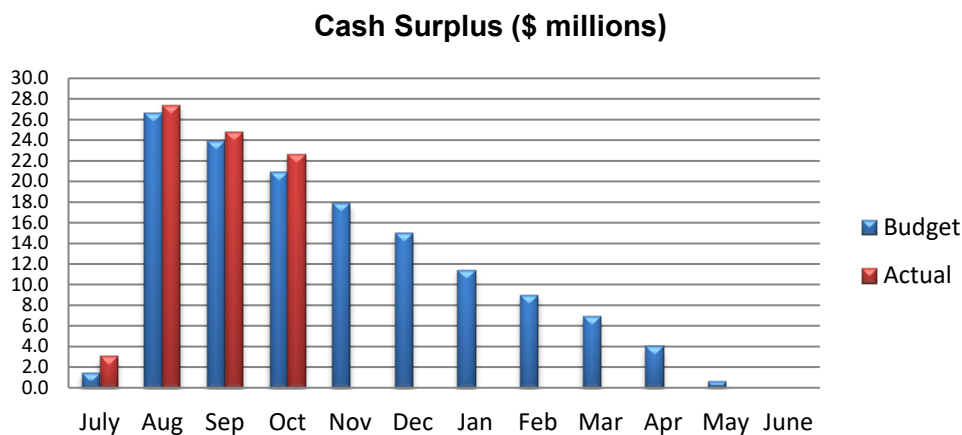
A brief overview of the capital works programs at year end shows the following timing variances:

1. Buildings - \$1.1 million spent against year to date budget of \$1.3 million;
2. Parks and Reserves - \$165k spent against year to date budget of \$728k;
3. Roads and Lanes - \$191k spent against year to date budget of \$601k;
4. Drainage - \$47k spent against year to date budget of \$110k;
5. Footpaths - \$165k spent against year to date budget of \$75k.

5. Cash Surplus (Closing Funds)

The cash surplus as at 31 October 2020 is \$22.6 million which is above the year to date budget of \$20.9 million, giving a favourable variance of \$1.7 million. The surplus is predominantly due to the under expenditure with respect to materials and contracts and capital works.

This surplus will decline as the year progresses with day to day operational expenditure and the carrying out of budgeted capital works.



6. Material Variances

Permanent variances above \$30k and timing variances above \$100k for specific line items are normally reported upon. As at 31 October 2020, there are a few material timing variances to report upon as follows:

- a) Wembley Golf Course Driving Range Fees revenue \$570k over YTD budget;
- b) Wembley Golf Course Green Fees revenue \$391k over YTD budget; and
- c) Wembley Golf Course Golf Shop Sale \$110k over YTD budget.

In summary, apart from the variance noted above, the YTD budget is generally tracking to the actual results, as would be expected early in the year. The variances noted are generally attributable to timing differences or the profile of the monthly distribution of the budget, over the year.

BUDGET REALLOCATIONS AND AMENDMENTS

Cambridge Library – External Cladding Replacement (S8510)

The Council adopted a budget of \$15,000 for specific works project “Cambridge Library – External Cladding Replacement” for the repairs to the cladding at the Library and The Boulevard Centre as several sections of the cladding are damaged and could potentially fall off. Following a request for quote process, the lowest tender received is \$5,645 over the budget. It is therefore requested that the budget be increased by \$6,000 to \$21,000 to allow these works to be carried out.

Lake Monger Recreation Club – Club Facilities Redevelopment Design (S5571)

The Lake Monger Recreation Club Design specific works project has an approved budget of \$70,000. Following a request for quote process, the successful vendor submitted a price which is \$16,740 over budget. It is proposed to fund the \$17,000 shortfall from the disability access inclusion plan project (DAIP) being funded from Asset Improvement Reserve. It should be noted that the design includes DAIP specifications.

POLICY/STATUTORY IMPLICATIONS:

The Local Government Act 1995, Section 6.4 requires the preparation of financial reports. The *Local Government (Financial Management) Regulations 1996*, in particular Regulation 34, expands on this requirement to include a monthly financial report to be prepared identifying significant variations between actual and budget. This report complies with this requirement.

RISK MANAGEMENT IMPLICATIONS:

Low: The financial statements have been produced in accordance with the adopted budget for the 2020/2021 financial year and in accordance with applicable local government legislation.

FINANCIAL IMPLICATIONS:

The variations in expenditure and revenue line items, compared to budget, October have an impact on Council funds.

STRATEGIC DIRECTION:

The management of budgeted funds is consistent with the Town's Strategic Community Plan 2018-2028:

Goal 9: Transparent, accountable governance

Goal 11: A strong performing local government

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria it was determined that community engagement is not required as the matter is purely administrative in nature with no external impacts envisaged.

10.2 OWNERSHIP OF STREETLIGHT POLES AND INFRASTRUCTURE

ADMINISTRATION RECOMMENDATION:

That Council:-

- 1. NOTES the findings contained within the report and confidential attachments 1 and 2; and**
- 2. DOES NOT SUPPORT any further action to be taken by the Town to transfer the ownership of street lighting assets installed as part of the State Underground Power Project Program.**

SUMMARY:

As required by the Notice of Motion 12.1 at the Council Meeting on 22 September 2020, an update is provided on the ability of the Town to own the streetlight poles installed as part of the recent underground power projects within Floreat and Wembley.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input checked="" type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	1 Bold Park Drive, Floreat
Report Date:	19 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Director Infrastructure and Works, Kelton Hincks
Contributing Officer:	Nil
Reporting Officer Interest:	Nil
Attachment(s):	1. Confidential - Email from Western Power confirming their position to retain ownership of the lighting infrastructure 2. Confidential – Letter from DLA Piper – Ownership of Street Lighting in the Town

BACKGROUND:

On 8 January 2018, the Town wrote to Western Power's (WP) Chief Executive Officer (CEO) requesting a meeting to discuss the possibility of the Town owning, operating and maintaining street lighting infrastructure. The Town, at that stage, were in the process of developing a business case to assess if there was a benefit to owning these assets.

As an outcome, the Town indicated to WP that there was a desire to gain ownership of the lighting infrastructure and requested additional wording in the Agreements to allow this to occur.

In February 2018, the Round 6 – Floreat East, North and West Funding Agreements were signed.

At the Ordinary Council Meeting held on 27 February 2018 (refer Item 10.2 Underground Power Projects: Ownership of Street Lights), it was decided:-

“That:-

- (i) the Town proceeds with a position to take ownership of the street lighting poles, associated wiring from the point of supply and lights being installed in the Floreat West, Floreat East and Floreat North SUPP project areas;*
- (ii) subject to a decision to proceed with underground power in the Wembley/West Leederville area, the Town proceeds with a position to take ownership of the street lighting poles, associated wiring from the point of supply and lights being installed in this project;*
- (iii) negotiations commence with Western Power and the Public Utilities Office on this matter to determine a fair and equitable cost to the Town; and*
- (iv) the terms of any agreement requires further Council approval.”*

As a result of the above resolution, in March 2018 the Town met with WP’s CEO to discuss the use of the latest street lighting technology for the Town’s project areas (LED and NEMA sockets) and also to discuss the future ownership of the lighting infrastructure. At that meeting, WP’s CEO put forward his argument to retain ownership of the infrastructure.

In April 2018, WP sent the Town their standard Customer Acceptance and Terms and Conditions contracts which were signed by the Town’s CEO.

In May 2018, the Town again wrote to WP advising that they still wanted to explore ownership of street lighting infrastructure. This letter included the Town’s reasons for wanting to own the assets such as reduced costs for operating the lighting, Smart City concepts, Smart Metering opportunities and energy management.

In October 2018, WP emailed the Town confirming their position to retain ownership of the lighting infrastructure (**Attachment 1**).

The Town received a letter dated 7 March 2019 (**Attachment 2**) from DLA Piper who was acting on behalf of WP. The letter set out the reasons why the assets will remain under WP ownership.

At the Ordinary Council Meeting held on 22 September 2020 (Item 12.1 Ownership of Streetlight Poles and Infrastructure) it was resolved:

“That Council REQUESTS the CEO provide an update report to the November 2020 Council meeting in relation to the ability of the Town to retain ownership of the streetlight poles installed as part of the recent undergrounding of Floreat and Wembley.”

DETAILS:

There are two relevant documents associated with each of the Underground Power Projects, the State Underground Power Program Agreement and the Relocation Works Contract Acceptance Form.

The State Underground Power Program Agreement (**Attachment 2**) for each of the project areas contain relevant clauses (Recital 2.3 and Clause 19.2) specifying that WP owns all infrastructure installed as part of the works, from practical completion of the project.

Clause 21.1 of the Agreement provides an avenue for the Town to own special lighting or decorative columns if approved by the WP Program Manager. For this clause to come into effect, the following is required;

1. Approval of the Program Manager;
2. Additional work that is outside of the equivalent Project Scope of Work; and
3. That additional work involves the installation of special lighting or decorative street light columns.

All of the infrastructure installed by WP were standard designs and assets; therefore did not require approval by the WP Program Manager. Therefore clause 21.1 is not applicable.

The Customer Acceptance and Terms and Conditions Contract also includes relevant clauses. The text within these documents are located in Annexure 1 (clause 5) and clause 12.1 of the Terms and Conditions.

Clause 5 of Annexure 1:

"The Parties acknowledge that unless otherwise agreed, all infrastructure (including, without limitation, all... street lights...) installed as part of or in conjunction with the Project shall vest in and be owned by Western Power and Western Power shall be solely responsible for its ongoing maintenance and operation from the Practical Completion of the Project."

Clause 21 of the Terms and Conditions:

"The applicant acknowledges and agrees that the Relocation Works and all Intellectual Property in the design and installation of the Relocation Works will at all times be held by and remain the property of Western Power, and the Applicant will not acquire any proprietary or other interest in any of the Relocation Works or any deliverables created by Western Power by reason of this Contract or action or any representation under this Contract unless Western power determines otherwise."

The Energy Operators (Powers) Act 1979 also includes the following clause in section 43:

"Where any works or other things are or have been placed upon, in, over or under any land by... an energy operator... those works or other things shall be taken to have been lawfully so placed and are, and shall at all times continue to be, the property of the energy operator, unless the energy operator has otherwise specified or may otherwise determine"

As both the State Underground Power Program Agreements and the Relocation Works Contract Acceptance Forms were signed by the Town's former CEO and Mayor for each project area, it is clear that WP now own and operate the street lighting infrastructure. It is therefore recommended the Town does not progress with any further action to transfer the ownership of street lighting assets installed as part of the State Underground Power Project Program.

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: The Town could lose a small amount of time and funds if legal action was to be progressed.

FINANCIAL IMPLICATIONS:

There are no financial implications related to this report.

STRATEGIC DIRECTION:

The recommendations from this report supports the Town's 2018-2028 Strategic Community Plan:-

Our Council

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities

Strategy 10.1 Ensure appropriate resources are allocated to the preparation and implementation of day to day decision making, broader strategic planning and major projects

Strategy 10.2 Promote equity and transparency in the provision of infrastructure and services throughout the Town

Strategy 10.3 Ensure sound and sustainable financial planning, management and reporting

Goal 11: An efficient local government

Strategy 11.1 Invest our wealth wisely so that current and future generations benefit

COMMUNITY ENGAGEMENT:

This report has been assessed in line with Policy 019 - Community Engagement Policy. Community consultation is not required as it is administrative in nature.

10.3 LAKE MONGER PUMP/JUMP TRACK PROJECT WORKING GROUP MEMBERSHIP

ADMINISTRATION RECOMMENDATION:

That Council:-

- 1. APPROVES the establishment of the a Lake Monger Pump/Jump Project Working Group; and**
- 2. ADOPTS the Lake Monger Terms of Reference for the Pump/Jump Project Working Group, as detailed in this report; and**
- 3. APPROVES the appointment of the following members:-**
 - 3.1 six community representatives; as shown in Confidential Attachment 1;**
 - 3.2 Manager Parks and Natural Environment and Senior Landscape Officer;**
 - 3.3 one contracted professional designer, approved by the CEO; and**
 - 3.4 one Elected Member, being.....**

PURPOSE OF REPORT:

To approve the membership of the Lake Monger Pump/Jump track Project Working Group to assist the Town in its development of a concept design for a pump/jump track at Lake Monger.

SUMMARY:

At its meeting held 22 September 2020 (refer CR20.112), Council resolved to develop a design brief for the Lake Monger Pump/Jump track with a project working group. An email was sent to all 459 survey responders thanking them for their participation and inviting them to nominate local children between the ages of ten and 15 to be part of the group. This report aims to formalise the membership of the Project Working Group (PWG).

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Lake Monger Reserve, West Leederville
Report Date:	19 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Parks and Natural Environment, Andrew Head
Contributing Officer:	Nil
Reporting Officer Interest:	Nil
Attachment(s):	1. Confidential - Community member nominations for the Project Working Group 2. Letter to survey respondents 3. Working Group Terms of Reference

BACKGROUND:

At its meeting on 22 September 2020, a report was presented to Council (refer CR20.112) on the outcomes of the community survey regarding the proposal for a pump/jump track in the south west corner of Lake Monger. At that meeting it was resolved;

“That Council:-

1. *RECEIVES the community consultation for Lake Monger Area 4 pump track; and*
2. *APPROVES:*
 - 2.1 *the proposed change to Lake Monger Activity Plan 2018 to show the location of the pump/jump track in Area 4;*
 - 2.2 *the attached Lake Monger Activity Plan 2020; and*
 - 2.3 *the creation of a Project Working Group with potential users to develop a design brief.”*

Following the resolution, an email was sent out to all 459 survey respondents, thanking them for participating and inviting them to nominate suitable candidates for the PWG (**refer Attachment 2**).

DETAILS:

The pump/jump track will complement the approved works for construction in the 2020-2021 financial year, which includes an upgrade to facilities at Lake Monger South East. This includes a new carpark, toilets, improved accessibility, playspace, furniture and exercise equipment.

To ensure the pump/jump track is well designed and caters for local casual users of the facility, children aged ten to 16 who are residents of the Town and keen BMX or Mountain Bike riders were invited to nominate for the project working group.

These local residents were considered to be the main user group of such a facility and therefore best placed to provide input into the design elements. The PWG will be asked to provide input on:-

1. The surface best suited for all weather and multi-purpose use;
2. The type, shape, size, combination and difficulty of the jumps; and
3. Final layout of the track.

The Town will engage a suitably qualified track designer to participate in the meetings of the PWG to help develop a design which can be used to seek community feedback.

As shown in **Attachment 1**, there are eight nominees for the PWG. Of the eight nominees, there are six who fit within the criteria set, the other two are adults, one of which is not a local ratepayer.

To help guide the project working group, it is proposed to involve two of the Town's Officers to undertake the administration and provide support. It would also be beneficial to have an Elected Member to provide additional community representation.

COMMENTS:

The Town would like to nominate the Manager of Parks and Environment and the Senior Landscape Officer as the two representative Officers and request nomination from Council on the Elected Member who would be suited for the PWG.

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: There is a low risk if the Town does not proceed with the creation of a PWG.

FINANCIAL IMPLICATIONS:

The pump/jump track design and construction works will be put on to the future project list for consideration during 2021-2022 Budget development. The approximate cost for the Lake Monger Pump/Jump track is likely to be in the order of \$100,000 to \$200,000. The upper range of this budget would allow for an asphalt surface track, and the lower range would allow for a compacted clay track.

STRATEGIC DIRECTION:

The report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:

Goal 1: A sense of community, pride and belonging

Strategy 1.1 Encourage and support participation in a range of public activities and events where residents can gather and interact

Strategy 1.2 Promote our strong community identity and focus our responses on the needs of local residents, businesses and ratepayers

Goal 2 Quality local parks and open spaces for the community to enjoy

Strategy 2.1 Focus on activating our major public open spaces

Strategy 2.2 Improve the amenities of our local parks and sports grounds

Goal 3 An active, safe and inclusive community

Strategy 3.2 Encourage activity that meets the needs of people of all ages, cultures and abilities

Strategy 3.3 Create and maintain safe environments

Goal 4 Neighbourhoods that are well planned, attractive, respectful of the character and responsive to future needs

Strategy 4.3 Make neighbourhoods green and pleasant

COMMUNITY ENGAGEMENT:

This matter has been assessed under Policy No 019 – Community Engagement, as not requiring community consultation.

Further consultation with the local community will be required once the pump/jump track design is developed.

10.4 RAILWAY PARADE PEDESTRIAN CROSSING PROJECT UPDATE

ADMINISTRATION RECOMMENDATION:

That Council:-

1. **APPROVES** the Railway Parade, West Leederville Pedestrian Crossing to be a signalised crossing and the Schedule of Works as detailed in this report; and
2. **APPROVES BY ABSOLUTE MAJORITY** the relocation of \$125,100 from the Area Improvement Reserve to increase the project budget to \$250,000, to enable the works to be completed as a priority, for safety reasons.

PURPOSE OF REPORT:

To seek Council's approval of the Schedule of Works for the design and construction of a pedestrian crossing on Railway Parade West Leederville and the re-allocation of additional funds to enable the project to be progressed as a priority, for safety reasons.

SUMMARY:

The Town has been contacted by the Bob Hawke College Board requesting works to be expedited on either a guarded school crossing or a signalised pelican crossing on Railway Parade in West Leederville. The Town had been working with the College and the Children's Crossings and Road Safety Committee to gain approval for a guarded school crossing close to Northwood Street. However, Vision Australia had also been lobbying State Government for a signalised pelican crossing in close proximity between Northwood and Rosslyn Street.

These two proposed crossings are too close in proximity to gain approval from relevant authorities, so the Town selected the signalised pelican crossing as the most beneficial option to progress. As a compromise, the crossing location was changed to suit both the Bob Hawke College and Vision Australia.

Additionally, the Town also had to consult with the Public Transport Authority (PTA) as the proposed location was in conflict with the bus embayment servicing the West Leederville Train Station.

The purpose of this report is to provide an update on the project and to seek additional funds to complete the works.

AUTHORITY / DISCRETION

- | | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input checked="" type="checkbox"/> | Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> | Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> | Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> | Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. |
| <input type="checkbox"/> | Information | For the Council/Committee to note. |

Address/Property Location:	Railway Parade, West Leederville
Report Date:	18 November 2020
Responsible Officer:	Director Infrastructure and Works, Kelton Hincks
Reporting Officer:	Manager Technical Services and Works, Peter Foxcroft
Contributing Officers:	Manager Technical Services and Works, Peter Foxcroft
Reporting Officer Interest:	Nil
Attachment(s):	1. Letter from the Bob Hawke College Board 2. Railway Parade Pedestrian Crossing Concept Design

BACKGROUND:

The Town was contacted by the Principal of the Bob Hawke College in February 2020 for the purpose of providing a travel plan for the school and additional information in support of a guarded school crossing. The proposed location of the crossing was on Railway Parade to the west of both West Leederville Train Station underpass and Northwood Street intersection. The guarded crossing was to assist the school children cross Railway Parade from the northern catchment areas.

At the same time, Vision Australia, who are located on Rosslyn Street, were also lobbying the State Government to approve a signalised crossing on Railway Parade closer to their facility. Vision Australia were successful in this regard and Main Roads Western Australia (MRWA) provided in principle support for the crossing.

Unfortunately, the proposed guarded school crossing and the signalised pelican crossing are in close proximity (less than 100 metres apart) and as a result only one would be approved by MRWA.

The Town had been working with the Principal of the College and the Western Australian Police on the approvals, location and designs of the guarded crossing. Significant progress was made through the process with a final decision to be made on 25 August 2020 by the Children's Crossings and Road Safety Committee (CCRSC).

At a site meeting prior to their final decision on 25 August 2020, the CCRSC were informed about the proposed signalised crossing to the east towards Rosslyn Street. The Town's staff discussed the issues in relation to the proximity of the crossings and also the relocation of a bus embayment in front of the train station. As a result of this discussion, the CCRSC delayed their decision on the guarded school crossing pending the Town's resolution on the signalised pelican crossing.

On 4 November 2020, the Town received a letter from the Bob Hawke College Board in relation to the delays in the construction of the guarded school crossing. The main purpose of the letter was to request the Town construct either the guarded school crossing or the signalised pelican crossing prior to the commencement of the 2021 school year (**refer Attachment 1**).

DETAILS:

Pelican crossings are signalised pedestrian road crossings with a push button activation and is also suitable for cyclists. Once activated, vehicle traffic is stopped by a red light and pedestrians are given a green light to cross. This type of crossing is similar to the pelican crossing on Cambridge Street between Northwood Street and Kimberly Street. A concept design has been completed and is provided in (**refer Attachment 2**).

The location and type of crossing was chosen after consideration for the type and number of users. It will offer safe crossing of Railway Parade between the West Leederville Commercial Area, West Leederville Train Station and the railway under pass. It provides a connection along the proposed Safe Active Street route, cycle networks and will be used by school students from three different schools.

Following discussions with the main stakeholders, the Town has produced concept plans for the modification of Railway Parade to facilitate the signalised pelican crossing. The installation of the crossing will require the relocation of a PTA bus bay. The embayment adjacent to the West Leederville Train Station is used by standard bus services as well as school buses and acts as a stop for train replacement bus services. Therefore, before the Town could proceed to detailed design, there was a requirement to acquire an agreement in principle from the PTA, this was received in mid-October.

The Town is currently progressing with full feature and level surveys to facilitate the detailed design of the required road works and the installation of the pelican crossing.

The proposed road works include:

1. The relocation of the PTA's bus embayment to the west of the Northwood Street intersection, including the modification of median islands and lane widths to accommodate it;
2. Closure of the pedestrian crossing immediately to the west of the intersection of Northwood Street;
3. Building out of kerb lines to each side of Railway Parade including associated paving of verges;
4. Installation of a larger median island pedestrian refuge and facilities for signals; and
5. Review parking facilities on Northwood Street between Cambridge Street and Railway Parade to make up for the parking removed by the installation of the crossing.

INDICATIVE TIMELINE:

The proposed works schedule is as follows:

Date	Project Stage
20-Nov-20	Receive quotations for feature and level surveys
27-Nov-20	Acceptance of survey quotation
10-Dec-20	Receive survey
11-Dec-20	Proceed with detailed design
18-Jan-21	Approval of detail design and issue drawings for stakeholder approval
8-Feb-21	Consider amendments to design
15-Feb-21	Issue request for quote for contractors to undertake construction works
22-Feb-21	Acceptance of quotation for road works
1-Mar-21	Commence roadworks
17-May-21	Works complete

COMMENTS:

Both guarded school crossings and signalised pelican crossings require similar amounts of roadworks and therefore the time to complete will be comparable. The main difference being the pelican crossing requires the installation of poles and signal lights which will take place during the road works.

The guarded school crossing is dependent on a guard to stop vehicle traffic and direct the pedestrians. This guard is only present during the times required by school students, outside of these times the crossing will only act as a standard pedestrian road crossing. This treatment would not be acceptable by other frequent users such as Vision Australia, shop owners/customers and PTA as it operates at limited times during the school term. The Pelican Crossing will operate 24 hours a day, 7 days a week without the need for a guard.

To accommodate both a guarded school crossing and a pelican crossing will double the required roadworks, substantially increase traffic congestion on Railway Parade and both crossings will not be accommodated or approved by MRWA within the available area.

This pelican crossing will safely service all pedestrians and cyclist crossing Railway Parade which is a district distributor road with a traffic volume of over 15,900 vehicles per day. This crossing is located at the end of the Town's proposed Safe Active Street connecting the West Leederville Train Station with Lake Monger. It will give a safe crossing for pedestrians and cyclists between the commercial area of West Leederville, bus stops, Train Station and the railway under pass to Subiaco.

The proposed schedule of works listed above has been derived through analysing the projects critical path. It also contains estimations of time on behalf of other authorities such as MRWA and the PTA. These stakeholders could influence the project either by extending the completion date, or bringing forward the works.

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: This report provides an indication on the progress of the Railway Parade Pedestrian Crossing and therefore presents low risk to the Town.

FINANCIAL IMPLICATIONS:

The Town has allocated \$124,900 in the 2020/2021 Budget for a Pelican Crossing on Railway Parade. There is a requirement to increase this budget item by \$125,100 to allow for the additional costs associated with the relocation of the PTA bus embayment and associated roadworks. The additional funds will either be sourced from savings from other projects, or from the Area Improvement Reserve. The source will be determined at the mid-year budget.

STRATEGIC DIRECTION:

In accordance with the Town's strategic community plan 2018-2028, the following goals and strategies are applicable:

Our Council

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities.

Strategy 10.1 Ensure appropriate resources are allocated to the preparation and implementation of day to day decision making, broader strategic planning and major projects.

Strategy 10.2 Promote equity and transparency in the provision of infrastructure and services throughout the Town.

Strategy 10.3 Ensure sound and sustainable financial planning, management and reporting.
Sustainability implications: not applicable.

COMMUNITY ENGAGEMENT:

In accordance with Policy 019 - Community Engagement, community consultation will be undertaken and will include notification to affected properties prior to commencement of any works.

10.5 LEGAL EXPENSES REPORT FOR THE PERIOD 1 JULY – 30 SEPTEMBER 2020

ADMINISTRATION RECOMMENDATION:

That Council RECEIVES the Town of Cambridge Legal Expenses Reports for the period 1 July 2020 – 30 September 2020, as shown in confidential Attachments 1, 2 and 3.

PURPOSE:

This report is to inform the Council of the legal expenses incurred by the Town of Cambridge, as requested by Council in its decision made on 15 October 2019.

SUMMARY:

The Town exercises a range of powers and duties in the performance of its functions as a local government. In the course of doing so, the Town incurs legal expenses. This report summarises the legal expenses for the first quarter of the 2020-2021 financial year.

AUTHORITY / DISCRETION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for review purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<input checked="" type="checkbox"/>	Information	For the Council/Committee to note.

Address/Property Location:	Town of Cambridge Administration, 1 Bold Park Drive, Floreat 6014
Report Date:	20 November 2020
Responsible Officer:	Chief Executive Officer – John Giorgi, JP
Reporting Officer:	Manager Legal and Risk - Martyn Cavanagh
Contributing Officer:	Finance Officer
Reporting Officer Interest	Nil
Attachment(s):	<ol style="list-style-type: none"> 1. Confidential Attachment 1 – Summary of legal expenses itemised by each legal services provider for 2013 – 2021; 2. Confidential Attachment 2 – details of legal expenses incurred shown by Activity centre for 2020-2021; and 3. Confidential Attachment 3 - Register of current major legal matters.

BACKGROUND:

At its meeting held on 15 October 2019, Council resolved to request information and statistics relating to certain aspects of the Town's operations. One of the requested items is the Town's legal expenses, which is requested to be reported on a confidential basis so as to protect the privacy of affected parties and also so as not to compromise or jeopardise the Town's legal position.

DETAILS:

The Town's Administration incurs legal expenses, including but not limited to the following:

1. The exercise of a range of powers and duties under various Acts, regulations and local laws, including prosecution powers;
2. Advice relating to the interpretation of legislative requirements, for example planning provisions;
3. Advice, drafting and other services in respect of property matters (eg leases, caveats, contracts, agreements);
4. Representing the Town in review proceedings in the State Administrative Tribunal;
5. Appeals, injunctions and applications to the Courts;
6. Recovery of debts and monies owed to the Town;
7. Advice concerning employment and staff matters;
8. Defending actions brought against the Town;
9. Protection of the Town's assets;
10. Advice pertaining to the Authorised Inquiry and other governance matters (eg FOI); and
11. 'One-off' legal matters.

POLICY/STATUTORY IMPLICATIONS:

There are no direct policy implications in relation to this report. Information is considered confidential, as it concerns third parties, employees, or is the subject of current legal action or is of a commercially sensitive nature.

RISK MANAGEMENT IMPLICATIONS:

Medium: The Town's legal services expenditure may be considered of medium risk. It involves significant expenditure of funds and in many cases the legal costs are not able to be recovered and/or the outcome of the action taken may be unsuccessful.

FINANCIAL IMPLICATIONS:

The Town's Annual Budget 2020-21 provided for legal expenses, as follows:

SECTION – ACTIVITY COST CENTRE	BUDGET 2019/2020
Members Expenses	\$0.00
Governance Management	\$50,000
Governance Management - Program	\$0.00
Animal Control	\$10,000
Compliance	\$10,000
Planning – Review applications	\$100,000
Planning - Legal Expenses	\$45,000
Other Property	\$25,000
Underground Power Project	\$0.00
Wembley Sports Park – Latent Defects	\$0.00
City Beach Surf Club Building - Latent Defects	\$200,000
Parking Control	\$5,000
Wembley Golf Course	\$0.00
Total	\$445,000

Legal Expenses – Report as at 30 September 2020:

The Town's legal expenses are shown in the **Confidential Attachments 1 and 2**. The Town's major current legal matters are shown in the **Confidential Attachment 3**.

The reason for confidentiality is asserted to be because a number of matters are active and on-going and it is considered appropriate to maintain privacy of matters/parties involved.

The Town's legal expenses incurred during the period 1 July 2020 to 30 September 2020 were \$320,221 (excluding GST).

The Town has obtained orders for the payment to it by third parties of the sum of \$183,667 (excluding GST) in respect of costs it has incurred.

Net legal costs for the period is the sum of \$136,554 (excluding GST).

STRATEGIC DIRECTION:

Our Council

Goal 9: Transparent, accountable governance.

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge.

Goal 10: The Town is a proactive local government that provides financially sustainable public assets, services and facilities.

Strategy 10.3 Ensure sound and sustainable financial planning, management and reporting.

COMMUNITY ENGAGEMENT:

This matter has been assessed under Policy No: 019 – Community Engagement criteria, and no community consultation is required as it is an administrative matter.

10.6 INFORMATION BULLETIN – NOVEMBER 2020

ADMINISTRATION RECOMMENDATION:

That Council RECEIVES the Information Bulletin dated November 2020.

PURPOSE:

The purpose of this report is to provide information to the Community and Elected Members, which does not require a Council decision or any action to be taken.

SUMMARY:

This report details information for the Community and Elected Members which is ongoing.

AUTHORITY / DISCRETION

- Advocacy When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative Includes adopting local laws, town planning schemes & policies.
- Review When the Council operates as a review authority on decisions made by Officers for appeal purposes.
- Quasi-Judicial When the Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
- Information For the Council/Committee to note.

Address/Property Location:	Town of Cambridge, 1 Bold Park Drive, Floreat.
Report Date:	18 November 2020.
Responsible Officer:	Chief Executive Officer, John Giorgi, JP
Reporting Officer:	Executive & Elected Member Liaison Officer, Tracey Jackson
Contributing Officer:	Nil
Reporting Officer Interest:	Nil
Attachment(s):	<ol style="list-style-type: none"> 1. Confidential Register of State Administrative Tribunal (SAT) Appeals – Current; 2. Confidential Design Review Panel (DRP) Applications; 3. Confidential Register of Advertised Development Applications; 4. Confidential Register of Advertised Strategic Planning Proposals; 5. Director of Infrastructure & Works Register of Current Projects; 6. Register of Petitions – Outstanding Matters - as at 13 November 2020; 7. Register of Notices of Motions – as at 13 November 2020; 8. Public Question Time – Responses to Questions Submitted to Council but treated as correspondence; 9. 23.10.2020 – SAT – Judgement – CORP vs Town of Cambridge Costs; 10. 9.10.2020 – Letter to Town - Local Emergency Management Arrangements.

BACKGROUND:

An Elected Member Confidential Information Bulletin was introduced, effective from 1 July 2018, as an additional form of communication between the Town of Cambridge Administration and Elected Members.

DETAILS:

The attached information is considered to be of interest to Elected Members; however, the items do not require Council to make a decision.

POLICY/STATUTORY IMPLICATIONS:

There are no Policy or Statutory Implications related to this report.

RISK MANAGEMENT IMPLICATIONS:

Low: The risk in this matter has been assessed as low.

FINANCIAL IMPLICATIONS:

There are no Financial Implications related to this report.

STRATEGIC DIRECTION:

Our Council

Goal 9 **Transparent, accountable governance.**

Strategy 9.1 Implement initiatives that strengthen governance skills, transparency and knowledge.

COMMUNITY ENGAGEMENT:

This matter has been assessed under the Community Engagement Policy. In accordance with the assessment criteria it was determined that community engagement is not required as the matter is purely administrative in nature with no external impacts envisaged.

11. URGENT BUSINESS

Nil

12. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 PURPLE BENCHES AT HIGH SCHOOLS
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Submission by Mayor Shannon

That Council REQUESTS the CEO to write to Shenton College and Churchlands Senior High School offering to install a purple bench on the school grounds.

BACKGROUND INFORMATION PROVIDED BY MAYOR SHANNON:

White Ribbon Day is Friday 20 November 2020. When the Town recently installed a purple bench to commemorate the victims of domestic violence at City Beach in July 2020, the acting CEO of the Patricia Giles centre, Ms Kristal noted that the most important area which required focus was in the area of youth education.

By offering to fund the installation of the purple benches on the two school grounds at a relatively minimal cost, the Town could gently promote the education of the school community on this important social issue.

Council Meeting 27 October 2020

Moved by Mayor Shannon, seconded by Cr Barlow

That Council REQUESTS the CEO to write to Shenton College and Churchlands Senior High School offering to install a purple bench on the school grounds.

During discussion, Cr Everett suggested that the item be deferred to the next meeting of Council to enable comment to be provided by the Administration.

PROCEDURAL MOTION:

Moved by Cr Timmermanis, seconded by Cr Bradley

That Council DEFERS the item relating to Purple Benches at High Schools to the November Council meeting for further information.

Procedural Motion put and CARRIED (7/2)

For: Crs Bradley, Everett, Fredericks, Haddon-Casey, McKerracher, Mack and Timmermanis

Against: Mayor Shannon and Cr Barlow

FURTHER INFORMATION PROVIDED BY MAYOR SHANNON:

In late 2018, the Town was approached by the Women's Council for Domestic Violence and Family Violence Services to participate in the Purple Bench Project by installing one or more commemorative purple benches in a popular park or high traffic location. The Town suggested the two benches be installed at Lake Monger Reserve and the City Beach foreshore.

The WCDFVS represents over 60 Domestic and Family Services across WA and provides policy advice, advocacy, community education and training, research and information, and referral for victims.

The WCDFVS launched a campaign to have local governments and other community organisations install purple benches to raise awareness of domestic violence and family violence. To date, six (6) metropolitan local governments including Fremantle, Perth, Cockburn, Belmont, South Perth and Rockingham have installed purple benches.

The WCDFVS requested the Town establish one or more commemorative purple bench in a popular or high traffic location. Each purple bench has a plaque including the WCDFVS logo and provides help numbers for victims.

The Women's Council has sourced a possible bench for purchase from WALGA Preferred contractor Exteria in Dark Violet. The benches are made using aluminium frames and powder coated in painting. All the fixing are stainless steel.

The Town installed the bench at City Beach on 2 July 2020 at which time the Ms Kristal suggested that in order to break the cycle of domestic violence organisations need to educate students in schools as young children exposed to domestic and family violence are more likely to suffer depression, have emotional instability, poor academic performance, abuse drugs and alcohol, engage in risk taking behaviours or experience or use violence and be controlling and manipulative in relationships.

According to the Australian Bureau of Statistics (ABS) Personal Safety Survey 2016 an estimated 1 in 6 women and 1 in 16 men had experiences physical or sexual violence from a current or previous cohabiting partner. In times of major crisis or natural disaster and epidemics the risk of family and domestic violence can increase (Peterman et al.2020; van Gelder et al 2020).

According to the Australian Institute of Health and Welfare domestic violence is a major health and welfare issue in Australia and occurs across all socioeconomic and demographic groups, but predominantly affects women and children. Mental health conditions were the largest contributor to the burden with depressive disorders making up 43% followed by anxiety disorders. Partner violence was ranked as the third leading risk factor contributing to total disease burden for women aged 25-44, behind child abuse and neglect during childhood. During Covid 19 the federal government acknowledged that domestic violence had increased and they needed to strengthen family and domestic violence support services to meet expected increases in need (COAG Women's Safety Council 2020- National Cabinet 2020).

Churchlands Senior High School and Shenton College were nominated because they are the public schools attended by high school students living in the Town of Cambridge.

ADMINISTRATION COMMENT:

White Ribbon Campaign

White Ribbon is the world's largest movement engaging men and boys to end mens violence against women and girls, promote gender equality and create new opportunities for men to build positive, healthy and respectful relationships. The annual White Ribbon day is being held on Friday 20 November 2020 and organisations across Australia have the opportunity to be involved through the following:

1. Promoting the campaign through social media;
2. Giving out White Ribbons to staff;
3. Making a donation; and/or
4. Host a fundraiser.

The Town has the opportunity to utilise the White Ribbon media campaign kit to raise awareness around domestic violence through our social media platforms.

Purple Bench Project

The WCDFVS represents over 60 Domestic and Family Services across Western Australia and provides policy advice, advocacy, community education and training, research and information, and referral for victims.

The Purple Bench Project was an initiative of the WCDFVS who approached the Town in 2018 to support and fund two benches at Lake Monger and City Beach. The project gives the opportunity for this important issue to remain visible as well as providing a physical place to reflect about the important work achieved to date and how we can bring an end to domestic and family violence. Each purple bench has a plaque honouring victims of domestic and family violence homicide and provides help numbers for victims.

DETAILS:

The sites are located on Education Department property and therefore permission would be required from the respective schools. At this stage, it is appropriate that Council approves the project and expenditure and the Town's Administration can then offer the school the furniture.

It is noted that Churchlands Senior High School and Shenton College do cater for students that reside in the Town of Cambridge. Should the project be successful, additional schools may be considered in future financial years.

POLICY/STATUTORY IMPLICATIONS:

Local Government Act 1995

RISK MANAGEMENT IMPLICATIONS:

Low: The Town of Cambridge will mitigate potential risk by engaging contractors who are suitably licensed and qualified and we have implemented minimum specification requirements to protect assets against environmental and human factors.

FINANCIAL IMPLICATIONS:

The cost to supply and install two (2) new purple park benches and fit with plaque is approximately \$6,028 (ex GST).

Funding for the park benches and plaque can be sourced from the existing 2020/21 Community Safety Other budget account.

STRATEGIC DIRECTION:

The Purple Bench Project supports a number of Goals within Our Community key area of the Town's 2018-2028 Strategic Community Plan, specifically:

Our Community

- Goal 1:** A sense of community, pride and belonging
- Goal 3:** An active, safe and inclusive community.

12.2 MEDIA STATEMENT ON COVID 19 ARRANGEMENTS

Submission by Mayor Shannon

That Council APPROVES the drafting of a media statement which explains the reasons for the legal advice sought by the Council in April 2020 in relation to the Employee Arrangements and the Action Implementation Plan, and explains why actions were necessary.

BACKGROUND INFORMATION PROVIDED BY MAYOR SHANNON:

The Council should clarify, after the fact, the utility of the legal advice sought using Regulation 9 in April 2020.

Council Meeting 27 October 2020

As there was no Administration Comment, the Presiding Member, Mayor Keri Shannon said she would not move her motion.

FURTHER REPORT (Post Council Meeting 27 October 2020)

Mayor Shannon has provided a draft media statement. Refer **Confidential Attachment**.

ADMINISTRATION COMMENT:

Clause 3.13(2)(c) of the *Town of Cambridge Meeting Procedures Local Law 2019* provides that the Chief Executive Officer may, if time permits, not less than 24 hours prior to the meeting, send to each Member a report providing relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law, or for more complex issues, recommending that the matter be deferred to a later meeting to enable a report to be prepared.

POLICY:

There is currently no policy position on this matter.

BUDGET:

There are no budget implications.

LAW:

There are no law implications on this matter.

13. CONFIDENTIAL REPORTS

13.1	DV20.152 – LOT 501 (NO. 135-137) CAMBRIDGE STREET, WEST LEEDERVILLE – COMPENSATION CLAIM REPORT
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REASON FOR CONFIDENTIALITY

The report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following reasons:

- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995* and a minor breach under s 5.105 of the *Local Government Act 1995*.

13.2	DV20.153 – LOT 416 (NO. 106) GROVEDALE ROAD, FLOREAT – COMPLIANCE MATTER
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REASON FOR CONFIDENTIALITY

The report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following reasons:

- (b) *personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (f) *a matter that if disclosed, could be reasonably expected to-*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995* and a minor breach under s 5.105 of the *Local Government Act 1995*.

13.3 FLOREAT KIOSK, CHALLENGER PARADE, CITY BEACH

REASON FOR CONFIDENTIALITY

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 (LG Act) provides that the Council may close to members of the public a meeting, or part of a meeting, if the meeting (or part meeting) deals with any of the following:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- (e) *a matter that if disclosed, would reveal -
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*
*where the trade secret or information is held by, or is about, a person other than the local government."**

13.4 EMPLOYEE MATTER

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

- (b) *the personal affairs of a person.*

Elected Members are reminded that they are to ensure the information remains **CONFIDENTIAL** and should not disclose the content of this report to any other person. To do so would be an improper use of information under s.5.93 of the *Local Government Act 1995*.

Report to Follow

14. CLOSURE