



TOWN OF CLAREMONT

ORDINARY COUNCIL MEETING

MINUTES

TUESDAY 7 JULY, 2015

Stephen Goode

CHIEF EXECUTIVE OFFICER

Date:

DISCLAIMER

Would all members of the public please note that they are cautioned against taking any action as a result of a Council decision tonight until such time as they have seen a copy of the Minutes or have been advised, in writing, by the Council's Administration with regard to any particular decision.

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TOWN OF CLAREMONT
ORDINARY COUNCIL MEETING
7 JULY, 2015
MINUTES

1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

His Worship the Mayor, Mr Jock Barker, welcomed members of the public, staff and Councillors and declared the meeting open at 7:00 PM.

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

ATTENDANCE

Mayor Barker

Cr Karen Wood

West Ward

Cr Peter Browne

West Ward

Cr Peter Edwards

West Ward

Cr Jill Goetze

South Ward

Cr Paul Kelly

South Ward

Cr Chris Mews

South Ward

Cr Bruce Haynes

East Ward

Cr Alastair Tulloch

East Ward

Cr Anita Lorenz

East Ward

Mr Stephen Goode (Chief Executive Officer)

Mr Les Crichton (Executive Manager Corporate and Governance)

Mr David Vinicombe (Executive Manager Planning and Development)

Mr Saba Kirupanather (Executive Manager Infrastructure)

Ms Katie Bovell (Governance Officer)

Sixteen members of the public

Two members of the press

3 DISCLOSURE OF INTERESTS

NIL

4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

NIL

5 PUBLIC QUESTION TIME

**Mr John Brewer, 5 Richardson Avenue, Claremont.
Re: Town Planning Scheme No. 3 Heritage Schedule Review.**

Question:

In this agenda item summary (bullet point 4) it is noted that 16 submissions were received by the council.

During this process last year I made a submission setting out reasons why I felt our property did not meet the criteria for Heritage listing. However our submission does not appear in the list at Attachment 2.

We received a letter from council (Ref DAB/00043) dated 6 August 14 referring to our lodged submission and setting out the results of the council's resolution without any reference to our property.

I therefore question whether my submission was duly assessed and considered by Council and ask that feedback be provided to the points raised in my submission.

Answer:

The Town's records indicate that Mr Brewer submitted a letter dated 3 January 2014 in response to the Town's consultation on the Local Government Inventory (LGI) (then Municipal Inventory (MI)) which was adopted by Council on 5 August 2014. Mr Brewer's submission was detailed in the Submissions Schedule attached to the LGI Report for Council at that time.

The Town sent a letter to Mr Brewer prior to the 5 August 2014 meeting advising him of the report and recommendation and he was further advised of Council's decision after that meeting.

The LGI and Heritage Schedule processes are separate and different. As it was resolve to retain 5 Richardson Avenue as an individual listing on the LGI, resulting in no change to the Heritage Schedule listing for his property, no further consultation was required in regards to the Heritage Schedule being presented to tonight's Ordinary Council Meeting.

6 PUBLIC STATEMENT TIME

**Mr Richard Gardner, 10 Smith Street, Claremont.
Re: Item 13.1.1, Lots 3 and 4 (219) Stirling Highway, Claremont -
Proposed Single Storey Car Wash Facility.**
Mr Gardner spoke in favour of the officer recommendation.

**Ms Kate Martin, 3 Judge Avenue, Claremont.
Re: Item 15.1.1, Ashton Avenue/Stubbs Terrace Temporary Storage
Depot.**
Ms Martin spoke in favour of the Councillor motion.

Mr David Nixon, 29 Fern Street, Swanbourne.

Re: Item 13.1.2, Lot 84 (27) Fern Street, Swanbourne - Proposed Amendment to Existing Approval to Remove Screening Requirements.

Mr Nixon spoke against the officer recommendation.

Ms Elizabeth Langsford, 25 Fern Street, Swanbourne.

Re: Item 13.1.2, Lot 84 (27) Fern Street, Swanbourne - Proposed Amendment to Existing Approval to Remove Screening Requirements.

Ms Langsford spoke against the officer recommendation.

Ms Angela Edmands, 10 Orana Crescent, City Beach.

Re: Item 13.1.4, Town Planning Scheme No. 3 Heritage Schedule Review.

Ms Edmands requested that 17A Walter Street not be heritage listed.

Ms Katharine Adams, 7 Dunbar Road, Claremont.

Re: Item 13.3.1, Application for Exemption of Limitations of Number of Dogs (*Dog Act 1976*).

Ms Adams spoke in favour of the officer recommendation

Mr Simon Winter, 27 Fern Street, Swanbourne.

Re: Item 13.1.2, Lot 84 (27) Fern Street, Swanbourne - Proposed Amendment to Existing Approval to Remove Screening Requirements.

Mr Winter spoke in favour of the officer recommendation.

7 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Haynes, seconded Cr Mews

That;

Cr Tulloch be granted leave of absence from 20 July 2015 to 4 August 2015, and

Cr Goetze be granted leave of absence for the Ordinary Council Meeting on 21 July 2015.

**CARRIED(112/15)
(NO DISSENT)**

8 PETITIONS/DEPUTATIONS/PRESENTATIONS

8.1 PETITION

8.1.1 TEMPORARY STORAGE YARD – ASHTON TRIANGLE

Moved Cr Lorenz, seconded Cr Browne

That the Petition be received.

**CARRIED(113/15)
(NO DISSENT)**

9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Moved Cr Goetze, seconded Cr Wood

That the minutes of the Ordinary Meeting of Council held on 16 June 2015 be confirmed.

**CARRIED(114/15)
(NO DISSENT)**

10 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETING MAY BE CLOSED TO THE PUBLIC

Item 17.1.1, Annual Performance Review of Chief Executive Officer.

Item 17.2.1, Claremont Aquatic Centre Cafe Lease.

11 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING

NIL

12 REPORTS OF COMMITTEES

NIL

13 REPORTS OF THE CEO

13.1 PLANNING AND DEVELOPMENT

13.1.1 LOTS 3 AND 4 (219) STIRLING HIGHWAY, CLAREMONT - PROPOSED SINGLE STOREY CAR WASH FACILITY

File Ref:	A-3598/DA2015.00053
Attachments – Public:	Location and Submission Plan Photograph Submission Table
Attachments – Restricted:	Plans Submission Applicant's Response to Submissions
Responsible Officer:	David Vinicombe Executive Manager Planning and Development
Author:	Nick Bakker Senior Planner
Proposed Meeting Date:	7 July 2015
Date Prepared:	16 June 2015
60 Days Due Date:	13 June 2015
Property Owner:	Elleen Day
Submitted By:	Urbis Pty Ltd
Area of Lot:	2,155m²
Zoning:	Highway
Enabling Legislation:	Town Planning Scheme No.3 (TPS3)

Summary

- Application for planning approval received for a car wash.
 - The proposal involves the washing of four vehicles at a time (accommodated in the tunnel), a waiting area (accommodating 13-17 cars) and a shade structure (holding 12 cars) at the front of the property. This will accommodate up to 29-33 cars being cleaned on site.
 - Customers will leave their cars in the queuing lanes and will wait in the cafe, which has a seating capacity of 30.
 - The car wash is proposed operating hours of 8am to 6pm Monday seven days a week with a maximum of 12 staff proposed on site during peak hours. Eight staff and customer parking are proposed to the rear of the site.
 - The proposal has been advertised for public comment and significant concerns have been raised in regard to potential noise impacts site layout and business operations, traffic and access, noise impacts and general amenity and health matters.
-

- Concerns are also raised with regard to the use class permissibility of a car wash under TPS3
- It is recommended that the application be refused.

Purpose

The application proposes a car wash on the subject site including the construction of a single storey building accommodating part of the car wash, a cafe/lounge and staff amenities.

The application requires the Council's determination due to neighbour objections.

Background

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
14 April 2015	Planning Application received by Council
22 April 2015	Application undergoes internal DCU assessment
23 April 2015	Additional information requested from applicant
7 May 2015	Advertising commenced
21 May 2015	Advertising closed
26 May 2015	Additional information received from applicant
4 June 2015	Applicant's response to submissions received
18 June 2015	Report prepared for Council

Past Resolutions

There are no past Council resolutions relevant to this application.

Heritage

The property is not listed in the Town of Claremont Local Government Inventory of the TPS3 Schedule of Heritage Places.

Consultation

The application was advertised in accordance with Local Planning Policy LG525. Fourteen neighbours were consulted and eight submissions were received. The submissions included a petition signed by eight surrounding residents and business owners. Concerns were raised in relation to the site layout and business operations, noise impacts, traffic and access and general amenity and health matters. A summary of and responses to these matters are addressed in the discussion below. The applicant has provided a detailed response addressing each of the concerns raised in the submissions. A full copy of the applicant's response to the submission is included in the attachments.

Metropolitan Region Scheme Metropolitan Region Scheme (Main Roads Referral)

The subject site is located partially within a Metropolitan Region Scheme (MRS) reserve for 'Primary Regional Road' (PRR). Under the Planning and Development Act (PDA) MRS Instrument of Delegation (Del 2011/02), the Council has delegated authority to approve development within or adjacent to the Stirling Highway MRS reservation subject to any decision being consistent with the comment and recommendation of Main Roads WA (MRWA).

The subject application has been referred to MRWA for comment. MRWA has advised that the proposed development is acceptable subject to the following conditions and advice notes:

- 1. No development or car parking other than landscaping shall be permitted on the land as shown required for future road purposes on the enclosed extract of Drawing No. 1.7146.*
- 2. The area required for future road purposes is not to be included in the specific car parking requirements for this development.*
- 3. All vehicle access shall be restricted to and from Stirling Highway road reserve from the existing western crossover located at Lot 3. The existing eastern crossover located at Lot 4 shall be made redundant and removed at the applicant's cost. This single access point shall be Left-in and Left-out (LILO) only and clearly identified to show movement of vehicles 'in' and 'out' of the site.*
- 4. No earthworks shall encroach onto the Stirling Highway road reserve.*
- 5. No stormwater drainage shall be discharged onto the Stirling Highway road reserve.*

Advice to the applicant:

- 1. MRS major amendment 1210/41 proposes to decrease the land requirement as shown on Drawing No. 1.7146. However, this is still subject to the completion of the amendment process. Further information on amendment 1210/41 is available on the Department of Planning's website at the following link: <http://www.planning.wa.gov.au/publications/6242.asp>*
- 2. The project for the upgrading/widening of Stirling Highway is not in Main Roads' current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.*
- 3. Main Roads advises there is the potential for the internal driveway access to become full and vehicles may then spill back onto Stirling Highway. This has the potential to reduce Stirling Highway to one lane in each direction causing disruptions to traffic flow and safety concerns.*
- 4. LILO driveway design is needed as motorists wishing to exit the car wash and turn right to travel westbound on Stirling Highway may have difficulty in doing so. This may also cause queuing through the car wash. Additionally, if a vehicle is required to turn right into the car wash from Stirling Highway at the same time this may cause lengthy delays for motorists wishing to exit the car wash in turn increasing the likelihood of spillage onto Stirling Highway.*
- 5. Consideration and contingencies actions may also be needed by the applicant, in the event that the car wash facility becomes full and additional vehicles cannot enter the site; i.e. temporarily closing access when the car wash facility is full until vehicles have cleared.*

Further consideration is given to the implications of the above recommendations in the discussion section of this report.

Discussion

Description

The application proposes to demolish the existing two storey office building on the subject property in order to develop the site for a car wash. The car wash will be a single storey stand-alone building which will be constructed up to the eastern boundary and extend to the centre of the site. The eastern portion of the building will house the main car wash tunnel, washing equipment and storage area. The central building will include a cafe/lounge with 30 seat capacity, office, a staff toilet and a public toilet.

The proposed car wash will have a maximum of 12 staff on site during the proposed trading hours. The applicant has advised that up to 29-33 vehicles may be cleaned on site at any one time inclusive of a 13-17 vehicle queuing area. Customers will enter the site through the existing crossover to the west and park in the queuing bays where they will select and pay for their service. A cafe and lounge is provided on site where customers will wait while their vehicles are being serviced. The Cafe has a capacity of 30 seats. The proposed operating hours are 8am to 6pm seven days a week and there will be no after hours self service provided.

Compliance - Permitted Land Use

There is no use class definition of 'Car Wash' (or similar) in TPS3. Clause 14(5) states if a use *'is not included in the general terms of any of the Use Classes that use shall be deemed to be prohibited'*. Legal advice sought by the Town states that a use falling within the "general terms" of a use class is consistent with the notion that the process of use class classification requires a 'best fit' approach.

The applicant has submitted legal advice stating that the proposed car wash would fall within the definition of 'Service Trade', which is defined in TPS3 as *'any part of any land or building used for the repair, servicing or maintenance of goods, generally of a readily portable nature, and without limiting the generality of the foregoing, includes the premises of a boot maker and a bicycle repair shop'*.

The advice goes on to explain that while a car wash may not be considered similar in nature to a bookmaker or bicycle repair shop, it still however falls within the general terms of the Service Trade definition, and therefore clause 14(5) does not apply in this case.

To the contrary, the Town's legal advice explains that consideration needs to be given to whether any other use class in TPS3 is a 'better fit' for a car wash use. The advice identifies 'Depot' as the best fit. TPS3 defines the use class 'Depot' as *'any part of any land or building used for the maintenance or storage (in the course of transfer from place to place or otherwise) of vehicles, goods or materials of any kind including, without limiting the generality of the foregoing, a builder's yard. The word does not include a warehouse.'*

As detailed above, a car wash involves 'maintenance' of vehicles. Therefore a car wash fits within the general terms of the 'Depot' use class.

The issue of which is the better fit for the use 'Service Trade' or 'Depot' is of utmost importance to this application. Within the Highway zone a 'Service Trade' is permitted

'P' use, whereas a 'Depot' is a not permitted 'X' use. As the Depot use class refers explicitly to vehicles, it is considered that it is a better fit for a car wash than the Service Trade use class which uses the more general term of 'goods'.

Based on the legal advice provided by the Town's solicitors, and given the specifics of the above use definitions, it is considered that the 'Depot' use class is a better fit for a car wash than 'Service Trade'. Therefore the proposed car wash is an 'X' use under Clause 14(3) of TPS3 and is not permitted within the Highway zone. Given that the use class determination is a matter which may be subject to review by the State Administrative Tribunal (SAT), assessment and determination of this application should also take into account other provisions of the Scheme, in particular amenity impacts of the proposal.

It is noted that a mechanical car wash business operates from 232 Stirling Highway. This business operates entirely within the Primary Regional Road reservation under the Metropolitan Region Scheme and is therefore not subject to the provisions of TPS3 and the above land use interpretation.

Site Layout and Business Operations

The following is a summary of the key concerns raised during the consultation period in relation to the operation of the business:

- The orientation of the north/south tunnel system will result in vehicles stacking up to the northern end of the site bounded by residential properties.
- The proposed 3m high screens abutting the north of the site will impact the access to sunlight on adjoining properties.
- The acoustic wall should be setback from the boundaries abutting residential properties.
- The development does not specify types of proposed cleaning systems which is required to ascertain the output of noise, waste, vibration that may impact on neighbours.
- The trading hours are considered too long.

Applicant comments:

"The Magic Hand business model is based on efficiency. Customers will arrive at the site via the western most crossover from Stirling Highway and park in the designated queuing bays. At this point vehicles will either continue straight through to the car wash tunnel for service or will be parked in the queuing lanes until they are serviced. Unlike self-service/coin operated car washes, customers will not be waiting in their vehicles and therefore cars will not sit idling for any prolonged period.

The structure and configuration of the wash tunnel results in the washing of vehicles being undertaken within confines of the tunnel. This results in limited potential for spray drift due to the physical barriers and limitations. There have been no instances of spray drift impacting on adjoining properties at any of the established Magic Hand sites.

It is acknowledged that there are level differences between the subject site and the adjoining properties to the west. Whilst overshadowing is a key planning consideration, the proposed 3.0 metre height acoustic wall will not result in any overshadowing above that permitted under the provisions of the Residential Design Codes.

There is no mechanical detail included on the plans as the proposal is for a manual (hand) car wash. Whilst there is some minor mechanical equipment used to assist the service delivery, the predominant service is undertaken manually.

The daily activities of the proposed manual car wash will involve vehicles being washed by hand using equipment limited to a central ducted vacuum cleaner, high pressure cleaners and hoses, hand held buff machine and an extraction clean unit. Equipment will be stored within the proposed equipment room and the hand held buff and steam clean unit will be used within the centralised cleaning bays. This equipment is considered to be "light" in nature and does not involve large commercial equipment that is required for automatic car washes.

The proposed car wash will operate between 8am – 6pm, 7 days a week (excluding public holidays when the business will be closed). These hours are considered to be consistent with surrounding business hours and will have substantially less of an impact on nearby residential properties than a 24/7 self-service car wash (like that existing at No.232 Stirling Highway, Claremont). The car wash will not become a 24/7 hour car wash due to the explicit nature of the business model. Furthermore, the applicant is accepting of any conditions of approval relating to operating hours."

Officer comments:

The applicant states that the car wash tunnel will contain much of the noise and spray drift within the tunnel and that the impact on the surrounding residents will be minimal. The applicant states that the tunnel door will remain open during operating hours of the car wash. This may not sufficiently address the concerns associated with potential noise and spray drift – see detailed comments on noise below. On the other hand if the tunnel door was to open and close as every vehicle enters from the northern opening, this could result in increased noise impacts on the surrounding residents.

It is also considered that the proposed car wash opening hours of 8am – 6pm, 7 days a week to be excessive considering the nature of the use and the concerns raised by the surrounding residents. It is therefore recommended that if the application is approved that the hours be limited to 8am – 6pm Monday to Friday, 9am - 5pm Saturdays and closed on Sundays.

The proposed 3m high sound barrier abutting the western and northern boundaries is considered to be an essential aspect of preserving the amenity of the neighbouring residents. Although these walls will significantly reduce the noise impacts on the residential properties, they are much higher than a standard 1.8m dividing fence and have the potential to impact on neighbour amenity relative to the bulk and scale of the walls. This is of particular concern relative to the properties at 28A Walter Road and 3/30 Walter Road which have their main outdoor living areas backing onto the

common boundary and a lower ground level (resulting in a wall approximately 4-4.5m in height when viewed from these properties).

It is noted that cl.37A of TPS3 contains a 5m set back requirement for vehicular access ways from adjoining residential properties. The site plan shows the western-most queuing lane setback 3m from the side boundary. This setback is non-discretionary and would effectively require the removal of the western-most vehicle queuing lane, or alternatively redesign the building and tunnel structure.

Noise Impacts

The following is a summary of the key concerns raised during the consultation period in relation to the operation of the business:

- The roller door on the northern end of the tunnel will be constantly open during opening hours and noise will be funnelled northwards towards residents.
- Significant noise will be generated by machinery and from vehicle related noise (i.e. shutting of car doors, people talking/yelling, cars revving etc.), which will impact on the amenity of the adjoining residential properties.
- The proposed acoustic fence will do little to mitigate noise levels. There are no details of the wall and the dimensions and materials should be negotiable.

Applicants Comments:

“Although some level of noise will be associated with the operation, the key item is whether noise levels could be managed so as not to exceed those which could reasonably be anticipated in a commercial/mixed use setting. An Acoustic Assessment has been undertaken by Watson Moss Growcott Noise Consultants which has determined that through appropriate mitigation methods as incorporated into many commercial developments, the proposed activity will meet relevant noise standards. It should be noted that regardless, the proposal is required under separate legislation to comply with the Environmental Protection (Noise) Regulations 1997.

The northern roller door is proposed to be open during opening hours to undertake the service of vehicles. As detailed above, the machinery is ‘light’ in nature and does not use large commercial equipment which would generate significant more noise. In addition, the car wash will only operate during standard work hours which would ensure that adjoining properties are not exposed to any undue noise impacts afterhours.

To further assist in addressing any impacts of noise on adjoining residential properties, an acoustic wall extending between 2.2 – 3.0 metres high will be constructed along the boundaries (north and west) and of the site which will ultimately reduce the noise level received at adjoining properties, ensuring compliance with the Environmental Protection (Noise) Regulations 1997. The materials and details of this noise wall will be determined at the building permit stage and will be consistent with recommendations made within Section 8.2 of the Acoustic Report”

Officer comments:

The acoustic report was reviewed by the Town's health officer. Significant concerns were identified and further modelling of the sound impacts were required. The applicant has submitted a revised acoustic report and the Town's health officer has provided the following comments and recommendations:

"The report outlines the predicted decibel levels that would be received at a noise sensitive premises both with and without acoustic barriers and attenuation (e.g. – rear doors closed).

The report demonstrates the predicted values of the combined sound received at the residential premises to be below the estimated assigned levels as set in Table 1 of the Environmental Protection (Noise) Regulations 1997, being 49dB with influencing factors accounted for (+9dB) (e.g. – background contributing noise).

The levels that are predicted to be received at the noise sensitive premises with all acoustic barriers and attenuation installed (proposed barrier walls on boundary and noise attenuation walls on building) vary with 46dB as the lowest level and 48dB as the highest. The dwellings with the higher levels predicted are 30 Walter Street, 10,12,14 Smith Street and the first floor apartment at 25-37 Brown Street, these predicted levels account for all equipment and at the entry opening.

The report does not acknowledge the noise associated with human sources (voice), being the staff at the facility. As with other facilities run by Magic Hands, the level of shouting observed by staff communicating with each other significantly adds to the overall impact of noise. This will affect the predicted levels and a considerable quantity of complaints are expected to related to noise from human voice.

Furthermore it is reasonable to expect that the business will operate at its peak on Sunday when significantly lower traffic levels on Stirling Highway reduce the level of background "white noise". This is expected to result in greater impacts on neighbours where it is reasonable to expect residents will suffer a greater level of discomfort due to the reduced background noise.

While it is acknowledged that the predicted value falls below that of the assigned levels, it is prudent to expect that this modelling hasn't factored in a suitable error ratio. It is considered that a factor of 1dB under the assigned levels is not sufficient to be considered for approval.

Recommendations:

This department does not recommend approval for reasons following:

- The predicted noise level of 48dB, is 1dB under the assigned level and it is reasonable to assume that the estimated value is incorrect as no error ratio has been included. The estimated value may have a +/-1dB or greater variance factoring in error, resulting in a breach of the Environmental Protection (Noise) Regulations 1997.*
- The report does not factor the impact of human voice which considerably impacts on perception of noise and adds to the overall level of noise*

generated and is often the greater source of noise complaints and therefore the +/-1dB variance will be affected adversely.

- *The reduction in traffic on Stirling Highway on Sundays will have a significant impact on lowering background white noise. In addition to the expected higher patron numbers (as demonstrated at other locations) and higher level of vehicle noise associated with the facility, this will have a higher level of noise impact (both perceived and actual) on the residential properties resulting in higher rates of complaints received.”*

Traffic and Access

The following is a summary of the key concerns raised during the consultation period in relation to the operation of the business:

- There are no details as to where employees will park their cars.
- The introduction of a car wash will generate more traffic and the business proposes too many employees which will add to congestion on the roads.
- There are no details of expected traffic through the facility and how this will affect traffic flow on Stirling Highway and the surrounding area. There is already enough congestion within the local area, particularly during peak periods (before 10am and after 3pm).

Applicant Comments:

Based on the business model and nature of the car wash operations, all customer cars will be parked within the stacking lanes. Therefore, the car bays to the rear of the site are likely to cater to employees and the odd customer who may be collecting someone whilst their car is being serviced. Due to the available space within these stacking lanes for customer's vehicles, there is considered to be sufficient car parking to cater to the development and its employees.

The car wash will operate whereby customers visiting the site will drop off their car in one of the allocated car bays for washing by staff and then collect their vehicle after servicing is completed. This type of activity and service provided will not generate any queuing lines of cars or the interruption to the normal traffic flow of the car park which is often experienced at automatic car washes.

A Traffic Impact Statement has been prepared by Transcore Traffic Consultants, consistent with the requirements of the WAPC Transport Assessment Guidelines for Development.

The previous use generated approximately 67 daily vehicle trips, with 13 of these being during the peak weekday period. The proposed car wash is expected to generate approximately 45 additional vehicle trips on the road network. Under the WAPC Transport Assessment Guidelines, an increase in traffic of less than 10 per cent of capacity is not considered to have any material impact on any particular section of road. As the proposal only generates an additional 45 vehicle trips per day, traffic flows will not increase anywhere near the quoted WAPC threshold and is therefore not considered to have any material impact on the local road network, and more specifically on the function of Stirling Highway.

Further to the above, the proposal will result in a net reduction of -2 vehicles per hour during the afternoon peak period which is an improved peak period scenario.

Officer comments:

Further to the applicant's comments above they have also provided a Traffic Impact Statement prepared by Transcore Traffic Consultants. The Town's Engineering Department has advised as follows:

"Comments on capacity of the site

Post-development trip generation volumes as provided within the development application's Transport Statement are based upon the RTA NSW Guide to Traffic Generating Development document. This is the most common method for the type of development in question. Accurate data for this type of development is fairly scarce in WA as no traffic generation database is available for general use.

Projected customer numbers are based upon hand car wash developments of a similar type and appear reasonable. Therefore the vehicle capacity as provided within the development application is deemed satisfactory.

Comments on traffic impact:

Projected increase in usage is less than 10 percent of the capacity of any adjacent lane. As site capacity has been deemed sufficient, any traffic impact has been deemed insignificant.

MRWA have provided the Town with their conditional approval for this development in accordance with a number of conditions including but not limited to, restricting access to left-in left-out only, removal of one crossover reducing access and egress to the site to a single crossover, and facilities to close access to the site should it reach capacity to prevent vehicle overspill onto Stirling Highway. The required changes can be accommodated by the developer, however this will require significant redesign. Reassessment of capacities and traffic impact will need to be completed should the developer choose to continue with the proposed development once the MRWA requirements have been met."

Health Impacts

The following is a summary of the key concerns raised during the consultation period in relation to the impact on amenity and health concerns:

- Vehicle exhaust fumes from queuing vehicles will significantly impact neighbouring houses.
- Health concerns with respect to recycled water, detergents, "paint protection" and any improper maintenance of the system.
- The water particles containing cleaning detergents and other possible bacteria and dirt will blow onto surrounding houses.

Applicant Comments:

Cars will only be at the queuing area for a few minutes, at this point the car will be switched off and the keys handed to the operator. Any additional cars that come onto the site will be in a holding position for no more than a few minutes. As a result, the

car exhaust fumes will not have any significantly impact on the neighbouring properties as this is no different to other similar businesses such as a Service Station which is a use which can be permitted within the Highway zone.

The products used to clean the vehicles are classified as non-dangerous goods by the criteria of the Australian Dangerous Goods Code and are safe for use. These products have been used by the brand for over 20 years with exposure and correct handling resulting in no health accidents or risks.

The use of recycled water does not pose any environmental or health and safety risk. The proposed units have been used by the brand with auditing of recycled water passing minimum standards. The water recycling system that is used is a common unit used throughout the industry and satisfies all health and environmental requirements. We are prepared to conduct tests on site to demonstrate the safety of recycled water.

The potential for water particles to blow onto surrounding houses is substantially reduced as a result of the washing of vehicles occurring within the tunnel. Notwithstanding, all water and washing products meet necessary health and Environmental Protection Authority requirements and would therefore pose no health risk to occupants of nearby dwellings. The chemicals that are used are considered to be non-toxic and have no adverse health effects if handled in accordance with the safety data. The washing chemical is used at 100.1 dilution with water, has no particular hazard to the environment and are readily biodegradable.

Officer comments:

The applicant has provided a comprehensive response in relation to the potential health impacts and spray drift associated with the car wash. The Town is satisfied that any potential for adversely impacting the surrounding area in terms of the above, can easily be prevented and or resolved if any health risks were to arise.

Conclusion

It is recommended that the application be refused on the basis of the proposed use being a prohibited use in the Highway zone. The proposal does not comply with TPS3 setback requirements for the queuing lane and has the potential to adversely impact on amenity of the surrounding residential properties by way of noise and building bulk.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Haynes, seconded Cr Edwards

THAT Council refuse the proposed car wash facility at Lots 3 and 4 (219) Stirling Highway, Claremont, for the following reasons:

- 1. The proposed use is more suitably defined as a 'Depot' use under Town Planning Scheme No.3 which is a prohibited use in the Highway zone.**
 - 2. The development does not comply with Clause 77 of Town Planning Scheme No. 3 as it is considered to have significant potential to impact on neighbouring residential amenity in terms of noise exposure, together with an unreasonable bulk impact resulting from the proposed 3m high**
-

acoustic wall which adjoins two smaller outdoor living areas at 28A and 3/30 Walter Road.

3. The western most queuing lane is not setback 5m from the western side boundary as required by Clause 37A of Town Planning Scheme No. 3.

**CARRIED(115/15)
(NO DISSENT)**

13.1.2 LOT 84 (27) FERN STREET, SWANBOURNE - PROPOSED AMENDMENT TO EXISTING APPROVAL TO REMOVE SCREENING REQUIREMENTS

File Ref:	A-1635 / 2015.00047
Attachments – Public:	Location and Submission Plan Photograph
Attachments – Restricted:	Plans Photographs Submissions Applicant's Response to Submissions
Responsible Officer:	David Vinicombe Executive Manager Planning and Development
Author:	Julia Kingsbury Manager Planning
Proposed Meeting Date:	07 July 2015
Date Prepared:	22 June 2015
60 Days Due Date:	12 June 2015
Property Owner:	Simon and Lydia Winter
Submitted By:	Simon and Lydia Winter
Area of Lot:	685m²
Zoning:	Residential R20
Enabling Legislation:	<i>Planning and Development Act 2005 (PDA)</i> Town Planning Scheme No. 3 (TPS3) Residential Design Codes (RDC) Residential Amenity Policy (LV129)

Summary

- Application for planning approval received for modifications to the approved residential dwelling recently constructed on site to remove screening requirements.
- Aspects of the proposal does not meet the 'deemed-to-comply' (DTC) requirements of the RDC relating to visual privacy, therefore the proposal has been assessed under the 'design principles' (DP).
- Two neighbours were consulted and two submissions were received.
- Application is recommended for approval, subject to relevant conditions.

Purpose

The application proposes modifications to the screening of major openings within the approved residential dwelling on the subject site.

The application requires the Council's determination due to neighbour objection.

Background

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
13 April 2015	Planning Application received by Council
15 April 2015	Application undergoes internal DCU assessment
16 April 2015	Advertising commenced
8 May 2015	Advertising closed
22 June 2015	Report prepared for Council

Past Resolutions

Ordinary Council Meeting 7 August 2012, Resolution No. 136/12:

THAT Council grant Planning Approval for the proposed demolition of the existing dwelling and proposed two storey dwelling at Lot 84 (27) Fern Street, Swanbourne, subject to relevant conditions and advice notes including:

5. *The upper floor east facing windows to the void area shall be screened or glazed in an obscure material to a minimum of 1.6m above the finished floor level of the upper floor entertaining area in order to restrict overlooking of the adjoining property to the satisfaction of the Executive Manager Planning and Development.*
18. *The wall to the bathroom on the western side of the upper floor be raised to a sill height of 1.6m and the window above to be obscured glaze in order to provide added privacy to the adjoining land owners.*

*CARRIED
(NO DISSENT)*

Condition 18 as detailed above has been complied with to the satisfaction of the planning department. Condition 5 is addressed as part of this application for approval.

Under Delegated Authority on 7 August 2013 the Town issued Planning Approval for amendments to the approved two storey residential dwelling. The approval was granted subject to relevant conditions and advice notes including:

- 1c. *Any upper floor windows shown as being finished in obscure glazed louvres are to comply with the privacy requirements of the Residential Design Codes. Details are to be submitted to the Town for approval prior to application for a Building Permit.*

Heritage

The property is not listed on the Town's Local Government Inventory or the TPS3 Schedule of Heritage Places.

Consultation

The application was advertised to the adjoining landowners to the east and west of the site in accordance with Local Planning Policy LG525 and two submissions were received.

A summary of the submission has been provided as follows:

Submissions Received		
Address:	25 Fern Street, Swanbourne	
Submission	Applicant Comment	Officer Comment
<p>Query raised in regards to the proposed method of permanently fixing the louvres to restrict their opening.</p> <p>Preference for the windows to be fixed glass at the bottom sections (instead of louvres) as it will be difficult to ensure the ongoing fixing of the louvres especially for cleaning.</p> <p>Object to overlooking from the first floor entertaining area looking north-east.</p>	<p>Proposed to permanently restrict the movement of the louvres by inserting screws into the window frame, which will not allow the panes of glass to be opened by more than 20 per cent.</p> <p><i>(See comments below in report relative to alternative approaches as discussed on site)</i></p>	<p>The DTC provisions of the RDC relating to visual privacy permit screening devices that obscure 75 per cent of the view in the direction of the overlooking. It is considered that the proposed method of fixing the louvres will permanently restrict the ability to open the louvres and therefore comply with the DTC of the RDC.</p> <p>As detailed above the DTC of the RDC permits screening devices such as obscure glazing and shutters to a height of 1.6m that are permanently fixed and at least 75 per cent obscured to restrict view in the direction of overlooking. In this instance the owners have chosen louvers to allow natural airflow into the dwelling. It is considered that the louvers will be permanently fixed and that cleaning, as with other maintenance, will not alter this status.</p> <p>See comments section in Report for the DP assessment.</p>

Address:	29 Fern Street, Swanbourne	
Submission	Applicant Comment	Officer Comment
<p>The full height clear glazed window in the master bedroom overlooks the entire southern section of our property as well as the pathway running the full length of our house on the eastern boundary which includes the main access to the house for the owners and visitors. It is unacceptable to us to be overlooked in this way from this window. It is incongruous that the louvres be obscured and the fixed glass clear.</p> <p>The eastern section of the operable timber louvres in Bedroom 4 should be fixed the same as the western section as our garden and pool areas are clearly visible from this window.</p>	<p>We request that the fixed glazed window remain clear as no area of the neighbours property (that can be viewed from this window) cannot already be viewed from the street. We proposed to fix and obscure the louvred windows to the required minimum height to address the neighbour's concerns.</p> <p>Our preference would be to open the shutters fully as they provide a view to the bushland and playing fields to the north-east. Furthermore there is no area of the neighbours property that can be viewed from this window that cannot be viewed from the bushland and</p>	<p>See comments section in Report for the DP assessment.</p> <p>See comments section in Report for the DP assessment.</p>

	cricket club behind our properties. We are willing to restrict the western section as a gesture of good will.	
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A full copy of the submissions are attached to this report.

Discussion

Description

The approved two storey residential dwelling has been constructed and occupied by the owners of the property.

A number of openings of the approved dwelling were not constructed in accordance with the approved plans (including not installing approved screening devices) and the applicant is requesting approval for these modifications. Details of the changes are as follows:

- North Elevation

Bedroom four features a full height clear glazed window with operable internal timber shutters. It was initially proposed to fix the western section of the shutters to open no greater than 20 degrees and install a landscaping screen along the western edge of the ledge (roof) beyond the northern elevation of the dwelling to prevent overlooking to the west. No changes are proposed to the eastern section of the operable louvres.

- South Elevation

Bedroom three features a full height clear glazed window with internal operable timber shutters. It is proposed to fix the shutters to open no greater than 20 degrees to a maximum height of 1.65m above floor level to prevent overlooking to the west.

- East Elevation

The entertaining area features two full height clear glazed windows and two full height clear glazed operable louvre windows. It is proposed to obscure all the windows to a minimum height of 1.65m and fix the operable louvres to open no greater than 20 degrees to prevent overlooking to the east.

- West Elevation

The stairwell features a full height clear glazed window from ground floor to the first floor level. It is proposed to obscure the window between 0.5m below and 1.6m above the finished floor level of the first floor to prevent overlooking to the west. A semi-mature tree has also been planted within the setback area adjacent to the stairwell.

The master bedroom features one full height clear glazed window as part of a feature corner window and two full height clear glazed operable louvres. It was initially proposed to obscure the louvres to a minimum height of 1.65m and fix the operable louvres to open no greater than 20 degrees to prevent overlooking to the west and south. It is now proposed to fix the louvres to open no wider than 20mm (between the ground and 1.35m) and 10mm (between 1.35m and 1.75m).

No changes are proposed to the full height clear glazed corner window in the south west corner of the master bedroom.

The owners have obscured the windows of the openings proposed to be obscured in the details above whilst the application is being assessed.

Compliance

A number of on-site inspections have been carried out by the Town to determine the impacts on the adjacent properties. In May 2015 the Town inspected the property, taking a number of photos from the openings the subject of this proposal for referral to the owners to the adjacent property, with the permission of the owners of the subject site. The photos are attached to this report as a restricted attachment as they include images of inside the dwelling.

Section 5.4.1 of the RDC specifies the DTC visual privacy requirements for the proposed development including minimum setback distances and/or screening provisions in order to prevent overlooking to adjacent residential developments. These include a 4.5m and 6m setback to major openings to bedrooms and other habitable rooms respectively. Permanent and other screening devices include obscured glazing, timber screens, external blinds, window hoods and shutters that are at least 75 per cent obscure. Where an application does not meet the DTC requirements, applicants may seek to satisfy the RDC requirements through consideration of the DPs which include minimising direct overlooking of active habitable spaces and outdoor living areas maximising privacy to the side and rear boundaries of adjoining residential properties.

Council Policy – Residential Amenity LV129 also aims to ensure that new development considers the preservation of reasonable amenity for occupiers of adjoining properties and the surrounding area, and would apply in instance such as the stairway.

Where the owner has proposed to obscure the glazing and fix (to restrict the opening) the existing louvres or proposed shutters with restricted openings, the proposal is considered to comply with the DTC of the RDC, as the DTC includes the provision of both permanent and other screening devices. This includes the louvred windows contained in the entertaining area (east side of house) and master bedroom (west side of house), together with the internal shutters to bedroom 3.

The following areas do not comply with the DTC or require consideration under the Policy provisions and have been assessed in accordance with the DP of the RDC and the objectives of Council policy.

- Stairwell

The full height clear glazed window to the stairwell has been obscured partially below and 1.6m above adjacent finish floor level of the first floor to prevent overlooking to the west. Although the neighbour to the west has not raised this area in their submission it was identified as an area of concern when the dwelling was being constructed. The proposal has been assessed in accordance with Council policy – Residential Amenity LV129 as the RDC do not require openings to non habitable rooms to be setback or screened.

The attached photos (photos 1 – 7) illustrate the view from the base of the stairs, middle landing and top of the stairs towards the neighbour to the west. As illustrated in the photos the obscured glazing restricts any potential overlooking to the west as a person ascends or descends the stairs. In conjunction with the tree planted in the setback area and the existing dividing fence it is considered that there is no adverse overlooking impact from the stairway and it is recommended that the alteration be supported.

- Entertaining Area

The entertaining area also features full height glazed windows that enclose the first floor level void. The windows have an outlook towards Creswell Park and allow light into the ground floor dining area. The windows also overlook the north-west corner of the property to the east as illustrated in the attached photos (photo 8). The view to the north east includes the roof structure of a patio and BBQ area which has been recently constructed. It is noted that the neighbours pool area is located to the east of the neighbouring dwelling. It is considered that the windows to the void area do not adversely overlook the neighbouring property and it is recommended the proposal to not screen these windows is supported.

- Bedroom Four

Bedroom four features a full height clear glazed window with internal timber shutters with an outlook to the north of the property. The window is setback 3.2m from the western boundary in lieu of 4.5m as required by the RDC. Screening was proposed by the applicant on the 2012 and 2013 planning approvals therefore the window complied with the DTC provisions of the RDC and the variation was not considered against the DP's of the RDC.

The proposal includes a landscaped planter box positioned on the roof structure adjacent to the window to restrict the view to the neighbouring property. Following discussions with the neighbour and applicant and on-site inspections an alternative proposal to fix the western portion of the timber louvres to a minimum height of 1.65m was proposed. The neighbour has objected to this proposal stating their preference is for the entire window to be screened.

The proposal has been assessed in accordance with the DP of the RDC and with Council Policy – Residential Amenity LV129 which allows the Council to have regard to any factor relevant to the amenity of the adjoining property. The adjoining property has an outdoor living area and outdoor swimming pool at the rear of the dwelling. Although the cone of vision does not extend specifically to the pool, the window does allow overlooking of the rear of the property to the west as illustrated in the attached photos (photo 9).

The effect of fixing the shutters to restrict their opening is illustrated in the attached photos (photo 10). It is considered that fixing the western section of the timber shutters will restrict the view to the west but maintain the view to the north towards Creswell Park which is located at the rear of the property. In addition, the neighbour has planted fast growing plants adjacent the side boundary which further limit the visibility of the pool area from the eastern portion of the window. It is therefore

considered that the additional landscaping planter restricting their opening of the eastern shutter are not required in this instance.

In regards to the above it is noted that the properties along Fern Street back onto the publically accessible Creswell Park. The adjacent property to the west of the site features a visually permeable fence along its rear boundary.

Having regard for the concerns raised by the adjacent owner, the planting by the neighbour along the side boundary, the infrequent use of the bedroom (in comparison to a living area) and the visible public accessibility to the rear of both properties is it considered that the proposed screening is sufficient in this instance and is recommended for approval.

- Master Bedroom

The applicant has proposed to obscure the two full height louvred windows along the west elevation of the dwelling to a minimum height of 1.65m and fix the louvres to restrict the opening to prevent overlooking to the west. The master bedroom also features a large clear glazed window overlooking Fern Street which wraps around the south west corner of the room which is proposed to remain unchanged.

The RDC requires major openings to comply with the visual privacy requirements where it overlooks any part of a residential property behind the setback line. In this instance the full height clear glazed window primarily overlooks the front setback area of the adjacent property to the west. The main dwelling of the adjacent property is setback behind a double garage with an upper level loft area. Although the formal entry to this dwelling is located adjacent to the western boundary of the site the property owners have advised the Town that access to the dwelling is via an informal entry along the eastern side boundary which is used by the both the occupants and visitors to the property. They therefore objected to the overlooking from the window.

The RDC acknowledge that a lesser need for privacy protection is usual in the case of front gardens and areas visible from the street and other public places as controlling overlooking from adjacent properties to these areas can be ineffective and would go against the principles of encouraging passive surveillance over the streets and other public areas. As such the RDC requires any dwelling to have clearly definable entry points visible from the street and at least one major opening from a habitable room facing the street and vehicle and pedestrian access to the dwelling. Protection from overlooking is also not necessarily required for open space other than that defined as 'outdoor living areas' (being an area behind the front setback line with a minimum length and depth of 4m) as it can be considered unreasonable to expect a relatively high degree of privacy for pathways. The RDC primarily focus on providing privacy to outdoor living areas which are occupied for extended periods of time.

In this instance it is considered that the area overlooked by the master bedroom window is generally visible from Fern Street and in accordance with the RDC should be visible from the street and therefore it is not unreasonable to expect a lesser degree of privacy. Although the master bedroom is defined as a habitable room under the RDC it is considered to be infrequently occupied (primarily at night time) and given that the area overlooked is not a primary outdoor living area the proposal

to retain the clear glazed fixed window and obscure and fix the louvres is supported in this instance.

Conclusion

Based on the above, it is considered that the revised screening measures satisfy the DTC and DP's of RDC and objectives of Council Policy – Residential Amenity LV129. In this instance the overlooking impacts are able to be assessed on site and any actual overlooking can be minimised through appropriate screening measures. It is recommended that the proposal be supported subject to the approved screening measures being implemented as soon as practically possible to satisfy the neighbour's concerns.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Wood, seconded Cr Browne

THAT Council grant planning approval for a proposed modifications to the approved residential dwelling development to remove screening requirements at Lot 84 (27) Fern Street, Swanbourne, subject to the following conditions and advice notes:

- 1. All development shall occur in accordance with the approved drawings (Planning Application DA2015.00047), as amended by these conditions.**
- 2. The proposed timber shutters in bedroom three and the western section of the timber shutters in bedroom four to be fixed to prevent openings wider than 20 degrees to a minimum height of 1.6m.**
- 3. The proposed obscure glazed louvres in the master bedroom and entertaining area to be fixed to prevent openings wider than 20mm between the ground and 1.35m and 10mm between 1.35m and 1.75m.**
- 4. Details of the proposed method of permanently fixing the glass louvres and timber shutters in accordance with the Residential Design Codes is to be submitted for approval and the louvres and shutters to be fixed in accordance with the approved measure within 30 days of the date of this approval.**
- 5. This approval is valid only if the development is commenced within 24 months of the date of approval.**

Advice Notes:

- (i) If an applicant is aggrieved by this determination a right of review may exist under the *Planning and Development Act 2005*. An application for review must be lodged with the State Administrative Tribunal www.sat.justice.wa.gov.au within 28 days of this determination.**

**LOST
(TOTAL DISSENT)**

Reasons:

- 1. The property was developed contrary to the conditions set out by Council.**
- 2. The property is impacting unacceptably on the privacy and amenity of its neighbours.**

13.1.3 PROPOSED SCHEME AMENDMENT NO. 123 - PARKING PROVISIONS AND LOCAL PLANNING POLICIES ON PUBLIC PARKING AND BICYCLE PARKING

File Ref:	LND/00099
Attachments – Restricted:	Survey of Car Parking Provisions from Other Local Authorities Draft Local Planning Policy PS205 – Public Parking Draft Local Planning Policy LV127 – Bicycle Parking and Facilities
Responsible Officer:	David Vinicombe Executive Manager Planning and Development
Author:	David Vinicombe Executive Manager Planning and Development
Proposed Meeting Date:	7 July 2015
Date Prepared:	25 June 2015
Financial Implications:	Cash-in-lieu under Parking Reserve Fund
Policy/Enabling Legislation:	<i>Planning and Development Act 2005 (PD Act)</i> Town Planning Scheme No. 3 (TPS3)

Summary

- The Town has attempted on a number of occasions to resolve concerns raised by local businesses over the excessive cost for CIL parking bays and inflexible parking provisions contained under TPS3.
 - Council considered a report in June 2012 to initiate Amendment No. 123 to TPS3 to provide for parking concessions through licensing arrangements in order to address parking requirement impediments for small scale development in the town centre. Council also resolved to prepare a policy for public consultation.
 - In July 2012 Council applied a ‘moratorium’ to parking relative to ‘defined small business’ development approvals within the town centre. This ‘moratorium’ expired on 30 June 2014.
 - The proposed scheme amendment and planning policy have not progressed to date as it became apparent that a complete review of TPS3 parking requirements was required to provide for greater discretion in order to facilitate development opportunity throughout the entire town.
 - A report to address amendment and policy proposals was presented to a Special Council meeting on 3 June 2014. The report was deferred to enable further information and clarification of the proposals.
 - A number of Elected Member Briefings were held in 2014 to establish the key concerns relating to parking across the entire town.
-

- This report provides a background to the parking requirements of TPS3 and proposes amendment and policy proposals which address the issue of cost impositions under the TPS3 parking provisions which are presently constraining development through the town.
- The report also supports the payment of licence fees to accommodate parking shortfalls in the Town Centre and Local Centre zones and parking discounts throughout the town while the amendment is finalised.
- Recent estimates have established that the average cost of constructing decked parking bays \$30,000 as a long term basis of CIL contribution.

Purpose

For Council to consider revisions to Amendment No. 123 to TPS3 to incorporate a thorough review of Council's parking requirements under the scheme and adopt draft policies for public comment on Public Parking and Bicycle Parking and Facilities. The proposals include a review of parking concessions which may apply to commercial uses, revisions to cash-in-lieu (CIL) contribution calculations and revisions to a variety of related administrative provisions addressing Council and local business concerns over the present parking arrangements under TPS3.

Background

The cost of parking provision in the town centre has been the subject of concern over a number of years. Specifically, the high value of land is a significant cost component for CIL requirements under TPS3 which stifles development opportunity within the town as a whole. Council has approached this in a number of ways over recent years in an effort to reduce the constraints on development.

Past Resolutions

There are a number of principal decisions of Council in the past three years which address parking requirements of TPS3 within the town – primarily within the town centre. These decisions aim to reduce the constraints on development by introducing increased discretionary considerations:

1. On 5 June 2012 Council resolved (84/12) to initiate an amendment to TPS3 to relax parking requirements for existing small scale single tenancies developments in the town centre having a gross floor area of 200m² or less and adopt a parking licence of \$1,250 per bay. This was part of an initiative to re-energise business activity for selected commercial premises in the town centre. The amendment provided statutory provisions to reconcile the licence payments when the amendment was gazetted and also proposed the removal of 'sole' use of parking spaces restrictions.
2. A revocation motion was considered by Council on 19 June 2012 (96/12) which significantly revised the parking licence to \$1,750 per bay (half the estimated cost for construction of at grade parking bays) for 'defined small business' development, and also provided a 'moratorium' to exempt these small businesses from the licence fees. The 'moratorium' applied to existing small scale single tenancy development through the town centre which had a gross leasable area of 200m² or less, for the purpose of a Beauty Salon,

- Consulting Room or Office (only above ground level), Hairdresser or Barber, Restaurant or Small Bar.
3. On 3 July 2012 Council resolved (117/12) to adopt the above licence fee (\$1,750 per bay) approach for applications which were located in the town centre but did not fully satisfy the specific requirements for the 'moratorium'. This involved the payment of an initial fee of \$1,250 per bay as an interim approach and, subject to finalisation of Amendment No 123, a final payment of \$500 per bay (total \$1,750 per bay).
 4. On 17 September 2013 Council resolved (270/13) to reaffirm the 'moratorium' with an increased area for the small scale single tenancies of 300m², confirmed the cost of a CIL licence to be \$1,750 and further clarified the location requirements for 'defined small business' to include properties along Bay View Terrace, St Quentin Avenue and their associated laneways.
 5. At the Special Council Meeting on 3 June 2014 (80/14), Council considered a report recommending a comprehensive review of parking provisions to address parking issues which extended further afield from the town centre (local centres and Stirling Highway). It was proposed to waive the CIL contributions in favour of a policy based parking licence of \$4,000 (for preferred uses) or \$25,000 (otherwise) per bay until Amendment No. 123 is gazetted. The report also recommended parking calculation concessions commonly provided in other local government areas. The proposals were complex and referred back for further refinement.
 6. The last report to Council addressing the CIL requirements was on 21 October 2014, where Council resolved (171/14) to support parking CIL concessions in Bay View Terrace. The approval required payment of a parking licence of \$3,500 per bay (for 14 car bays - \$49,000) in consideration of extenuating circumstances surrounding the technicalities of the application. The report to Council presented a range of 'licence' options from \$1,750 to \$25,000 per bay in lieu of the TPS3 CIL requirement in excess of \$1.4m.

Discussion

Current Parking Provisions

TPS3 provides for parking discretion and payment of CIL as detailed below:

- Small Bars require one bay per four licensed persons except in the Town Centre zone – may be reduced to one per 16 licensed person (cl.22(4)(a)).
- Retail Store and Shop (Small and Intermediate) parking requirements may be reduced from one bay per 16.67m² GLA to one bay per 20m² where bays are wider than 2.7m and access aisles wider than 6.4m or bays are wider than 2.8m with access aisles greater than 6.2m are provided (cl.31A(1)). This equates to a 16.67% concession and specifically has been applied to the development of the Claremont Quarter.
- Parking concessions for mixed-uses within 500m of a railway station range between 5 and 15% where parking is monitored and controlled by boom gates and ticket machines, where Council considers the proposal to provide a public benefit to the town centre, compliment the character and not adversely impact the amenity of the locality (cl.31A(4)(i)).

- Up to 5% parking concession for other uses where parking is monitored and controlled by boom gates and ticket machines (cl.31A(4)(ii)).
- Use of parking bays in other locations provided they are sufficiently close and available for the 'sole' use of the occupiers and visitors to the development (cl.32).
- CIL for parking shortfalls based on land value and construction cost (cl.33).

It is noted that legal advice indicates that within Regional Reservations under the Metropolitan Region Scheme (e.g. a Primary Regional Road Reservation), the parking provisions of TPS3 act only as a guide, and accordingly the scheme parking provisions within the reservation may be varied.

Assessment of 'Moratorium' and 'Licence' Arrangements

Since Council's resolution of 5 June 2012, application of the 'moratorium' has with some limited success promoted 'defined small business' in the town centre.

In the application of the 'moratorium', it was apparent that strict adherence to the terms of the 'moratorium' may unfairly discriminate against other small business proposals which slightly varied from the terms (i.e. – other small business slightly larger than 200m², fronting other roads, similar uses or use located on ground level). A compromise solution was reached where Council supported other small business applications with the application of the parking 'licence' instead of CIL.

To date three applications have benefited from the 'moratorium' and six from the 'licensing' arrangements. Total CIL concessions granted (see table below), based on an estimated value of between \$72,250 (land plus at-grade bay) and \$131,250 (land and decked parking bay), range between \$3,881,000 and \$7,126,000.

Value of Parking Concessions Granted by Council by 'Moratorium' and 'Licence'

Concession	No of applications	Bays	Value of concessions (between \$72,250 and \$131,250 per bay)
Moratorium	3	16	\$1,156,000 - \$2,100,000
Licences \$1,750 (\$1,250 up front plus \$500 at call – 14 bays more recently calculated at a rate of \$3,500 per bay)	6	39	\$2,817,750 - \$5,118,750 (minus total licence fees - \$92,750) \$2,725,000 - \$5,026,000
Totals	9	41	\$3,881,000 - \$7,126,000

In supporting these concessions, Council has recognised that that the existing TPS3 requirements blight commercial development in the town centre and that the approach to parking concessions is consistent with many other local authorities in Perth which are attempting to incentivise business activity. This needs to be balanced with Council's long term obligation to ensure that sufficient parking is available within the town centre and funded for its continued success.

Whilst it may be considered that the value of the parking concessions granted in the past three years results in a considerable loss in income generation to the Council's Parking Reserve Fund (presently containing \$831,000), it is conversely recognised that these applications may not have proceeded without the concessions granted.

Options for Revised Amendment Proposals

In the preparation of details for the amendment and policy proposals, it is apparent that Council's parking requirements under TPS3 are impacting on development opportunity throughout the whole of the Town of Claremont - not just the town centre. While the original intent of the amendment was targeted to encourage 'preferred uses' along defined streets and laneways in the town centre, this has evolved to assist other businesses in the town centre and it is evident that a number of broader parking issues could also be redressed as follows:

- Parking concessions for other common factors which reduce parking demand such as proximity to railway stations, high frequency bus routes, bicycle parking, etc.
- Reciprocal parking inclusive of consideration of peak parking demand surveys.
- Recognition of 'Status quo' provision (where an historic use may not supply the required parking bays, but is recognised as having the required parking in calculating new parking requirements for additions or change of use).
- Long term parking provision relative to future Stirling Highway widening.
- Rounding of parking calculations.
- Alignment with Australian Standards for design of parking areas.
- Use class allocations for 'Car Park' within the Town Centre zone.

These matters are proposed to be addressed by re-initiation of Amendment No. 123 and preparation of local planning policies on public parking and bicycle parking and facilities to guide the application of the new scheme provisions.

A review of parking requirements for ten other local governments within the Perth metropolitan area (Belmont, Canning, Cambridge, Cottesloe, Fremantle, Melville, Stirling, Subiaco, Victoria Park and Vincent) indicates considerable flexibility in the application of parking requirements and provides some guidance for Council consideration in the further evolution of this amendment. It is apparent from the surveys undertaken that:

- Requirements vary from scheme to policy provisions.
 - CIL contributions ranged from nil (Fremantle for promotion of city centre where significant public parking is present) to \$100,000 per bay (Melville).
 - Many consider land value inclusion in CIL as a significant disincentive to development. Some have land available for the provision of public parking (e.g. Vincent). Many local governments have removed the land cost components from the CIL calculations.
 - Most accept a 'status quo' approach for pre-existing development.
 - It is common practice to accept peak parking demand and reciprocal parking within development sites and adjacent land in satisfying the parking provision. The original amendment proposal to remove 'sole' from cl.32 will accommodate parking on the road, but does not recognise reciprocal or peak parking demand calculations. The peak parking demand approach recognises that reciprocity naturally occurs within a development site containing different
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uses and that this may vary dependant on the nature of the business operations. Reciprocal parking may consider parking available on adjacent land (subject to legal agreement).

- Parking concessions are regularly applied e.g. Stirling applies concessions of up to 65% for factors including proximity to public transport and parking stations, reciprocal uses, cyclist facilities and retention of heritage buildings.
- Parking calculations vary relative to rounding of parking bay requirements to the next whole number or nearest whole number.
- Parking design standards vary from diagrams (some which contain errors) to the most common approach being the Australian Standards for parking bays and access.

Elected Member Parking Forum

In preparing this report, consideration has been given to feedback on parking amendment topics raised at the Elected Members Parking Forum on 4 August 2014 (tabled) and Briefing on 15 June 2015. Taking into account the comments raised at the Forum and Briefing, it is recommended by administration that the amendment and policy proposals presented to the Special Council Meeting on 3 June 2014 be modified to address the following:

- Simplify the proposals presented to Council in June 2014.
- Establish CIL values which support business, but not transfer the long term cost of parking shortfalls and construction of public parking to the Town.
- Remove the land value component of CIL where public land is available for the provision of CIL and review construction costs for parking bays to provide a consistent approach which provides for the long term provision of decked parking bays.
- Scheme provisions should clearly identify the requirements for CIL and parking concessions available.
- Associated Council policy should address variable factors, such appropriate locations where CIL can be accommodated and regular reviews of construction costs (every two years).
- Plan to utilise the existing land owned by the Town in proximity of the town centre for the construction of decked parking station in order to reduce CIL cost by removing land values, discounted for 'preferred uses' by 50%.
- Remove opportunity for CIL along Stirling Highway (outside of the town centre) due to limited availability to construct additional parking in streets fronting commercial sites, potentially resulting in commercial parking intrusion into adjoining residential areas.
- Provide for limited parking calculation concessions - 65% too excessive as it potentially transfers significant parking shortfalls to public spaces.
- Maintain current parking concessions provided in the TPS3 relating to increased bay and aisle widths but incorporate other concessions into one table.

- Introduce new opportunities for parking concessions up to 35% for proximity to public parking areas, railway station (or public transport proximity in general) and provision of bicycle parking and facilities.
- Allow for parking provisions to facilitate joint parking ventures where excess parking provision is clearly established (e.g. If concessions can reduce the parking requirements based on evidence from Claremont Quarter (CQ), opportunity may exist for a parking agreement with CQ to provide parking for town centre staff –either private or with the Town).

Revised Amendment Proposal

It is considered that the parking provisions under TPS3 are out of date relative to other local government requirements and too restrictive to promote business development within the town as a whole. In addition, the former 'moratorium' and parking bay 'licences' are not sustainable approaches to building Council's Parking Reserve Fund for the provision of necessary public parking within the town over the longer term. Revisions to the amendment are warranted to address issues identified from reviews of other local government requirements and concerns raised at Council's Elected Member Parking Forum and Briefing sessions.

Recent estimates have established that the average cost of constructing parking bays is approximately \$5,000 per at grade bay and \$30,000 per decked parking bay, however the long term commitment to the provision of parking bays should be based on the cost of constructing decked parking bays.

In introducing the additional elements of the scheme amendment, it is important to ensure that the requirements provide a balance between certainty and flexibility, whilst recognising the original intent of the amendment by acknowledging the desirability of preferred uses in the granting of concessions. Clear scheme provisions can provide requirements which are enforceable by the Town and State Administrative Tribunal (SAT), whereas policy provisions provide additional flexibility, but are open to SAT review.

A combination of scheme and policy provisions could allow specific requirements to be applied relative to aspects over which Council desires clear control – such as maximum parking calculation concessions available and cost of CIL. Related policies should address the land availability for CIL parking facilities and contribution rates, variables dependant on costs and concessions for 'preferred uses' in addition to providing clarity on bicycle parking and facility requirements.

It is proposed to reinitiate Amendment No. 123 to include opportunities for Council to support a total parking concession of up to 35% taking into account satisfaction of various performance criteria and peak parking demand evidence.

Provisions are also proposed to provide for the interim application of both reduced CIL contributions and parking discounts (up to 35%) and final reconciliation with the final Scheme requirements following gazettal of the amendment.

At the same time it is proposed to introduce two supporting policies.

The first proposed policy relating to Public Parking (PS205) identifies where CIL may be provided and determines relative costs based on construction costs together with land use preferences. As the long term cost for construction of parking bays will be \$30,000 for a decked bay, this is recommended to be the standard CIL payment. In the town centre, it is recommended that Council acknowledge a 50% discount for 'preferred uses' - reduced to \$15,000 per bay as opportunity exists to recoup costs through parking fees.

The second proposed policy relating to Bicycle Parking and Facilities (LV127) aims to detail parking and facility requirements in order to satisfy parking discounts being applied under the terms of the scheme.

Financial and Staff Implications

The proposals aim to remove significant impediments on commercial development in the Town of Claremont, whilst at the same time, providing for the growth of the Parking Reserve Fund to ensure future public parking is appropriately managed.

Policy and Statutory Implications

Part 5 of the Planning and Development Act 2005 provides for Council to initiate amendments to town planning schemes. Although Amendment No. 123 was first initiated by Council in June 2012, the Department of Planning has indicated that Council may re-initiate the amendment with modifications. Once initiated, the Town is required to advertise the amendment, consider submissions and forward the proposal to the Hon. Minister for Planning for determination.

Clause 82 of TPS3 guides the preparation and adoption of local planning policies. It is proposed that the local planning policies on public parking and bicycle parking outlined in the Recommendation be adopted as a 'Draft Policies' for the purpose of public consultation.

Gazettal of Amendment No.123 and the final adoption of the local planning policies will take some time to be finalised. In the interim period, it is proposed that Council maintain and extend the 'parking licence' approach in the town, modified to cover construction costs of parking, proximity to public parking and land use preferences, as detailed in the draft policies and extending out into the Local Centres where opportunity for the construction of public parking can be accommodated.

Publicity

Once the scheme amendment is initiated, the proposal is to be advertised for a period of 42 days in accordance with procedures outlined in the Western Australian Planning Commission Planning Bulletin No. 29. It is proposed that the revised amendment be advertised at the same time as the draft policies.

The proposed policies are to be advertised for a period of 21 days in accordance with cl.82 of TPS3.

Urgency

The current parking provisions under TPS3 are restricting the capacity for businesses in the Town of Claremont to further develop. The review of scheme and policy provisions is complex and has taken considerable time to develop. Providing the

business sector certainty on a long term basis is desirable. As the comprehensive review has been finalised, it is now appropriate that these initiatives be progressed.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Edwards, seconded Cr Goetze

THAT Council resolve as follows:

1. To re-initiate an Amendment No. 123 to Town Planning Scheme No. 3, pursuant to Part 5 of the Planning and Development Act 2005, modified as follows:

1.1. Modify the use class classification under Table 1 – Land Use Table by Car Parking in the Town Centre zone, from “X & P*” to “AA”, together with removing Car Park from the use class allocations under Sub-clauses (1) and (2) of Clause 6 Disposition of Uses.

1.2. Add an additional Note to Table 2 – Development Table as follows:

“Car parking requirements are to be measured to the nearest whole number.”

1.3 Amend Clause 30 to provide for ‘status quo’ recognition of parking standards for existing development by deletion of the words “car parking spaces of the number required by the scheme shall be” and by adding the words “and the alteration results in additional usable area and/or creates an additional demand for car parking, the additional bays” as follows:

“Where:

(1) land is developed by any substantial reconstruction, alteration or any addition to a building on that land, or

(2) the nature of the use made of the land is changed

and the alteration results in additional usable area and/or creates an additional demand for car parking, only the additional bays shall be required accordance with the Scheme.”

1.4 Amend Clause 31(2) to remove reference to “Appendix III” and “appropriate diagram contained in the Appendix” and replace these references with “relevant Australian Standards” as follows:

“Those car parking spaces and access ways to those spaces shall not be of lesser dimension than those specified under the relevant Australian Standards and shall be laid out together with required access aisles in accordance with those standards.”

1.5 Delete “Appendix III – Dimensions of Car Parking” from the Scheme.

1.6 Amend Clause 31A(1) and (2) by combining them under Clause 31A(1) for clarity modified as follows:

“Notwithstanding Clause 31(1) and the requirements of Table No. 2 relating to the number of car parking spaces to be provided, the

Council may in its discretion approve the development of land for the purpose of:

- (a) a Retail Store;
- (b) a Shop (Intermediate); or
- (c) a Shop (Small)

with a reduced number of parking bays in accordance with the third column of Table No. 3, provided the parking layout is in accordance with the first and second columns of Table No. 3.”

- 1.7 Rename Table 3 – Car Parking Space under existing Clause 31A(2) (to be changed to Clause 31A(1)) to “Table 3 - Car Parking Space under Clause 31A(1) and modify reference “Appendix III” to “relevant Australian Standards.”
- 1.8 Replacing existing Clause 31A(2) with a new Clause 31A(2) which allows for parking concessions to apply to the minimum parking requirements achievable under the provisions of Town Planning Scheme No. 3 as follows:

“Notwithstanding other parking concessions achievable for non-residential development under this Scheme, Council at its absolute discretion may apply further parking concessions for non-residential development (excluding educational establishments) of up to 35% where it is considered that proposed land use or development suitably satisfies the performance criteria contained in Table 4 – Additional Car Parking Concessions.

Table 4 – Additional Car Parking Concessions

Car Parking Concession	Performance Criteria
5%	The proposed development is within 400m of a rail station and customers/staff are likely to use the train to access the development.
5%	The proposed development is within 100m of a stop on a high frequency bus route and customers/staff are likely to use the bus to access the development.
5%	The proposed development is within 400m of a public car park.
5%	The proposed development provides 10 bicycle bays or more and where ‘end-of-trip facilities’ are provided as recommended under a Local Planning Policy adopted under the provisions of the Scheme and customers/staff are likely to use bicycles to access the development.
5%	The proposed development is located within Town Centre or Local Centre zone and provides a public benefit, compliments the character of the zone and does not adversely impact the amenity of the locality.

5%	Where the building/place is listed on the Town's Heritage List, Municipal Inventory or the State Register of Heritage Places (subject to the building or place being conserved to the satisfaction of Council).
5%	The proposed development contains parking controls which monitor and control use through boom-gates (or similar) and ticket issuing machines.

- Notes:**
1. Distances referred to in this table are measured along constructed footpaths or verges of road reserves, not 'as the crow flies'.
 2. The applicant shall be required to submit a Peak Parking Demand Survey to satisfy Council that the granting of parking concessions under this clause will not result in parking shortfalls for the proposed development.

- 1.9 Add a new Clause 31A(8) to provide for and recognise reduced parking requirements in accordance with proposed Clause 31A(2) as interim arrangements to the provision of the required parking bays under Town planning Scheme as follows:**

"If the Council has granted an interim parking concession in accordance with Clause 31A(2) in respect of a development of land, and application is made to Council for reconsideration of the parking requirements under the Scheme, the Council may consider any revised parking requirement as satisfying the parking requirements of the Scheme as if the application for the development was then before the Council for determination. The reduced parking requirement shall be taken into account as satisfying the final parking requirements of the Scheme."

- 1.10 Delete existing Clause 31A(3) and add a new Clause 31A(3) as follows:**

"Council, in considering the merits and application of parking concessions relative to non-residential land use and development proposals under Clause 31A(2) and the value of cash-in-lieu for parking bay construction under Clause 33(1)(a), is to take into consideration any Local Planning Policy which is adopted under the scheme and is applicable to public parking."

- 1.11 Delete existing Clause 31A(4) relating to existing parking concessions and Clause 32 relating to parking bay location together with adding a new Clause 31A(4) which formalises reciprocal parking opportunity on site and on other land sufficiently close to the development:**

"Council may consider joint use of car parking facilities in satisfaction of parking requirements for non-residential development under the scheme as follows:

- (a) Parking facilities may be provided jointly by two or more owners or users of land or by one owner or user in respect of separate buildings or uses, subject to the satisfaction of the standards and requirements hereinafter set out in this sub-clause.

- (b) If there is a deficiency in the number of parking spaces provided to serve any building or use, the Council may permit the parking spaces for that building or use to be provided jointly with any one or more other buildings or uses whether or not those others separately have the prescribed number of parking spaces provided that the peak hours of operation of the buildings or uses so sharing are different and do not substantially overlap.
 - (c) The Council may require that reciprocal access and circulation arrangements are provided for any buildings or uses affected by this sub-clause when, in the opinion of the Council, such arrangements are deemed necessary to improve design or amenity.
 - (d) The combined supply of car parking is considered by Council to be sufficient to meet the estimated peak combined demand and the location of parking is considered to be within close proximity and accessible from the development site, to the satisfaction of Council.
 - (e) The Council may require an agreement to be prepared by a solicitor at the expense of the person seeking to take advantage of the provisions of this sub-clause, detailing the relevant issues of the joint usage, and executed by all parties concerned. Any such agreement shall be capable of operating as an easement, an easement in gross and/or a restrictive covenant against any land providing parking spaces, reciprocal access or circulation arrangements and shall ensure that where the easement or restriction is made expressly in favour of an adjacent landowner other than the Town, that the restraint cannot be removed without the consent of the Council upon the Council being satisfied that the joint use of parking facilities is no longer required.”
- 1.12 Modify the valuation calculation for cash-in-lieu parking bays under Clause 33(1)(a) to remove all reference to the value of land in the Town Centre and Local Centre zones by removing the last half of the clause following “spaces calculated” and adding the following:
- “in accordance with the scheme inclusive of any amount the Council estimates to be the cost of providing land to accommodate those spaces within or adjacent to the Town Centre and Local Centre zones taking into consideration any Local Planning Policy which is adopted under the scheme and is applicable to public parking.”
- 1.13 Delete Clause 33(2) and replace with the following new Clause 33(2):
- “(2) The monies received by the Town under this clause shall be paid into a Parking Reserve Fund and shall only be used:
- (a) for the provision of public parking or facilities, infrastructure and services for cyclists, pedestrians and public transport users;
 - (b) for reimbursing the Town for any expenses incurred for the purpose of this clause including any loan repayments.”
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- 1.15 Add a new Clause 33(3) to provide for and recognise the leasing or licensing of Council provided car parking bays as an interim arrangement to the provision of cash-in-lieu for insufficient parking bays as follows:

“If the Council has granted or waived a parking licence fee or granted a licence of car parking bays in a parking area or parking station under the control of the Council in respect of a development of land for any of the purposes referred to in Clause 31A(3), if during the term of the licence, or within three months after the termination of the licence by reason of the expiration of the term, or otherwise on the election of the licensee in accordance with the provisions of the lease or licence, the licensee may apply to the Council to reassess the parking requirement for the development in accordance with the provisions of this clause and the Council may do so as if the application for the development was then before the Council for determination. The waived licence fee or licence payment paid to Council for the licence of Council parking bays shall be taken into account as satisfying the final cash-in-lieu payment to Council for parking.”

2. His Worship the Mayor and the Chief Executive Officer be authorised to endorse the revised amendment document.
 3. The Town of Claremont forward a copy of the amendment documentation to:
 - (a) The Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
 - (b) The Western Australian Planning Commission for information.
 4. On receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act indicating that the amendment need not be subject to an environmental assessment, the amendment be advertised in accordance with the Town Planning Regulations for not less than 42 days.
 5. Council resolve, pursuant to Clause 82 of Town Planning Scheme No. 3 to adopt the attached Draft Local Planning Policy PS205 - Public Parking for public consultation.
 6. Council resolve, pursuant to Clause 82 of Town Planning Scheme No. 3 to adopt the attached Draft Local Planning Policy LV127 - Bicycle Parking and Facilities for public consultation.
 7. Council resolve to reaffirm and extend its Parking Licence interim approach for satisfying Town Planning Scheme No. 3 cash-in-lieu contribution requirements in the Town Centre and Local Centre zones until such time as Amendment No. 123 is gazetted, subject to the parking requirement being reconciled in accordance with proposed Clause 33(3) following gazettal of Amendment No. 123 to Town Planning Scheme No.3. During the interim period, Council resolve to base the Parking Licence fee for shortfalls in parking provision at a rate of \$30,000 (reduced to \$15,000 for ‘preferred uses’ in the town centre) per bay.
 8. Council resolve to extend its interim parking concessions to provide for discounts to parking requirements for non-residential development
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(excluding educational establishments) in accordance with proposed Clause 31A(2) under Amendment No. 123 to cover discounts to parking requirements until such time as the amendment is gazetted, subject to the applicants entering into a legal agreement with Council registered as an Absolute Caveat on the Certificate of Title to ensure the Scheme parking requirements are reconciled in accordance with proposed Clause 31A(2) following gazettal of Amendment No. 123 and any shortfalls in parking being satisfied by payment of cash-in-lieu.

9. Prior to consideration of finalisation of proposed Amendment No. 123, a report be referred to Council to consider any submissions made on the amendment and proposed Local Planning Policies PS205 - Public Parking and LV127 - Bicycle Parking and Facilities.

**CARRIED(116/15)
(NO DISSENT)**

13.1.4 TOWN PLANNING SCHEME NO. 3 HERITAGE SCHEDULE REVIEW

File Ref: DAB/00043

Attachments - Public: [Draft TPS3 Heritage Schedule Submission Table](#)

Attachments - Restricted: [Submissions](#)
[Draft Retention of Heritage Places, Heritage Areas and Heritage Precincts Policy – LV124](#)
[Extracts from Draft Review of Council's Heritage Places, Heritage Areas and Heritage Precincts Policy – LV124](#)

Responsible Officer: David Vinicombe
Executive Manager Planning and Development

Author: Julia Kingsbury
Manager Planning
Odhran O'Brien
Heritage Officer

Proposed Meeting Date: 7 July 2015

Enabling Legislation: *Heritage of Western Australia Act 1990*
Town Planning Scheme No. 3 (TPS3)

Summary

- At its meeting held on 5 August 2014 Council resolved to adopt the Draft Municipal Inventory as the Town of Claremont Local Government Inventory 2014 (LGI).
- It is proposed to update the Schedule of Historic and Other Buildings and Places (Schedule) adopted pursuant to cl.78 of TPS3 to incorporate the changes in the LGI.
- Technically the LGI and the Schedule are two different lists, however the Town's practice has been to include the same buildings, objects and places in both lists.
- In accordance with TPS3 cl.78(6) the Town sought comment from owners of newly included properties and heritage areas in the LGI relative to their inclusion in the Schedule. Sixteen submissions were received; three supporting, eight objecting, two with no objection and three requesting further information.
- It is recommended that Council resolve to update the TPS3 Schedule to include the newly adopted properties and discrete heritage areas (consistent with the LGI) but refer two proposals to the Town's Peer Review Panel for consideration.

Purpose

For Council to consider the submissions received during the consultation period for the Heritage Schedule and consider the recommendation for inclusion of new adopted properties and discrete heritage areas.

Background

Section 45 of the *Heritage of Western Australia Act 1990* states that:

- (1) *A local government shall compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance.*
- (2) *The inventory required by subsection (1) shall be compiled no later than 4 years from the commencement of this Act and shall be –*
 - (a) *updated annually; and*
 - (b) *reviewed every 4 years after compilation.*

The Town created its first Municipal Inventory (MI) of locally significant heritage buildings and places in 1991 in accordance with (2) above. The MI has been updated regularly since 1991 and a comprehensive review commenced in 2011 which resulted in the adoption of the Town of Claremont Local Government Inventory 2014 (LGI – new name for MI).

To afford the places, areas and precincts listed in the LGI with protection under TPS3, and therefore enable development on these properties to be assessed under the provisions of TPS3 and Council Policy, the Schedule of Historic and Other Buildings and Places (Schedule) is required to be updated in accordance with cl.78 of TPS3.

Cl.78 states that:

78. *SCHEDULE OF HISTORIC AND OTHER BUILDINGS AND PLACES:*

- (1) *The Council shall maintain a schedule of buildings, objects and places (“the Schedule”) which the Council considers to be an architectural, historical or townscape value.*
- (2) *The Schedule shall be available for inspection by any member of the public on request.*
- (3) *The Council shall include in the Schedule:*
 - (a) *any building constructed prior to the year 1910 and which retains substantially its original form and detail as seen from any public place;*
 - (b) *any building constructed during or after the year 1910 and which the Council considers to have high intrinsic architectural merit or to be an outstanding example of its kind or of historical significance;*
 - (c) *buildings, objects or places that the Council considers make a positive contribution to the townscape of the district.*

- (4) *Every building, object or place which is included by the National Trust of Western Australia (WA) in either the Recorded or the Classified List or which is included by the Australian Heritage Commission in the Register of the National Estate shall be deemed to be included in the Schedule.*
- (5) *The Council may from time to time add to or delete from the Schedule any building, object or place.*
- (6) *The Council shall, before including any building, object or place in the Schedule:*
 - (a) *give to the owner of that building, object or place written notice that the Council proposes to include that building, object or place in the Schedule and specifying a date being not less than three (3) weeks after the notice is given by which submissions may be made to the Council by the owner;*
 - (b) *advertise notice of the Council's intention in a newspaper circulating in the district and specifying the date by which submissions may be made to the Council by any person interested.*
- (7) *The Council shall not include a building, object or place in the Schedule without first considering any submissions made within the time limit specified by the notice referred to in sub-clause (6) of this Clause.*

Cl.79 of TPS3 provides the protection status for properties contained in the Schedule as follows:

79 PRESERVATION OF HISTORIC AND OTHER BUILDINGS, OBJECTS AND PLACES:

- (1) *Where any development involves an alteration to, or the destruction, total or partial of a building, object or place which is:*
 - (a) *entered in the Schedule;*
 - (b) *included by the Australian Heritage Commission in the Register of the National Estate;*
 - (c) *included in the National Heritage Register;*

The Council before determining that application may give notice thereof to the National Trust of Australia (WA) the Australian Heritage Commission and such other bodies or persons as the Council thinks fit.
- (2) *In determining an application referred to in sub Clause (1) of the Clause the Council shall have regard to any submission made to the Council with respect to the preservation of the building, object or place involved in that application.*

Past Resolutions

Ordinary Council Meeting, 5 August 2014, Resolution 116/14:

That Council:

1. *Note the submissions received during the consultation period for the Draft Municipal Inventory, adopt the recommendations as contained in the attached Submissions Schedule and adopt the Draft Municipal Inventory (minus the five places removed under delegated authority on 19 May 2014) as the Town of Claremont Local Government Inventory 2014 inclusive of the following modifications:*
 - a) *Remove 78 Bay View Terrace, Claremont subject to the submission of an archival record of the place to the satisfaction of the Town of Claremont;*
 - b) *Remove the 76-78 Bay View Terrace Heritage Area whilst maintaining 76 Bay View Terrace, Claremont as a standalone place;*
 - c) *Remove 11 (Lot.37) Rob Roy Street, Swanbourne subject to satisfaction of planning requirements;*
 - d) *Remove 9 Second Avenue, Claremont;*
 - e) *Remove 11 Second Avenue, Claremont;*
 - f) *Remove 13 Second Avenue, Claremont;*
 - g) *Remove 114 Shenton Road, Swanbourne;*
 - h) *Remove 116 Shenton Road, Swanbourne;*
 - i) *Convert the proposed Bay View Terrace Heritage Area 1 to the Bay View Terrace Commercial Heritage Precinct;*
 - j) *Convert the proposed Claremont Crescent Shops Heritage Area to the Swanbourne Station Commercial Heritage Precinct; and*
 - k) *Convert the proposed Shenton Road Shops Heritage Area to the Shenton Road Commercial Heritage Precinct.*
 - l) *Refer back 13 Langsford Street, 16 Brown Street, 13 Smith Street, 24 Barnfield Road, 3 Pennell Road, 3 Renown Avenue, 399 Stirling Highway and 378 Stirling Highway for further consideration.*
 2. *Pursuant to Clause 78(5) of Town Planning Scheme No. 3, updates the current Town of Claremont Schedule of Historic and Other Buildings and Places to remove all properties no longer listed in the adopted Town of Claremont Local Government Inventory 2014.*
 3. *Pursuant to Clause 78(6) of Town Planning Scheme No. 3, updates the current Town of Claremont Schedule of Historic and Other Buildings and Places to include all newly nominated properties contained in the adopted Town of Claremont Local Government Inventory 2014 for the purposes of advertising the proposed additions to the Schedule.*
 4. *Pursuant to Clause 78(6) of Town Planning Scheme No. 3, consult with the owners of the newly nominated buildings, objects or places in the Town of Claremont Schedule of Historic and Other Buildings and Places for a period of 21 days.*
 5. *Pursuant to Clause 78(6) of Town Planning Scheme No. 3 and on conclusion of the consultation period, receives a report to consider any submissions received prior to Council adopting the final Town of Claremont Schedule of Historic and Other Buildings and Places 2014.*
-

*CARRIED
(NO DISSENT)*

With regard to part 1(l) above, the subject properties were referred to a Peer Review Panel for consideration and during the course of the following six months the Peer Review Panel met at each of the properties and made recommendations to Council on the inclusion of the properties in the LGI. In summary, Council resolved to retain all of the properties on the LGI with exception of 16 Brown Street, Claremont and further requested that the Town address options to allow some flexibility in the consideration of development requirements in relation to some of the lower order Category C listings.

Discussion

Town Planning Scheme No. 3 - Heritage Schedule

The Inventory and the Schedule are two different lists however in Claremont's history they have generally been the same list of buildings, objects and places. As detailed in the *Heritage of Western Australia Act 1990*, the Inventory is to contain buildings within the district of cultural heritage significance. Although *the Heritage of Western Australia Act 1990* does not specifically mention places or objects, the Town's LGI is considered to be a more extensive list of buildings, places and objects of cultural heritage significance. This practice is not considered unusual among the planning and heritage professionals and is advised by both the State Heritage Office of Western Australia and the Burra Charter. The listing in the LGI itself does not accord the building, place or object with protection under TPS3 until it is included in the Schedule.

The Schedule is being updated to reflect to changes made to the LGI during its review completed in 2014. The changes included the inclusion of heritage areas, management categories and the nominated places. Those places that were removed from the LGI at its Ordinary Council Meeting of 5 August 2014 because they were not considered to have a significant level of heritage value were removed from the Schedule in accordance with part 2 of Council's OCM resolution on 5 August 2014 (above). Cl.78(6) & (7) of TPS3 requires that any additions to the Schedule be advertised, affected property owner's be contacted in writing and that any submissions by the owner be considered before changes are made to the Schedule. During September 2014, the Town undertook these processes and received sixteen submissions. Details of comments raised in the submission are included in the attached Submission Table. A summary of the major themes contained within the submissions have been included below.

Property Values

Two of the submissions received included concerns that local heritage listings negatively impact the value of properties. This issue was addressed in 5 August 2014 OCM report in relation to submissions received on the review of the LGI. As detailed at that time there have been a number of studies undertaken on the relationship between property values and heritage listing. These studies include: Report to Australian Property Institute Concerning Residential Sales Analysis 1988 to 2006 (Dennis Barton 2008); Heritage Australia: A Review of Australian Material Regarding the Economic and Social Benefits of Heritage Property (Peter Wills, Dr Chris Eves &

NSW Heritage Office 2005) and Heritage Listing and Property Value (Heritage Victoria, 2001). The findings of the studies indicate that there is a lack of evidence to suggest that properties values are negatively impacted by heritage listing and that in certain areas that were surveyed by Dennis Barton's study, the value of the heritage listed places were comparable and in some cases greater than non heritage listed places.

Development Implications

Places listed on the Schedule will be subject to the heritage provisions of the TPS3 and the Council's Heritage Policy LV124. These are the current development controls applied to places listed on the Schedule and therefore there is no change until they are reviewed (e.g. Council's Heritage Policy LV124 is currently under review – see comments below). The degree of discretion that is implied to heritage places when planning applications are being assessed against Council's Heritage Policy LV124 will depend on which Management Category the place has been allocated i.e. A, B or C. The review of the LGI categorised places within these management categories according the level of heritage value, which they demonstrated.

As indicated above, Council's Heritage Policy LV124 is currently being reviewed to include guidance on dealing with applications for standalone heritage places, heritage areas and properties adjacent to heritage areas. In addition, as the policy also proposes to introduce measures to guide development on some of the lower order Category C properties. A separate report on this matter is scheduled to be presented to Council for consideration on 4 August 2015, however proposed modifications relating to Category C properties are detailed below.

Queries Related to the Criteria

There was a small group of submissions querying whether certain properties fulfilled the criteria required for heritage listing. During the review of the LGI, all listed places and those proposed for inclusion were assessed by the Town's Heritage Officer and heritage consultants against the State Heritage Office of Western Australia's *Criteria for the Assessment of Local Heritage Places and Areas*. In addition to utilising this practical guide to identify the values of local heritage places, the Heritage Officer and consultants based their recommendations on the provisions of the *Heritage of Western Australia Act 1990*, the *Burra Charter* and *State Planning Policy 3.5, Historic Heritage Conservation (SPP 3.5)*. All of the above criteria were used by the Peer Review Panel when considering the inclusion of the eight properties included in part 1 of Council's OCM resolution on 5 August 2014. Accordingly, it is confirmed that the correct criteria has been used to determine the proposed listings in the Schedule.

Royal Agricultural Society of Western Australia

In line with their objection to being included in the Town's LGI, the Royal Agricultural Society of Western Australia (RAS) has objected to being included in the Town's Schedule. The RAS maintain that the entry of the Showgrounds is not consistent with Section 45(1) of the *Heritage of Western Australia Act 1990*. The RAS's suggestion that the place record should be limited to a list of buildings rather than the buildings and the surrounding area is inconsistent with the best practice of heritage management as identified in the *SPP 3.5 and Burra Charter*. Further, the place record for the Showgrounds is clear about the levels of significance associated with the buildings on the site. It is also clear in regards to those buildings which have little

significance. The social and historical significance of the site within the local community is also an important consideration of the listing.

Further assessment of the significance of the buildings needs to be carried out. Initial attempts to conduct these assessments at the beginning of the LGI review were denied by the RAS. In light of the RAS's recent presentation to Council of concept design proposals for the redevelopment of the site, it is important that the place be entered onto the Schedule and a comprehensive assessment of its buildings be undertaken in order to assign specific management categories to the buildings identified. This will provide sufficient information to draft a heritage policy for the site, which will allow development consistent with the current use as well as identifying areas for appropriate redevelopment sympathetic to the heritage values of the place.

Community Support

Members of the local community made submissions encouraging and congratulating the Town on its efforts to protect the significant heritage places within the locality which positively contribute to its amenity and sense of place. The overall small number of submissions querying the Schedule indicates that the majority of the owners of heritage places are satisfied with the current process of heritage management within the Town.

Summary of Recommendations Contained in the Submissions Table

The attached Submissions Table provides detailed responses to the comments and reports that have been received by the Town relative to the Schedule. All of the submissions were thoroughly reviewed and considered by the Town's Heritage Officer with the assistance of John Taylor Architects as required.

The sixteen submissions have been reviewed and there are seven recommendations for places to be either included or retained in the Schedule. There is one possible recommendation to change a place from a Category B management category place to Category C. It is considered that this submission (for 16 Hammond Road) and another (for 17A Walter Road) warrant further review by Council's Peer Review Panel. Of the remaining submissions, six require noting.

Review of Council's Heritage Policy LV124 to Address Lower Order Category C Properties

Under the final review of the LGI in 2014, a number of heritage places were referred to a Peer Review Panel for recommendation to Council. In three instances, the Panel recommended retention of the listing in the LGI, but questioned the relevance of the listing in the Schedule under TPS3. At that point of time, proposed modifications to planning legislation under the *Planning and Development (Local Planning Scheme) Regulations 2014* did not recognise the importance of a local planning policy. As such, it was important to retain the registration in the LGI and Schedule to ensure any future development responded to heritage planning objectives. It has been confirmed by the Department of Planning that the new planning legislation will recognise the importance of a local planning policy. Accordingly the Town is finalising a proposed policy review to address requirements for delisting and demolition of heritage properties to ensure the local heritage characteristic of the Town are suitably preserved.

The proposed policy review endorses the Peer Review Panel approach used during the LGI review to assist the Town process requests by owners for a review of a heritage category assessment for their property. The Panel's role will be to make a recommendation on the review of a heritage classification of a place to Council where an owner seeks a review of a heritage listing outside of the scheduled LGI and Schedule review programs.

The policy review proposes to include direction on determining planning applications for Category C heritage places. This includes allowing for greater flexibility to be applied to Category C places than Category A and B places, when determining a planning application.

In accordance with the recommendations of the State Heritage Office the proposed policy revisions include procedures for adding, deleting or amending entries on the Schedule. This aims to provide greater clarity and transparency with regard to the processes involved in heritage listing.

The proposed policy provides direction on how the Town may consider the removal of a place from the Schedule (e.g. Category C listing) if, following consideration of a detailed Heritage Assessment by both the Town and the Town's Peer Review Panel, the place no longer is considered to meet the threshold for inclusion in the Schedule.

The proposed processes will vary dependant on whether the property is a Heritage Place, or contained within or within the immediate locality of a Heritage Area or Precinct.

It is proposed that demolition of any Heritage Place as an individual listing or as part of a Heritage Area or Heritage Precinct requires agreement from Council for removal from the LGI and the Schedule and a planning approval. Council should in the first instance agree to the delisting of the place for one or more of the following reasons:

- The Council believes the demolition of a place is required to deliver exceptional benefits to the community.
- It has been proven that it is not feasible to restore or adapt the place.
- Structural failure is proven and the building is beyond reasonable conservation.
- A place is found to no longer meet the threshold for inclusion based upon the findings of a detailed Heritage Assessment and Council consideration of a recommendation from the Peer Review Panel.
- Any other reason the Council finds warrants the delisting.

Where the property is within or within the immediate locality of a Heritage Area or Precinct, the agreement for removal of the Category listing from the LGI and the Schedule will be subject to the lodgement of a planning application, which proposes demolition and a new development which addresses the requirements of this policy with regard to the Guidelines for Development within the Immediate Locality of Heritage Areas and Heritage Precincts to the satisfaction of Council (e.g. – the development is complementary to the Heritage Area or Precinct). Individually listed properties will also be subject to a planning application, but not subject to guidelines.

As a condition of planning approval for the demolition and redevelopment of a property which is individually listed or listed within a Heritage Area of Heritage

Precinct in the LGI or the Schedule, the Town will require an Archival Record /Interpretation Plan to be submitted and/or an element of interpretation to be included within the new development, i.e. an engraved plaque or other element to the satisfaction of Council. Following satisfaction of these requirements, the property may be removed for the LGI and Schedule.

The proposed definition for “Immediate Locality of a Heritage Area or Precinct” means any property within the boundaries of a heritage area or precinct; across the road from or adjoining the side boundaries of a property listed in a heritage area or precinct; or any other place otherwise considered by the Town to have a potential impact on a heritage area or precinct.

Conclusion

The updating of the Schedule to reflect the changes include in the LGI is one of the final stages in the review of the Town’s heritage management process which has been taking place since 2010. New places and sites that were nominated through the review process have also been incorporated.

Voting Requirements

Simple majority decision of Council required.

Officer Recommendation

That Council:

- 1 Advise those who made submissions on the Draft Town of Claremont Schedule of Historic and Other Buildings and Places of the comments contained in the attached submissions table.
- 2 Adopt the Town of Claremont Schedule of Historic and Other Buildings and Places 2015 (attached) under Clause 78 of Town Planning Scheme No. 3, with exception of 16 Hammond Road and 17A Walter Street, which are to be further reviewed by Council’s Peer Review Panel.
- 3 Request the Royal Agricultural Society of Western Australia to provide permission for the Town of Claremont to enter the showgrounds to assign specific management categories for the individual buildings contained in the Claremont Showgrounds Heritage Area and assist in the development of a local planning policy to guide the future development of the showgrounds.

ALTERNATIVE MOTION

Moved Cr Haynes, seconded Cr Browne

That Council:

- 1 **Advise those who made submissions on the Draft Town of Claremont Schedule of Historic and Other Buildings and Places of the comments contained in the attached submissions table, modified to address part 2 below.**
 - 2 **Adopt the Town of Claremont Schedule of Historic and Other Buildings and Places 2015 (attached) under Clause 78 of Town Planning Scheme No. 3, with exception of 34 Servetus Street, 16 Hammond Road and 17A Walter**
-

Street, which are to be further reviewed by Council's Peer Review Panel, and the Royal Agricultural Society WA Showgrounds, which will be subject of a further report back to Council for consideration.

Reason

To allow Council to consider submissions received today from the owner of 34 Servetus Street and the Royal Agricultural Society of WA's solicitor, to provide for the Peer Review Panel to review the listing proposals for 34 Servetus Street and for both matters to be referred back to Council for further consideration by adding these properties to part 2 of the recommendation and deleting part 3.

**CARRIED(117/15)
(NO DISSENT)**

13.2 PEOPLE AND PLACES

13.2.1 WRITE-OFF OLD LIBRARY DEBTS FOR CLAREMONT LIBRARY MEMBERS

File Ref:	FIM/00067
Attachments:	Borrower Previous Debts
Responsible Officer:	Liz Ledger Executive Manager People and Places
Author:	Sarah Liddiard Library Coordinator
Proposed Meeting Date:	16 June 2015

Purpose

For Council to consider the write-off of outstanding Claremont library member accounts considered unrecoverable from 4th June 2005, a period greater than ten years.

Background

The Library charges members an account fee (fine) for overdue items and a fee for lost and damaged items. The report contains a list of members with outstanding fines and fees older than ten years. The list of names is to remain confidential.

The Western Suburbs Library Group (WSLG) decided at a business meeting in 2015 to write off the debts for library members with accounts outstanding greater than ten years. Nedlands, Subiaco and The Grove Libraries have agreed to follow this procedure to clean up the database and remove inactive WSLG members from the AMLIB library database.

Discussion

A review of outstanding debts has been undertaken following an AMLIB report that has identified debts considered to be unrecoverable due to the passage of time.

The debt of \$13,830.15 is unrecoverable and is presented to Council for approval to write-off the Claremont Library debts held by individual library members.

Past Resolutions

Nil.

Financial and Staff Implications

There is no financial implication for the Claremont Library in the write-off of the debt. Library account fees do not raise significant revenue on an annual basis.

The library stock that is missing is older than ten years and is likely to have been written off or sent back to the SLWA in an exchange.

As such, the library debt write-off will have no impact on Councils current year operating surplus.

Policy and Statutory Implications

N/A

Publicity

Nil

Strategic Community Plan**Governance and Leadership**

We are an open and accountable local government that encourages community involvement and strives to keep its community well informed.

- Provide and maintain a high standard of governance, accountability, management and strategic planning.
- Focus on improved customer service, communication and consultation.

Voting Requirements

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED.

Moved Cr Haynes, seconded Cr Wood

That Council approves the write-off of \$13,830.15 being the amount of outstanding monies owed by Claremont Library members with fines and fees greater than ten years.

**CARRIED BY AN ABSOLUTE MAJORITY(118/15)
(NO DISSENT)**

13.3 CORPORATE AND GOVERNANCE

13.3.1 APPLICATION FOR EXEMPTION OF LIMITATIONS OF NUMBER OF DOGS (*DOG ACT 1976*)

File Ref:	Property File 1558
Responsible Officer:	Les Crichton Executive Manager Corporate and Governance
Author:	John Balcombe Senior Ranger
Proposed Meeting Date:	7 July 2015

Purpose

The purpose of the report is for Council to consider an application for an exemption of limitation of the number of dogs allowed to be kept on the property at 7 Dunbar Road Claremont.

Background

The Town received an application on 20 April 2015 for an exemption of limitation of the number of dogs allowed to be kept on a property at 7 Dunbar Road Claremont. The applicant is seeking Council approval to allow three (3) dogs to be kept on the property.

Section 26 (3) of the *Dog Act 1976* provides where a local government local law has placed a limit on the keeping of dogs in any specified area but is satisfied in relation to any particular premises that the provisions of the *Dog Act 1976* have been adhered to, the local government may grant an exemption. Currently Council has not delegated this power to the Chief Executive Officer.

The Town's *Dog Local Law 2012* section 26 (3.2.2) limits the number of dogs which may be kept on any premises to two (2).

At the 2 June 2015 Ordinary Council Meeting, Council considered a report to authorise the Chief Executive Officer to approve the Exemption of Limitation of Dogs application subject to no adverse submissions being received. The report recommendation failed to obtain an absolute majority support.

The applicant currently has an 11 year old Cocker Spaniel and a 2 year old Briard residing on the property. The third dog the owner is seeking approval for is a 2 month old Briard.

The Dog Owners Guide Profile describes the personality of the typical Briard breed of dogs as brave, loyal, intelligent, good-natured and loving with family, and thrives on participating in family activities. In spite of the large size it is essentially a housedog. The life expectancy of the Briard breed is 10-12 years.

Discussion

The Town's Ranger visited the property on the 20 April 2015 to evaluate its suitability to accommodate three (3) dogs. The Ranger's report provided a positive assessment (attached) and appropriate conditions for three dogs to be kept on the property.

As part of the approval process the Town sought submissions from adjoining residents and nearby neighbours. The submission period is for 21 days and closed on Friday 12 June 2015. The Town received one submission; the submission raised the concern of barking. Currently there seems to be a problem with a dog barking inside the house for extended periods when the owners are out or on holiday. The submission states no particular objection to a specified number of dogs being present provided they do not cause a noise nuisance. Applicants have been advised of objection and responded that they are looking into ways of reducing the issue.

Past Resolutions

Ordinary Council Meeting 2 June 2015

Authorises the Chief Executive Officer to approve the Exemption of Limitation of Dogs application subject to no adverse submissions being received.

LOST

Financial and Staff Implications

Resource requirements are in accordance with existing budgetary allocation.

Policy and Statutory Implications

- Town of Claremont Dogs Local Law 2012.
- *Dog Act 1976.*
- *Local Government Act 1995.*

Publicity

Nil.

Strategic Community Plan

People

We live in an accessible and safe community that welcomes diversity, enjoys being active and has a strong sense of belonging.

- Create opportunities for and access to social participation and inclusion in support of community health and well being.
- Play an integral role in local safety and crime prevention.
- Develop a strategy for services and facilities for an ageing population.

Governance and Leadership

We are an open and accountable local government that encourages community involvement and strives to keep its community well informed.

- Focus on improved customer service, communication and consultation.

Urgency

The owner of the property made the application on 20 April 2015 and is due to go overseas later in June and would like the matter resolved.

Voting Requirements

Simple majority decision of Council required.

The Officer Recommendation was revised following release of the Agenda.

NEW OFFICER RECOMMENDATION

That Council approves the Exemption of Limitation of Dogs application to Ms Katharine Adams, 7 Dunbar Road, Claremont with the following conditions.

1. Exemption is given for the lifetime of each of the three dogs currently registered to the applicant;
2. Should a complaint about the dog/s be investigated and found to be proven at any time, Council may revoke or vary the exemption;
3. An application for exemption of limitations of number of dogs is required for any future request for three or more dogs on the property;
4. All dogs must be registered and micro chip in accordance with the Dog Act 1976.

ALTERNATIVE MOTION

Moved Cr Kelly, seconded Cr Edwards

That Council approves the Exemption of Limitation of Dogs application to Ms Katharine Adams, 7 Dunbar Road, Claremont with the following conditions.

- 1. Exemption is given for the lifetime of each of the three dogs currently registered to the applicant;**
- 2. An application for exemption of limitations of number of dogs is required for any future request for three or more dogs on the property;**
- 3. All dogs must be registered and micro chip in accordance with the Dog Act 1976.**

Reason: It is not reasonable that a complaint about any of the dogs could result in the approval being revoked.

AMENDMENT

Moved Cr Tulloch, seconded Cr Haynes

That point 2 be deleted from the Alternative Motion.

Reason: The provision is not considered to be necessary.

**CARRIED(119/15)
(NO DISSENT)**

THE AMENDED ALTERNATIVE MOTION WAS PUT

That Council approves the Exemption of Limitation of Dogs application to Ms Katharine Adams, 7 Dunbar Road, Claremont with the following conditions.

- 1. Exemption is given for the lifetime of each of the three dogs currently registered to the applicant;**
- 2. All dogs must be registered and micro chip in accordance with the Dog Act 1976.**

**CARRIED(120/15)
(NO DISSENT)**

14 ANNOUNCEMENTS BY THE PRESIDING PERSON

Cr Haynes deputised on behalf of the Mayor at an opening at Claremont Quarter where the Scotch College pipe band played.

Cr Goetze attended a concert by the Claremont Consort at the Christ Church Church.

Cr Browne and Cr Wood attended the opening of the final part of the middle school and gallery at Scotch College.

Cr Wood attended the History in a Coffee Cup at the Claremont Community Hub.

The Mayor attended the National General Assembly at the Australian Local Government Association in Canberra.

15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**15.1 NOTICE OF MOTION****15.1.1 ASHTON AVENUE/STUBBS TERRACE TEMPORARY STORAGE DEPOT**

File Ref: COP/00041
Author: Anita Lorenz
Councillor
Proposed Meeting Date: 7 July 2015

Moved Cr Lorenz, seconded Cr Edwards

That

- 1. Administration investigate locating suitable alternative locations for the storage depot which is currently situated on the triangle bounded by Ashton Avenue, Stubbs Terrace and the railway line.**
- 2. Consideration be given to allocating funding for this investigation, as well as to cover concomitant relocation costs and the lease of such a location.**
- 3. A report be brought to council on the resulting options for decision.**
- 4. Efforts be made to complete this relocation as soon as is practicable, but definitely within the time frame of three to five years which was given to residents during consultation.**

AMENDMENT

Moved Cr Haynes, seconded Cr Edwards

That point 2 be deleted.

Reason: There is not a need to be allocating funds for the investigation.

CARRIED(121/15)

For the Amendment: Mayor Barker and Crs Goetze, Edwards, Haynes, Tulloch and Mews.

Against the Amendment: Crs Kelly, Lorenz, Browne, and Wood.

THE AMENDED PRIMARY MOTION WAS PUT

That

- 1. Administration investigate locating suitable alternative locations for the storage depot which is currently situated on the triangle bounded by Ashton Avenue, Stubbs Terrace and the railway line.**
- 2. A report be brought to council on the resulting options for decision.**
- 3. Efforts be made to complete this relocation as soon as is practicable, but definitely within the time frame of three to five years which was given to residents during consultation.**

**CARRIED(122/15)
(NO DISSENT)**

Reason: During advertising for comments residents were advised that the depot was a temporary solution with a time frame of three to five years. The use is now impacting on nearby residents and causing loss of amenity because of smell and dust problems, and noise sometimes as early as 06.45 in the morning from trucks. The screening has proved inadequate to both ameliorating these problems, and to camouflaging the depot, which residents say is unsightly. The situation would never be tolerated anywhere else in the town.

Officer Comment

At its meeting of 17 February 2015, Council approved the Ashton Avenue location as a temporary storage site following a search for a permanent site since May 2011 including two other reports to Council (10 December 2013 & 6 May 2014).

Administration is currently in discussions with Western Power and the City of Nedlands on potential sites and will provide a report including costings to Council once we have something more concrete to present.

The temporary site is not used regularly (it has sat idle for nearly two months prior to recent use) and our cartage contractors did not start work till after 9.00am during the recent usage of the site. On further investigation it was found that there was one occasion where the supplier has brought road material at 6.45 am. It has been made clear to the contractors that the operation of the site should not start before 7 am (Monday to Saturday).

The progress of growth of the plantings outside the storage fence and shade cloth is satisfactory. This reduces the visual impact of the storage area. The planting along Judge Avenue is low. These are additional planting to improve streetscape.

**16 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON
PRESIDING OR BY DECISION OF MEETING**

NIL

17 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**MOTION TO CLOSE DOORS****Moved Cr Haynes, seconded Cr Wood****That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspects of the Act being applicable to this matter:**

(a) A matter affecting an employee or employees.

(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.

**CARRIED(123/15)
(NO DISSENT)***Mayor Barker adjourned the meeting at 8:25PM.**Mayor Barker reconvened the meeting at 8:26PM.***Mayor Barker**

Cr Peter Browne	West Ward
Cr Karen Wood	West Ward
Cr Peter Edwards	West Ward
Cr Jill Goetze	South Ward
Cr Paul Kelly	South Ward
Cr Chris Mews	South Ward
Cr Alastair Tulloch	East Ward
Cr Bruce Haynes	East Ward
Cr Anita Lorenz	East Ward

Mr Les Crichton (Executive Manager Corporate and Governance)

17.1 CHIEF EXECUTIVE OFFICER**17.1.1 ANNUAL PERFORMANCE REVIEW OF CHIEF EXECUTIVE OFFICER**

File Ref: PER/0642
Responsible Officer: Jock Barker
Mayor
Author: Jock Barker - Mayor
Les Crichton - Executive Manager Corporate
and Governance
Proposed Meeting Date: 07 July 2015

Purpose

The following item was considered in closed session.

Moved Cr Wood, seconded Cr Mews

That

- 1. The CEO is congratulated on meeting or exceeding Council expectations for all 2014-15 Personal Objectives and that the annual performance bonus is approved for payment by Council.**
- 2. This report and attachment remains confidential in accordance with statutory requirements.**

**CARRIED(124/15)
(NO DISSENT)**

17.2 CORPORATE AND GOVERNANCE**17.2.1 CLAREMONT AQUATIC CENTRE CAFE LEASE**

File Ref: COM/00030
Responsible Officer: Les Crichton
Executive Manager Corporate and Governance
Author: Sean Badani
Aquatic Centre Manager
Proposed Meeting Date: 07 July 2015

Purpose

The following item was considered in closed session.

Moved Cr Haynes, seconded Cr Goetze

That Council

- 1. Approve to lease and licence the premises relating to portion of Reserve 1366 as detailed in Attachment 1.**
- 2. Finalise documents to lease and licence the above premises to Bilby's Chargrilled Burgers for a term of 3 years commencing 1 September 2015.**

**CARRIED(125/15)
(NO DISSENT)**

MOTION TO OPEN DOORS

Moved Cr Haynes, seconded Cr Edwards

That the doors be opened.

**CARRIED(126/15)
(NO DISSENT)**

THE MAYOR READ ALOUD THE RESOLUTIONS MADE BEHIND CLOSED DOORS.

18 FUTURE MEETINGS OF COUNCIL

Ordinary Council Meeting 21 July 2015.

19 DECLARATION OF CLOSURE OF MEETING

There being no further business, the presiding member declared the meeting closed at 8:50 PM.

Confirmed this day of 2015.

PRESIDING MEMBER