



TOWN OF CLAREMONT

ORDINARY COUNCIL MEETING

MINUTES

TUESDAY 18 APRIL, 2017

Liz Ledger

ACTING 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
18 APRIL, 2017
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 7:00pm.

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

ATTENDANCE

Mayor Barker

Cr Chris Mews

South Ward

Cr Jill Goetze

South Ward

Cr Peter Browne

West Ward

Cr Karen Wood

West Ward

Cr Alastair Tulloch

East Ward

Cr Bruce Haynes

East Ward

Mr Liz Ledger (Acting Chief Executive Officer)

Mr Les Crichton (Executive Manager Corporate and Governance)

Mr David Vinicombe (Executive Manager Planning and Development)

Ms Cathy Bohdan (Executive Manager People and Places)

Ms Katie Bovell (Governance Officer)

Five members of the public

Two members of the press

ATTENDANCE

Cr Paul Kelly – Leave of Absence

Cr Kate Main – Leave of Absence

Cr Peter Edwards - Apology

3 DISCLOSURE OF INTERESTS

NIL

4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mr Kevin Maitland, 4/61 Bay View Terrace, Claremont.

Re: Increasing nuisance Corella Issues.

Note: these responses are in addition to those provided at the Ordinary Council Meeting on 4 April 2017.

Question: We would like to put the following questions to the council and ask that they be taken on notice, addressed seriously and responded to at a subsequent meeting by way of a listed agenda item?

Answer: This was brought before Council on 19 November 2013 and a regional approach was supported at that time.

Question: What steps were taken to have WALGA involved and when did this start?

Answer: WALGA approached DPaW in 2016 for funding/action, this was after a small number of Councils approached them for support for a regional approach to control. The control program initiated by WALGA commenced late in 2016.

Question: What funding (and source) is backing up the culling program?

Answer: DPaW provided their budget for bird control (\$50,000) to WALGA for the 2016-17 year after agreeing with the procedure being proposed to ensure effectiveness. A number of Councils (Including WESROC) provided some additional funding and "in kind" support. Available funding for next year is not confirmed at this stage.

Question: What numbers have been achieved to date?

Answer: In the Western Suburbs there have been over 650 Corellas controlled between two sites. In the metro area there have been four sites used during the last twelve months.

Question: Where is the culling taking place and why not where the most distress is occurring?

Answer: The sites chosen for control have to be suitable for setting up and the ability to exclude the public. Most importantly the land owner has to be supportive of the control; this reduces the number of suitable locations quite considerably. These sites will not be made public to avoid problems with community conflict. The locations are being selected based on population distribution identified by bird counts, reports of problems and ability to find suitable sites nearby.

Question: Has any liaison taken place with other affected councils to strengthen the action?

Answer: DPaW made an attempt in 2013 by writing to all Local Governments and this was only supported by a few Councils including Claremont, as a result of a lack of support this did not progress. WALGA put together a Corella Coordination Working Group in 2016 and all Councils were invited to participate and while numbers of participating Councils has increased, it is still not fully supported by all metro LGA's.

Question: Has there been any monitoring of the noise pollution as there would be for complaints about dog barking, machinery or loud party noise?

Answer: No the Town does not monitor wildlife for noise.

Question: When will the council arrange clean up of the health hazard on Stirling Highway immediately outside the library which is distressing businesses in the immediate area?

Answer: The best way to manage the problem is to scrape the excess faeces off the pavement once it is dry however as these large trees have become a local roosting site, the material is deposited daily making clean up more challenging. Much of this build up washes away during rainfall events.

Question: Has the council tried other bird scare devices from those listed on the internet?

Answer: Corellas are not easily scared off and many of the devices available are for smaller birds such as silvereyes, lorikeets and sparrows, and used mainly in orchards. The birds grow accustomed to all current methods used in a short period of time; they don't scare using dummy birds of prey, kites, humming lines or reflective material. Noise emitters and air cannons will create additional noise pollution which isn't appropriate in built up areas. Discussions with other local governments are taking place to identify possible innovative approaches.

5 PUBLIC QUESTION TIME

NIL

6 PUBLIC STATEMENT TIME**Ms Sally Plummer, 6 King Street, Claremont.****Re: Item 13.1.1, Memorial Plaque Policy LV134.**

Ms Plummer spoke in favour of the officer recommendation.

Mr Patrick Johnston, 4/6 John Street, Claremont.**Re: Item 16.1.1, 256 Stirling Highway, Claremont.**

Mr Johnston spoke against the proposed development application.

Mr Scott Vincent, Planning Solutions.**Re: Item 16.1.1, 256 Stirling Highway, Claremont.**

Mr Vincent spoke in favour of the proposed development application.

7 APPLICATIONS FOR LEAVE OF ABSENCE

NIL

8 PETITIONS/DEPUTATIONS/PRESENTATIONS**8.1.1 CHRIST CHURCH GRAMMAR SCHOOL TRAFFIC MANAGEMENT PLAN - RESIDENTS OF QUEENSLEA DRIVE AND JACARANDA COURT****Moved Cr Mews, seconded Cr Haynes****That the petition be received.****CARRIED(52/17)
(NO DISSENT)****9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****Moved Cr Browne, seconded Cr Tulloch****That the minutes of the Ordinary Meeting of Council held on 4 April 2017 be confirmed.****CARRIED(53/17)
(NO DISSENT)****10 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETING MAY BE CLOSED TO THE PUBLIC**

NIL

11 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETINGNIL

12 REPORTS OF COMMITTEES

NIL

13 REPORTS OF THE CEO

13.1 CHIEF EXECUTIVE OFFICER

13.1.1 MEMORIAL PLAQUE POLICY LV134

File Ref:	COM/00032
Attachments:	Memorial Plaque Policy LV134
Responsible Officer:	Stephen Goode Chief Executive Officer
Author:	Ashley Rush Executive Assistant
Proposed Meeting Date:	18 April 2017

Purpose

A policy has been established to provide guidelines and consistency for memorial plaques in public spaces within the Town.

Background

The Town receives requests from the public to have memorial plaques installed in remembrance of a deceased person/s. As such the Town has developed a policy, to guide the decision making when receiving these requests.

Discussion

The objectives in relation to plaques and memorials are to:

- Manage the number of plaques and memorials in open space
- Restrict plaques and memorials to events or persons of outstanding significance to an area
- Minimise the risks and environmental impact of plaques and memorials

Applications are reviewed at the CEO's discretion under delegation of Council and will require detail on how the nominee has made a significant contribution to the Claremont community. Public Assets can be donated to accompany the plaque and could include, but not limited to planting, seating, barbeque or artwork.

All costs associated with the supply and installation of the memorial and or public asset are to be borne by the applicant and installation works are to be organised by the Town.

Plaques and donated public assets will be subject to the same level of maintenance as other infrastructure. The plaque and/or public asset will remain in place as long as it remains in good working condition and complies with the Town's standards.

Council cannot guarantee that a plaque and asset will remain at the designated site for any length of time, the CEO reserves the right to have it removed at the Town's discretion.

Should for any reason, an installed memorial become disturbed through works, either by the Town, or by an external contractor, the memorial shall be removed at the expense of the party undertaking the works and reinstalled, if appropriate, in the same location or installed in another location nearby if possible.

Past Resolutions

Nil

Financial and Staff Implications

No initial costs however there will be ongoing maintenance costs involved.

Policy and Statutory Implications

Town of Claremont Policy Manual

Communication / Consultation

The Town receives between 2-3 requests each year.

Strategic Community Plan**Liveability**

We are an accessible community, with well maintained and managed assets, and our heritage preserved for the enjoyment of the community.

- Clean, usable, attractive, accessible streetscapes and public open spaces.
- Develop the public realm as gathering spaces for participation and enjoyment.
- Maintain and upgrade infrastructure for seamless day to day usage.

Urgency

N/A

Voting Requirements

Simple majority decision of Council required.

Moved Cr Goetze, seconded Cr Tulloch

That Council adopt new policy Memorial Plaque Policy LV134 as detailed in Attachment 1.

**CARRIED(54/17)
(NO DISSENT)**

13.2 CORPORATE AND GOVERNANCE

Items 13.2.1 to 13.2.2 were carried en bloc.

13.2.1 LIST OF PAYMENT 1 TO 31 MARCH 2017

File Ref:	FIM/00062-02
Attachments:	Schedule of Payments 1 to 31 March 2017 Purchase Card Payments 28 January to 28 February 2017 Purchase Card Payments 1 March to 28 March 2017
Responsible Officer:	Les Crichton Executive Manager Corporate and Governance
Author:	Edwin Kwan Finance Officer
Proposed Meeting Date:	18 April 2017

Purpose

For Council to note the payments made in March 2017.

Background

Council has delegated to the CEO the exercise of its power to make payments from the Municipal Fund and Trust Fund. The CEO is required to present a list to Council of those payments made since the last list was submitted.

Discussion

Attached is the list of all accounts paid totalling \$2,779,370.83 during the month of March 2017.

The attached schedule covers:

- Municipal Funds electronic funds transfers (EFT) \$ 2,139,242.85
- Municipal Fund vouchers (39514-39518) \$ 27,642.98
- Municipal Fund direct debits \$ 529,539.39
- Trust Fund electronic funds transfer (EFT) \$ 82,945.61
- Trust Fund vouchers \$ 0.00

All invoices have been verified, and all payments have been duly authorised in accordance with Council's procedures.

Past Resolutions

Ordinary Council Meeting 21 March 2017, Resolution 37/17:

That Council notes all payments made for February 2017 totalling \$1,556,347.24 comprising;

<i>Municipal Funds electronic funds transfers (EFT)</i>	<i>\$</i>	<i>1,063,263.93</i>
<i>Municipal Fund vouchers (39510-39513)</i>	<i>\$</i>	<i>5,530.26</i>
<i>Municipal Fund direct debits</i>	<i>\$</i>	<i>435,097.41</i>

<i>Trust Fund electronic funds transfer (EFT)</i>	\$ 52,455.64
<i>Trust Fund vouchers</i>	\$ 0.00

That Council notes all payments made for January 2017 totalling \$1,687,689.78 comprising;

<i>Municipal Funds electronic funds transfers (EFT)</i>	\$ 1,149,780.32
<i>Municipal Fund vouchers (39508-39509)</i>	\$ 11,889.43
<i>Municipal Fund direct debits</i>	\$ 511,943.11
<i>Trust Fund electronic funds transfer (EFT)</i>	\$ 14,076.92
<i>Trust Fund vouchers</i>	\$ 0.00

Financial and Staff Implication

Resource requirements are in accordance with existing budgetary allocation.

Policy and Statutory Implications

Local Government (Financial Management) Regulations 1996, Regulations 12- 13. Town of Claremont Delegation Register – DA9 Payment of Accounts.

Communication / Consultation

N/A

Urgency

The Schedule of Payments is to be presented to the next ordinary meeting of Council after the list has been prepared.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Wood, seconded Cr Tulloch

That Council notes all payments made by the CEO under Delegation DA9 for the month of March 2017 totalling \$2,779,370.83 as detailed in Attachments 1, 2 and 3 comprising;

Municipal Funds electronic funds transfers (EFT)	\$ 2,139,242.85
Municipal Fund vouchers (39514-39518)	\$ 27,642.98
Municipal Fund direct debits	\$ 529,539.39
Trust Fund electronic funds transfer (EFT)	\$ 82,945.61
Trust Fund vouchers	\$ 0.00

**CARRIED(55/17)
(NO DISSENT)**

13.2.2 APPLICATION FOR EXEMPTION OF LIMITATION OF NUMBER OF DOGS

File Ref: PROPERTY FILE 2656
Responsible Officer: Les Crichton
Executive Manager Corporate and Governance
Author: John Balcombe
Senior Ranger
Proposed Meeting Date: 18 April 2017

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 5 Myera Street Swanbourne.

Background

At the Council meeting held 21 June 2016 Council approved the keeping of three dogs registered to the owner of 5 Myera Street, Swanbourne and an exemption for a fourth dog (a 6 year old Labrador) belonging to a relative of the property owner who had just immigrated to Australia to be housed at the property until 31 December 2016.

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. The Town's Dog Local Law 2012 section 3.2(2) limits the number of dogs which may be kept on any premises to two.

The applicant is seeking approval to keep a fourth dog (6 year old Labrador) permanently at the property. There are two dwellings on the property.

The Dog Owners Guide Profile describes the personality of the typical Labrador breed of dogs as charming, clever, trusting, good family companion, very independent and a useful working dog. The life expectancy of the Labrador is 10 - 14 years.

Discussion

On 8 February 2017 the Town received an application for an exemption of limitation of the number of dogs allowed to be kept on the property at 5 Myera Street, Swanbourne. The applicant is seeking approval for four dogs to be kept permanently on the property.

The Town's Ranger visited the property on the 22 February 2017 to evaluate its suitability to accommodate four dogs. The Rangers report provided a positive assessment and appropriate conditions for four dogs to be kept on the property.

As part of the approval process the Town sought submissions from adjoining residents and neighbours. The submission period was for 21 days and closed on 14 March 2017. No submissions were received.

The Town has not received any complaints about the dogs since the June 2016 approval.

Given the dogs have proven not to cause a nuisance and no adverse submissions were received in relation to the application, it is recommended exemption for the fourth dog (Labrador) to be housed permanently (lifetime) at the property.

Past Resolutions

Ordinary Council Meeting 21 June 2016 Resolution 97/16:

That Council approves the Exemption of Limitation of Dogs application to Ms Margot Partridge, of 5 Myera Street, Swanbourne with the following conditions.

1. *Exemption is given for the lifetime of each of the three dogs currently registered to the applicant.*
2. *Exemption is given for a period ending 31 December 2016 for the one dog currently registered to Heather Draver.*
3. *All dogs must be registered and micro-chipped in accordance with the Dog Act 1976.*

**CARRIED
(NO DISSENT)**

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*

Communication / Consultation

Letters to adjoining neighbour's inviting comment.

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.

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.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Wood, seconded Cr Tulloch

That Council approves the Exemption of Limitation of Dogs application to the owner of 5 Myera Street, Swanbourne with the following conditions.

- 1. Exemption is given for the fourth dog (Labrador) to be housed permanently (Lifetime) at the property**
- 2. The dog is to be registered and micro-chipped in accordance with the Dog Act 1976.**

**CARRIED(55/17)
(NO DISSENT)**

13.2.3 DEED OF EASEMENT - 1/88 DAVIES ROAD, CLAREMONT

File Ref:	1244
Responsible Officer:	Les Crichton Executive Manager Corporate and Governance
Author:	Peter Scasserra Coordinator Property and Leasing
Proposed Meeting Date:	18 April 2017

Purpose

Report recommends legal costs incurred by registered owners of 1/88 Davies Road Claremont in relation to the preparation of Deed of Easement be responsibility of the owners.

Background

To address the encroachment of a residence located at Lot 1 on Strata Plan 2835 (1/88 Davies Road, Claremont) into Lot 900 Davies Road Claremont, the Town placed a notification on the certificate of title under section 70A of the *Land Administration Act 1997* to acknowledge it did not consent to or abandon any proprietary rights over the whole, or any part of the encroached upon land, and to ensure the encroachment is removed upon any future redevelopment of 1/88 Davies Road.

The encroachment was not recognised during design, approval or construction of the building.

Following the registration of the s.70 notification, the owners of 1/88 Davies Road commissioned a surveyor to lodge an application for re-subdivision of Lot 1 on Strata Plan 2835 with Landgate to reflect the change to the southern boundary of the original strata survey as a result of the construction of their dwelling.

Landgate did not accept the application, advising the s.70 notification does not meet the requirements of the *Strata Titles Act 1985*. To progress with re-subdivision the owners therefore requested an easement be granted in lieu of the notification.

In April 2016, Council approved granting of an easement and subsequent removal of the s.70 notification.

Discussion

A draft Deed of Easement was prepared by the Town's solicitor and presented to the owners of 1/88 Davies Road Claremont for review. Following their review, they expressed concern about some of the wording contained within the Deed and sought their own legal advice, prior to requesting changes to the draft.

With the final draft now agreeable to both parties, the owners have requested the Town pay for their legal costs as the encroachment was originally approved by Council, and that the draft of the deed required broad review.

As acknowledged by the Town and the owners, the encroachment was missed during the approval process, in the same manner it was missed in error when the building was designed and constructed.

In relation to the draft easement requiring review, while the Town has prepared the first and subsequent draft (through its solicitor), it is responsibility of each party to satisfy themselves (legally or otherwise) as to the accuracy of any written agreement they make.

Council approved granting the easement based on the owners being responsible for costs associated with its preparation and lodgement, and removal of the s.70 notification.

In order to progress what has been a long process, it is recommended that each party be responsible for their own legal costs.

Past Resolutions

Ordinary Council Meeting 5 April 2016, resolution 55/16,
Granting of easement to the owners of Lot 1 on Strata Plan 2835 for the portion of their building/wall encroaching into Lot being Lot 900 and subsequent removal the section 70A notification from the Title to Lot 1.

Ordinary Council Meeting 18 August 2009, resolution 219/09;
Recognition of encroachment and placement of Section 70A notification on Lot 1/88 Davies Road.

Ordinary Council Meeting 15 February 2005, Resolution 23/05:
Approval to construct a proposed single storey dwelling at 1/88 (Lot 1) Davies Road, Claremont, with conditions.

Financial and Staff Implications

The Town will be responsible for costs associated with the preparation and lodgement of the Easement, and removal of the s.70 notification.

They landowners have requested the Town pay their legal costs of \$2,900.

Policy and Statutory Implications

Local Government Act 1995

Transfer of Land Act 1893

Strata Titles Act 1985

Communication / Consultation

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.

Urgency

The applicants are seeking a decision of Council.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Tulloch, seconded Cr Haynes

That Council endorses the Town to advise the owners of 1/88 Davies Road, Claremont that they (the owners) will be responsible for their own legal costs associated with the preparation of the Deed of Easement relating to the encroachment of their building onto Lot 900 Davies Road, Claremont.

**CARRIED(56/17)
(NO DISSENT)**

For the Motion: Crs Tulloch, Haynes, Goetze, Browne, and Mews.

Against the Motion: Mayor Barker and Cr Wood.

14 ANNOUNCEMENTS BY THE PRESIDING PERSON

Councillor Goetze reported on her attendance at ART TRA.

15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

NIL

16 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF MEETING**16.1 CHIEF EXECUTIVE OFFICER****16.1.1 BA LOT 102 (256) STIRLING HIGHWAY CLAREMONT - PROPOSED CHANGE OF USE TO CONSULTING ROOMS**

File Ref:	A-3660 01SAT/17/3660
Attachments Public:	Location and Submission Map Photograph
Attachments Restricted:	Plans Submissions
Responsible Officer:	David Vinicombe Executive Manager Planning and Development
Author:	Nick Bakker Senior Planner
Proposed Meeting Date:	18 April 2017
Date Prepared:	18 April 2017
Planning Application No.:	DA 2016.00125
Due Date:	18 April 2017
Property Owner:	Zena Nominees Pty Ltd
Submitted By:	Planning Solutions
Lot No.:	102
Area of Lot:	2308m²
Zoning:	Highway and Metropolitan Region Scheme Reservation for Primary Regional Road
Financial Implications:	Nil
Enabling Legislation:	<i>Planning and Development Act 2005 (PDA)</i> <i>Town Planning Scheme No. 3 (TPS3)</i> <i>State Administrative Tribunal Act 2004 (WA) (SAT Act)</i>

Summary

- Application for development approval received for a change of use to one of the four vacant tenancies at Lot 102 (256) Stirling Highway, Claremont from 'Office' to 'Consulting Room' (Imaging Central).
 - 12 neighbours were consulted and five objections were received.
 - The objections from the neighbouring residential strata owners related to parking, access and resultant impacts on the residential amenity and traffic in John Street, due to constrained access from the narrow width of a Right of Way (ROW) servicing the rear of the property.
 - Following discussions with the former applicant for Imaging Central and agreement on conditions to be applied to reduce the parking and traffic impacts on the neighbouring residential property, the objections were
-

withdrawn subject to the approval being conditioned to address the neighbour's concerns, particularly with regard to customer parking and formalising (and controlling) use of the ROW from John Street (refer to discussion below).

- On 15 February 2017 the former proposal was approved under delegated authority subject to conditions inclusive of the following conditions relative to parking and access:
 - “2. All customer parking is restricted to the car park adjoining Stirling Highway.
 3. The Right of Way from John Street is to be sign posted to indicate that the rear car park is restricted to staff only.
 4. The existing line marking on the rear Right of Way is to be removed and the new parking bays to be line marked as per the approved parking plan.
 5. Prior to the issue of a Building Permit the owner/s must register on the Certificate of Title to the land an easement in gross, which provides for rights of carriageway over the area indicated on the approved plan, in accordance with the requirements of the Town of Claremont. The easement in gross must be prepared and registered by the Town of Claremont's solicitors at the cost of the owner/applicant.”
 - The owner of the property lodged an application for review of the approval to the SAT requesting removal of a number of the conditions – specifically those relating to parking and access requirements contained in conditions 2, 3 and 5 above, plus two other conditions (8 & 9) relating to drainage and building appearance.
 - It is noted that the initial applicant and tenant are no longer involved with the application and new planning consultants are now representing the owner with (as far as the Town is aware) no specific consulting room tenant in mind.
 - Mediation took place on 20 February 2017 before SAT Member Rebecca Moore. Ms Moore was of the view that these conditions (2, 3, 5, 8 & 9) could not be substantiated and directed that Council should review the approval by 18 April, 2017 pursuant to s. 31(1) of the *State Administrative Tribunal Act 2004 (WA)* (SAT Act).
 - As the initial approval was granted under delegated authority, Delegation DA22 provides for the new decision in relation to this matter to also be determined under delegated authority unless called in for Council consideration. Legal advice received by the Town confirms that the SAT cannot prevent an officer acting under delegation of the Council to determine this matter.
 - As the parking and access conditions (which were considered unsubstantiated by the SAT Member) were integral considerations in the removal of the former objections and negotiations with the former applicant and neighbours to approve the initial development, two critical matters require reconsideration. These include further consultation with the neighbours given that they had withdrawn their former objections on the basis of the conditions and agreement with the former applicant; and whether the changed circumstances (removal of the conditions controlling the impacts of parking and access on the
-

neighbours, and a change to any form of consulting room) warrants the issue of a refusal for the development as part of the reconsideration.

- Legal advice confirms that in reconsidering the application, the Council is now able to refuse the development due to the changed circumstances.
- Consultation with neighbours has resulted in the reinstatement of the former objections together with the raising of additional concerns over the nature of the consulting rooms now being contemplated – instead of a low traffic generating radiology clinic, the consulting rooms could be occupied by a higher traffic generating Doctor's surgery or any other form of consulting room which will further impact the operation of the ROW and impact on the neighbours.
- A call from one neighbour was made for a detailed traffic report to be submitted to support the revised application and conditions, however the time constraints imposed by the SAT for reconsideration of this matter do not provide for this to occur.
- On the basis of the unresolved neighbour (and officer) concerns relating to the amenity and traffic flow/parking impacts resulting from the changed nature of use, potential for a significant increase in traffic and parking at the rear of the site from consulting room patients and constrained access through the ROW to John Street, the application is no longer supported and a Delegated recommendation for refusal was issued to Elected Members on 13 April, 2017.
- In accordance with the conditions of DA22, this application has been called in for formal Council consideration – necessitating the presentation of this late report to Council to achieve the SAT Order timeframe.
- The SAT review is adjourned to a further Directions Hearing on 28 April, 2017.

Purpose

This report is for Council to reconsider its decision, made under delegated authority, to approve this application subject to conditions; in particular conditions 2, 3 and 5 of the development approval dated 15 February 2017.

The application requires the Council's determination due to an Elected Member calling the item in for full Council consideration after review of the officer's delegated report dated 13 April 2017.

Background

The summary above details the pertinent aspects of the background relating to this application.

Past Resolutions

There are no past Council resolutions relevant to this application.

Consultation

The application was advertised in accordance with Local Planning Policy LG525.

12 neighbours were consulted and five objections were received. A summary of the submissions have been provided as follows:

Submission Number	Submission
1	<p>When I viewed the plans in your office the area in red did not include any parking, however the outline of the property cut through the parking on the south side. I am told that there is an agreement with the owners of 6 John St concerning this parking but there is no mention of this on my title, I have passed your letter on to the strata manager who seems to be unaware any agreement but is searching his records. If you have a copy of any such agreement I would appreciate seeing a copy.</p> <p>If parking is permitted on this laneway it would not be suitable for customers visiting consulting rooms. There are some 30 parking bays in this area, assuming the average consultation to be 15 minutes there would be 240 car movements up and down 40 metres of single track road (4 per minute!).</p> <p>This is of course the extreme case but there remains a 40m stretch were cars going in opposite directions cannot pass and one or other would have to back out. From neither end it is possible to see if there is a car already in the lane, backing out into John St would be extremely hazardous.</p> <p>While I have no reason to object to the change of use of 256 Stirling Highway I do object to any use that would affect access to my property from the laneway.</p>
2	<p>In response to your letter dated 14th September regarding the change of use to the above address, while I have no objection to the premises being used as consulting rooms, I do have great concern regarding parking off the rear right of way. The access is one way, narrow and unless restricted could seriously compromise the amenity and safety of the residents of 6 John Street.</p> <p>Another consideration would be to have a restriction in place to limit the consulting hours to normal business hours. While Imaging Central may have reasonable consulting times, unless a formal restriction is in place the consulting hours may change with a different tenancy.</p>
3	<p>John Street Claremont permits a limit of 4 hours parking on the western side of the street Monday to Friday until 5pm. Parking is not permitted on the eastern side or the verges at any time apart from a small section near Stirling Highway.</p> <p>There are limited parking spaces available to visitors to the area each day. This is the reason the owners of properties requested restrictions on daily parking requirements which resulted in the 4 hour daily time limit being introduced. This unfortunately is not always observed.</p> <p>Consulting rooms of Image Central will increase the number of people and vehicles to the area and can only create more congestion and inconvenience to the local residents. The question of 1-2 bays only causing a minor shortfall of parking is not realistic. The consulting envisaged will have many clients seeking the services of this type of business. It is clear the access to the rear of the premises will not work - 40 metres of a single track road is not workable.</p>

	<p>We do not have any objection to the change of use of 256 Stirling Highway, however, the proposal to conduct the business without major disruption in the laneway is not feasible.</p>
<p>4</p>	<p>The signage only relates to the façade facing out on to Stirling Highway. This was the phone advice given by the Planning Officer, Town of Claremont.</p> <p>These are the issues of concern below:</p> <ul style="list-style-type: none"> a) The shortfall of parking bays (1-2 bays less than requirement under Town Planning Scheme No. 3). Concern that there is this requirement within the scheme, for a reason. Consulting rooms as opposed to offices, can vary greatly in ‘traffic’ and hence, parking requirements. b) The shortfall being a 40m single lane road, being used as the thoroughfare for additional traffic. A consultancy would bring additional traffic. This is dangerous as one entry and exit point. Cars would be backing out onto blind corners. Blind corners with traffic entering, immediately, on to it from Stirling Highway. This would be dangerous and reckless. <p>The wall at the entrance and same exit, of this laneway, has been hit. Resulting in it demolishing two-thirds of the laneway wall on two occasions thus far, from vehicles backing out.</p> <p>Our experience is that other councils, have adopted change of use proposals and this has not been fully considered, and resulted in a massive shortfall in parking for residents, visitors and trades people. This led to disgruntled clients, plus residents and some very antisocial behavior. Resulting in damages.</p> <ul style="list-style-type: none"> c) The proposed consultancy opening days and hours has not been outlined. Even operating within normal operating hours it would create a parking issue as outlined in point a) and b). If opening hours are also, outside normal operating hours it creates additional noise and disruption in a shared laneway. This laneway is utilised as part of the Title, to the units of 6 John Street, Claremont and is our access. d) If the proposed premises is rezoned to enable it to function as consulting rooms in the future, beyond this tenancy, this could be more diverse. For example, if the consultants offices became psychiatric consultancy or a dependency rehabilitation consultancy. <p>What provision is made for the type of consultancy within this change of use proposal? [I note as an example, an East Fremantle premises which became a methadone clinic].</p> <p>For my reasons outlined above, I therefore object to the change of use of premises pertaining to 256 Stirling Highway, Claremont.</p> <p>Unless I can be satisfied that my concerns have been acknowledged and terms, agreeable by all parties, are met in writing, my objection</p>

	remains.
5	<ol style="list-style-type: none"> 1. No bin location noted on the plan. 2. Parking, there is a right of way on the northern boundary of my property and I do not want my access obstructed. I am also concerned about visitor bays increasing traffic through the right of way and potentially blocking access to the right of way.

Full copies of the submissions are attached to this report.

Metropolitan Region Scheme Metropolitan Region Scheme (Main Roads WA 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 2005* (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 advised that they have no objection to the proposed additions and alterations subject to the following conditions:

- i. *The type of sign, size, content and location must comply with all relevant by-laws and planning schemes made by Council.*
- ii. *The sign and sign structure is to be placed on private property and shall not over hang or encroach upon the road reserve.*
- iii. *If the sign is illuminated, it must be of a low-level not exceeding 300cd/m², not flash, pulsate or chase.*
- iv. *The device shall not contain fluorescent, reflective or retro reflective colours or materials.*
- v. *No other unauthorized signing is to be displayed.*
- vi. *Main Roads agreement is to be obtained prior to any future modifications.*

If Council supports this application, it is recommended that any approval be conditioned to comply with the above requirements. A refusal of the application is not considered to be inconsistent with the recommendation of 'no objection' from MRWA and therefore a refusal determination is considered consistent with the powers delegated to the Council under the PDA MRS Instrument of Delegation (Del 2011/02).

Discussion

Description

The original proposal approved under delegation of Council was for consulting rooms to secure the lease on one of the four vacant tenancies at Lot 102 (256) Stirling Highway. The original applicant and tenant are no longer involved in the application and the owner's (new planning consultants) have lodged the application for SAT

review of conditions previously negotiated with the former applicant to address neighbours' concerns.

The proposed use will consist of five formal consulting rooms along with associated waiting rooms and reporting rooms and will operate with a maximum of six staff members on a 6-day trading regime, the hours of operation will be 8.00am to 5.30pm Monday-Friday and 8.30am-11.30am Saturdays. The only changes to the building will be the internal fit out and signage which will replace the existing signs on site for the previous uses. All signage is in keeping with the Town's Signs Local Law 2000 and although supported all signs will be subject to a separate Sign Licence Application (this will be conditioned accordingly if the development is approved).

Under the provisions of TPS3, the subject site is partially zoned 'Highway' but is also subject to a 'Primary Regional Roads' reservation under the MRS. The application required referral to MRWA for comment, which raised no objection to the proposal subject to the conditions detailed above.

The proposal complies with all relevant TPS3, Local Law and Policy requirements with exception to parking.

A 'Consulting Room' within the "Highway" zone is listed as an 'AA' use under Table 1 of TPS3.

The former delegated approval for the consulting rooms did not specify the type of consulting rooms proposed to occupy the tenancy, however the former assessment did give a favourable consideration to parking concessions in cognisance of the parking impacts envisaged with the operation of a radiology clinic. The current applicant has not specified the type of consulting room proposed and accordingly the impacts of a broader range of consulting rooms are considered in the reconsideration of this matter. Accordingly, the worst case scenario of a Doctor's surgery should be applied to Council's reconsideration of the application.

Compliance - Parking

The current approved development consists of office (1542m²) and showrooms (281m²) – TPS3 requires 51.4 bays for the office and 7.025 bays for the showroom – total 58.425 (58.42). The existing development does not provide this number of bays. Therefore the status quo provision of 39 bays may apply to the whole site for the existing uses under cl. 30 of TPS3.

In considering this application, the only essential difference between the status quo parking for the existing development is the staff parking requirement for the consulting rooms, with six additional parking bays required – total 64.42 (64) bays. Based on consideration of the status quo parking position (39 bays), the new parking requirement for the inclusion of consulting rooms is 45 bays (without consideration of parking concessions under cl.31A of TPS3) – a shortfall of six car parking bays.

The initial application favourably considered parking concessions under cl. 31A of TPS3, which provides for Council to (at its absolute discretion) consider parking concessions of up to 35% where appropriate and justified. The initial application warranted concessions of 5% for proximity to a bus stop, 5% for proximity to public parking and 5% for bicycle parking.

Significantly the revised assessment of the development application considers that the former applicant (Imaging Central) is no longer going to lease the property, and this opens the use to other forms of consulting room purposes inclusive of a Doctor's surgery, with varying resultant impacts on traffic generation, parking demand and traffic movement. The following assesses these impacts relative to expected operational characteristics of a radiology clinic compared to a Doctor's consulting room.

Imaging Central proposed two radiologists and four other staff at any one time. Radiology clinics generally have longer and more defined consultation periods of approximately 30-45 minutes and a lower turn-over of patients per hour, with less patients waiting at any one time. At any one time there could be two patients being seen and two waiting – total four.

A normal Doctor's surgery (limited to two medical consultants and four other staff at any other time - to be consistent with the initial application) will attract more patients at any one time due to shorter consultation periods of between 10-15 minutes and due to an increase in the number of patients waiting. At any one time there could be two patients being seen and four (or more) waiting – total six (or more dependent on the number of patients waiting). Significantly however, the number of patients being seen per hour is expected to dramatically increase due to the shorter consultation periods and increased number of waiting patients. Without limitations on traffic flow to the rear of the property, the increased number of patients being seen and waiting is expected to significantly increase the volume of traffic in the rear ROW and increase the potential for hazardous traffic manoeuvres of entering vehicles backing out onto John Street when facing exiting traffic from the rear parking area.

In summary, due to the different consultation times and patient ratios, parking requirements for a regular Doctor's surgery will significantly increase compared to the initially proposed radiology clinic. The impact of the additional patient vehicles may therefore have a determining influence on the level of discretion that may be applied to the parking calculations; Council may consider parking concessions ("at its absolute discretion") to the parking requirements and is not bound to grant parking concessions for every application as provided for under cl.31A of TPS3.

Given that the nature of the consulting rooms, and conditions for the operation of the parking area have changed since the original approval was granted and also as the status quo parking of 39 bays is significantly less (25 bays or 40% shortfall) than the required 64 bays, it is no longer considered reasonable to apply the same concessions under this reassessment for a Doctor's surgery under cl.31A of TPS3.

Accordingly, the 39 parking bays provided on site are significantly less than the parking requirement of 45 bays. It is therefore considered that the revised proposal does not provide sufficient parking for a Doctor's surgery in addition to the other showroom and office uses.

Access

The site contains two parking areas. Thirteen bays are provided at the front of the property with direct access from Stirling Highway. Twenty six bays are provided at the rear of the property (in a tandem arrangement) with access being made available

from John Street through a 3.0m wide ROW. The width of the ROW limits access and egress to the rear parking area to one way traffic. This matter is of specific concern as detailed below.

Response to Neighbours' Concerns

The original proposal was advertised in accordance with TPS3 and Council Policy, and five objections were received. All of the respondents reside within the strata complex at 6 John Street located on the south side of the ROW behind the subject site. Four of the five submissions were primarily concerned with the parking proposed to the rear of the existing development which can only be accessed via the ROW from John Street. The original plans submitted with the application showed a number of the existing parking bays located along the southern boundary of 256 Stirling Highway and straddling the ROW directly abutting the northern boundary of the neighbouring strata properties. This was organised as part of a previous planning approval, however was not secured by a right of carriageway agreement. To address this matter, the former applicant amended the plans to show all parking bays being removed from the ROW and relocated the bays to sit wholly within the subject site next to the building. To further address parking concerns and use of the ROW, an agreement was also made with the former applicant that no customer parking would occur at the rear of the property. The strata manager of 6 John Street presented the amended plans and the proposed control measures on use of the ROW and customer parking at the rear of the site to the strata owners who have access over the ROW. The Town then received written confirmation from all impacted strata owners stating they were satisfied with the new parking arrangements and formally withdrew their objections to the development. Accordingly, the delegated approval was conditioned to ensure all visitor access for Imaging Central is from Stirling Highway and that the ROW from John Street be sign posted to indicate restricted access to the rear car park for staff only.

As the specific conditions which were intended to resolve the neighbour's issues are now the subject of this SAT review, the Town can no longer consider the above objections 'withdrawn' and they must be considered as part of this reconsideration.

Following the receipt of the Section 31(1) reconsideration the Town approached the strata manager to discuss the SAT direction and attempted to arrange an alternative agreement if the above conditions were to be removed from the approval. The strata manager refrained from representing the strata owners in this instance. The Town then met with the main objecting neighbour to explain where the SAT proceedings were heading and the likely removal of the original conditions of development approval.

The neighbour reiterated the former concerns over the parking of customer vehicles relative to the consulting room (specifically the impacts of larger volumes of patient vehicles) and the narrow width of ROW at the John Street entrance (for a distance of approximately 20m). With the 3m width, the primary concern is that the extra volume of vehicles associated with the current consulting rooms proposal will result in significant congestion with the likelihood that vehicles will have to reverse back out onto John Street. With street parking and the proximity to Stirling Highway, the concerns relative to the constrained access are likely to impact on traffic flow in John Street.

To address these issues, the Town requested (through the new applicant) if the owners of the property would agree to a Parking Management Plan providing for:

- A 'Give Way to incoming traffic' sign erected at the eastern entrance of the ROW (where the access narrows)
- A requirement to prevent patient vehicles at the rear parking area.

If these two matters were supported it may have been possible to address the access concerns raised by the neighbour, however the owner's consultant only agreed to the first point and did not agree with the second. Consequently the access concerns remain, now compounded by more recent concerns from the neighbour regarding the changed nature of the proposed consulting rooms and the likely impact of a Doctor's surgery in attracting significantly more traffic to the site, and specifically the rear of the site through the tight ROW access.

Accordingly, the revised circumstances relating to parking demand and operational arrangements regarding access no longer warrant the issue of an approval.

Summary

Based on the above, it is recommended that the application now be refused due to parking and access concerns

Voting Requirements

Simple majority decision of Council required.

Moved Cr Haynes,

THAT Council, pursuant to Section 31(1) *State Administrative Tribunal Act 2004 (WA)* refuse to grant development approval for proposed consulting rooms at Lot 102 (256) Stirling Highway, Claremont, for the following reasons:

- 1. Non compliance with Town Planning Scheme No. 3 parking requirements.**
- 2. The increased traffic generation associated with consulting rooms of this nature without conditions to suitably restrict parking in the rear parking area is likely to result in an adverse amenity impact on the adjacent residential property owners to the south.**
- 3. Unsatisfactory access arrangements being made for access to the rear parking area through the adjoining 3.0m wide Right of Way. The limited access is envisaged to result in the potential for traffic congestion and hazardous traffic manoeuvres in the Right of Way through reversing into John Street.**

The motion lapsed for want of a seconder.

17 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**MOTION TO CLOSE DOORS****Moved Cr Haynes, seconded Cr Browne**

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 these matters:

(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
(NO DISSENT)**

Mayor Barker adjourned the meeting at 7:37PM.

Mayor Barker reconvened the meeting at 7:38PM.

ATTENDANCE**Mayor Barker****Cr Chris Mews****Cr Jill Goetze****Cr Peter Browne****Cr Peter Edwards****Cr Karen Wood****Cr Alastair Tulloch****Cr Bruce Haynes****South Ward****South Ward****West Ward****West Ward****West Ward****East Ward****East Ward****Mr Liz Ledger (Acting Chief Executive Officer)****Mr Les Crichton (Executive Manager Corporate and Governance)****Mr David Vinicombe (Executive Manager Planning and Development)****Ms Cathy Bohdan (Executive Manager People and Places)****Ms Katie Bovell (Governance Officer)**

17.1 CHIEF EXECUTIVE OFFICER**17.1.1 CHIEF EXECUTIVE OFFICER GIFT**

File Ref: PER751
Responsible Officer: Mayor Barker
Authors: Mayor Barker
Ashley Rush, Executive Assistant
Proposed Meeting Date: 18 April 2017

Purpose

The following item was considered in closed session.

OFFICER RECOMMENDATION

Moved Cr Haynes, seconded Cr Browne

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 aspect of the Act being applicable to this matter:

(a) A matter affecting an employee or employees.

PUBLIC RECOMMENDATION

That this report and the resolution of Council remain confidential.

**CARRIED(57/17)
(NO DISSENT)**

17.2 CORPORATE AND GOVERNANCE**17.2.2 LEASE OF CLAREMONT RECREATION CLUB – (PORTION OF RESERVE 883) 64 BAY VIEW TERRACE, CLAREMONT**

File Ref: 4764
Responsible Officer: Les Crichton
Executive Manager Corporate and Governance
Author: Peter Scasserra
Property and Leasing Officer
Proposed Meeting Date 18 April 2017

Purpose

The following item was considered in closed session.

OFFICER RECOMMENDATION

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 aspect of the Act being applicable to this matter:

(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

PUBLIC RECOMMENDATION

That this report and the resolution of Council remain confidential.

CARRIED BY AN ABSOLUTE MAJORITY(58/17)

For the Motion: Mayor Barker and Crs Haynes, Goetze, Browne, Wood and Mews.
Against the Motion: Cr Tulloch

MOTION TO OPEN DOORS

Moved Cr Haynes, seconded Cr Tulloch

That the doors be opened.

**CARRIED(59/17)
(NO DISSENT)**

The doors opened at 7:53PM.

THE MAYOR READ ALOUD THE RESOLUTION MADE BEHIND CLOSED DOORS.

18 FUTURE MEETINGS OF COUNCIL

Ordinary Council Meeting, 2 May 2017, at 7:00PM.

19 DECLARATION OF CLOSURE OF MEETING

There being no further business, the presiding member declared the meeting closed at 7:54PM.

Confirmed this day of 2017.

PRESIDING MEMBER