



TOWN OF CLAREMONT

ORDINARY COUNCIL MEETING

MINUTES

TUESDAY 21 AUGUST 2018

Liz Ledger

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
21 AUGUST 2018
MINUTES

1 DECLARATION OF OPENING/ ANNOUNCEMENT OF VISITORS

His worship the Mayor, Jock Barker, welcomed members of the public, press, staff and Councillors, and declared the meeting open at 7:00pm.

2 RECORD OF ATTENDANCE/ APOLOGIES/ LEAVE OF ABSENCE

Mayor Jock Barker	Town of Claremont
Cr Bruce Haynes	East Ward
Cr Kate Main	East Ward
Cr Alastair Tulloch	East Ward
Cr Jill Goetze	South Ward
Cr Chris Mews	South Ward
Cr Paul Kelly	South Ward
Cr Peter Edwards	West Ward
Cr Sara Franklyn	West Ward
Cr Peter Browne OAM, JP	West Ward

Ms Liz Ledger (Chief Executive Officer)
Mr Andrew Smith (A/ Director Corporate and Governance)
Mr Saba Kirupanather (Director Infrastructure)
Ms Cathy Bohdan (Director People and Places)
Mr David Vinicombe (Director Planning and Development)
Miss Sarah Hingston (Governance Officer)

Six 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

NIL

6 PUBLIC STATEMENT TIME

Item 13.3.2 Lot 508 (3) Shenton Road, Claremont - Eight Storey Mixed Use Development

Mr Andrew Howe – Level 18, 191 St Georges Terrace, Perth

Mr Howe spoke against the Officer's Recommendation.

Mr Murray Casselton – Level 18, 191 St Georges Terrace, Perth

Mr Casselton spoke against the Officer's Recommendation.

Ms Tanya Trevisan – Level 18, 191 St Georges Terrace, Perth

Ms Trevisan spoke against the Officer's Recommendation.

7 APPLICATIONS FOR LEAVE OF ABSENCE

NIL

8 PETITIONS/DEPUTATIONS/PRESENTATIONS*Cr Kelly presented a petition to Council.***MOTION****Moved Cr Kelly, seconded Cr Goetze.****That the petition against planting Liquid Ambers in Bernard Street Claremont, be received.****CARRIED(150/18)
(NO DISSENT)****9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****Moved Cr Browne, seconded Cr Mews.****That the minutes of the Ordinary Meeting of Council held on 7 August 2018 be confirmed.****CARRIED(151/18)
(NO DISSENT)****Moved Cr Tulloch, seconded Cr Edwards.****That the minutes of the Special Meeting of Council held on 9 August 2018 be confirmed.****CARRIED(152/18)
(NO DISSENT)****10 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETING MAY BE CLOSED TO THE PUBLIC**

Item 17.1 Waste and Recycling Collection Contract – Contract Negotiations

11 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING

NIL

12 REPORTS OF COMMITTEES

12.1 LAKE CLAREMONT ADVISORY COMMITTEE

File No: GOV/00051-02
Responsible Officer: Saba Kirupanather
Director Infrastructure
Meeting Date: 9 August 2018

OFFICER RECOMMENDATION

Moved Cr Haynes, seconded Cr Browne.

That the minutes of the Lake Claremont Advisory Committee Meeting held on 9 August 2019, be received.

**CARRIED(153/18)
(NO DISSENT)**

13 REPORTS OF THE CEO**13.1 CORPORATE AND GOVERNANCE****13.1.1 LIST OF PAYMENTS 1-31 JULY 2018**

File No:	FIM/00062-02
Attachments:	OCM Schedule of Payments July 2018 (Attachment 1) Purchase Card June 2018 (Attachment 2) Purchase Card July 2018 (Attachment 3)
Responsible Officer:	Les Crichton Director Corporate and Governance
Author:	Edwin Kwan Senior Finance Officer
Proposed Meeting Date:	21 August 2018

Purpose

For Council to note the payments made in July 2018.

Background

Council has delegated to the Chief Executive Officer ('CEO') the exercise of its power to make payments from the Municipal Fund or 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 \$2,357,521.31 during the month of July 2018.

The attached schedule covers:

• Municipal Funds electronic funds transfers (EFT)	\$	1,756,766.41
• Municipal Fund vouchers (39577-39580)	\$	10,736.50
• Municipal Fund direct debits	\$	519,808.83
• Trust Fund electronic funds transfer (EFT)	\$	70,209.57
• 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 17 July 2018, Resolution 121/18:

That Council notes all payments made for June 2018 totalling \$2,908,140.90 comprising:

<i>Municipal Funds electronic funds transfers (EFT)</i>	<i>\$</i>	<i>2,158,437.16</i>
<i>Municipal Fund vouchers (39574-39576)</i>	<i>\$</i>	<i>18,657.00</i>
<i>Municipal Fund direct debits</i>	<i>\$</i>	<i>684,528.19</i>

<i>Trust Fund electronic funds transfer (EFT)</i>	\$	46,518.55
<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

The CEO is required to present a list to Council of those payments made since the last list was submitted.

Strategic Community Plan

Governance and Leadership

We are an open and accountable local government; a leader in community service standards.

- Manage our finances responsibly and improve financial sustainability.

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.

OFFICER RECOMMENDATION

Moved Cr Goetze, seconded Cr Mews.

That Council notes all payments made by the Chief Executive Officer under Delegation DA9 for July 2018 totalling \$2,357,521.31, as detailed in Attachment 1 comprising:

Municipal Funds electronic funds transfers (EFT)	\$	1,756,766.41
Municipal Fund vouchers (39577-39580)	\$	10,736.50
Municipal Fund direct debits	\$	519,808.83
Trust Fund electronic funds transfer (EFT)	\$	70,209.57
Trust Fund vouchers	\$	0.00

CARRIED(154/18)
(NO DISSENT)

13.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 JUNE 2018

File Ref:	FIM00062
Attachments:	Monthly Financial Report for Period Ended 30 June 2018 (Attachment 1) 2017-18 Surplus Analysis (Attachment 2) Infrastructure Assets – 2017-18 Schedule of Works (Attachment 3)
Responsible Officer:	Les Crichton Director Corporate and Governance
Author:	Hitesh Hans Manager Finance
Proposed Meeting Date:	21 August 2018

Purpose

Report presents the Statement of Financial Activity for the full year ending 30 June 2018. While subject to final audit, the report provides an overview on 2017-18 full year performance, analysis on budget variances, and recommendations on management of carried forward projects.

Background

The financial report for June 2018 is presented in accordance with the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

The report provides the Town's financial performance for the full year, a detailed analysis of the result, and presents recommendations on the treatment of the variances identified.

The financial position for the reporting period reflects an overall surplus of \$2,106,550 against a budgeted closing surplus of \$118,681, a variance of \$1,987,869. This variance is made up of:

Carry-forward work	\$1,384,823
Savings – Previously forecast for inclusion In the 2018-19 Budget	\$ 418,296
Savings - additional	<u>\$ 184,751</u>
	<u>\$1,987,869</u>

Discussion

As detailed within the Attachment 2 (2017-18 Surplus Analysis), the surplus comprises a combination of variances, some of which have been identified as permanent and others for carry over into the 2018-19 year.

Variances identified within the 'permanent' column represent actual savings/ losses across completed operations and capital works programs. This figure provides the opening surplus which would be available for discretionary allocation within the following budget period.

Variances included in the 'C/fwd' column reflect those savings/ losses resulting from works not yet completed and recommended to be carried forward into the 2018-19 Budget.

Summary

Permanent \$603,047

This is a strong result for the Council and represents a combination of increased revenue and expenditure savings. Of these savings, \$418,296 was previously identified during 2017-18 forecasting in preparation and inclusion in the 2018-19 Budget. This therefore reflects an additional savings of \$184,751 above the forecasted results.

The permanent variance of \$603,047 is summarised.

Operating

Operating Revenue	\$334,607
Expenditure	\$143,219
Non Cash (less Depreciation)	\$192,380
Non Cash (less net of profit and loss)	<u>(\$24,683)</u>
Operating variance	<u>\$645,523</u>

Capital

Capital Revenue	\$184,321
Capital Expenditure	(\$98,792)
Transfer to Reserve	<u>(\$128,005)</u>
Capital variance	<u>(\$42,476)</u>

Total permanent variance

\$603,047

The major contributors to the savings include;

NEP Developer contributions	\$140,369 ^{1,2}
Fees & Charges (planning/parking)	\$109,475
Interest earnings	\$ 37,744
Lease rental	(\$ 60,000) ²
Employee costs (training/recruitment)	\$119,739
IT office expenses	\$ 32,265
Consultation expenses	\$ 69,000
Waste management	(\$ 42,199)
Asset valuation program	\$ 23 935
Infrastructure maintenance	\$ 88,964
Heritage Grants program	\$ 65,000 ^{1,2}
Road infrastructure grants	\$204,287 ²
Stirling Hwy/Queenslea upgrade	(\$173,403) ^{1,2}
Vehicle replacements	\$ 23,000
Graylands Rd footpath	\$ 86,333
Various capital works	\$125,416
Depreciation (non-cash)	(\$192,380)

¹These unbudgeted items require formal Council recognition/approval as detailed below.

²These items are offset within the budget by corresponding expenditure/revenue items.

C/Fwd \$1,384,823

These variances comprise those projects (net of associated funding) which are in varying stages of progression, however are yet to be completed. The variances recommended to be carried forward can be summarised as:

Operating	
Revenue	\$117,724
Expenditure	\$1,238,338
Operating variance	<u>\$1,356,062</u>
Capital	
Revenue	(\$2,018,615)
Expenditure	\$2,047,376
Capital variances	<u>\$28,761</u>
Total carry forward variance	<u><u>\$1,384,823</u></u>

The major carry-forward projects include:

FAGS Grant advance payment	\$168,294
Activity Centre and 333 Stirling Hwy Development Plan	\$100,000
Bike Plan	\$ 33,000
Design Advisory Panel	\$ 20,000
Process documentation project	\$ 20,000
Museum redevelopment (net)	\$770,951
CCTV upgrade	\$ 29,000
Graylands/ Lapsley intersection	\$ 70,000
Signage program	\$ 68,132
Rowe Park lighting	\$ 47,808
Lake Claremont interpretive signage	\$ 40,673
Vehicle	\$ 23,000
Universal toilet (Golf/Aspire facility)	\$ 68,000 ^{1,2}

¹These unbudgeted items require formal Council recognition/approval as detailed below.

²These items are offset within the budget by corresponding expenditure/revenue items.

2018-19 Opening Balance

The forecast opening balance adopted in the 2018-19 Budget was \$536,977. Recognising the identified carry-forward projects of \$1,384,823 together with the additional savings of \$184,751, the 2017-18 result will increase the opening balance by \$1,569,573 to \$2,106,550.

2018-19 Closing Balance

With \$1,384,823 of the increase in opening balance representing carried forward work, the unallocated additional savings of \$184,751 will increase the 2018-19 closing balance from \$35,617 to \$220,368.

Other EOY items

It should be noted this report doesn't include the following items which are yet to be completed as part of the year-end process however as non-cash items will not impact the closing surplus position.

Fair Value – Administration is undertaking Fair value of infrastructure assets. This is not yet finalised.

WMRC Results – WMRC's audited financial report is not finalised. Town's share (21.34%) of the year end result is not processed.

Recommendations1. Projects/expenditure exceeding budget

That Council note the following items of expenditure identified as exceeding budget:

No.	Item	Amount	Comments
1	15-16 Lake Claremont - Create Swale at Henshaw Lane Outfall	\$28,353	The cost of design/ peer review, closing of excavated area and supply and install of additional pits costed \$14,600. The remaining \$13,700 was an overspend due to the finding of artefacts, anthropological research and consultation with Elders.
2	17-18 Bindaring Parade - Resheet	\$25,043	Large scale traffic management was needed due to heavy traffic flow though it is a local district distributor road is the main cause of overspend. Out of this additional \$11,000 was received from Main Roads.
3	17-18 Park Lane - Resheet	\$35,607	This job was done together with Freshwater Pde job and traffic management cost was more than estimated due to heavy traffic flow in Park Lane and northern section of Freshwater Pde.
4	Universal Toilet Golf Course Town's	\$50,000	Golf Course project budget was \$1M and only \$907,828 was spent. This project was funded by Future Fund Reserve. Town's contribution for Universal Toilet recommended to be carried over and funded by Future Fund Reserve
7	Street Sweeping	\$62,245	Additional 'leafy street' sweep were undertaken as per several complaints/requests to keep up with level of service. Also noting the current lack of sweeping temporary dumping site, meaning the additional cost borne for contractor travel costs.
6	Loan Repayment	\$21,737	Loan Repayments exceeding budget estimate due to earlier drawdown UGP loan.
7	Alfred Road Footpath	\$36,103	Traffic management works increased costs.

8	Waste Services Budget	\$42,199	Correction to Waste Services budget reduced at mid-year review time. Expenditure is \$58K under the original budget estimate
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2. Expenditure Items not budgeted

The following unbudgeted transactions within the 2017-18 year require formal recognition by Council and are recommended for approval:

- Create new reserve called 'Heritage Maintenance Grant Reserve with the purpose to assist with funding of the Town's Heritage Maintenance Grant program.
- Unbudgeted transfer of \$65,000 of unspent Heritage Grant operating allocation to the Heritage Maintenance Grant Reserve.
- Unbudgeted transfer of \$140,369 developer contributions (relating to reimbursement of Town's planning costs associated with the NEP Structure Plan) received through sale of NEP lots to the NEP Developer Contribution Reserve.
- Unbudgeted expenditure for the following items as detailed within 2017-18 Surplus Analysis table:

No.	Item	Amount	Comments
1	Mulder park emergency bore and pump replacement	\$25,955	The pump, bore and electrical had reached end of the useful life and also required relocation for the UGP works were the reasons for replacement outside the budget. The funding was available in the bore reserve however this is funded out of the surplus.
2	Universal Toilet Golf Course Town's	\$50,000	Golf Course project budget was \$1M and only \$907,828 was spent. This project was funded by Future Fund Reserve. Town's contribution for Universal Toilet recommended to be carried over and funded by Future Fund Reserve
3	Stirling Hwy/Queenslea Drive	\$173,403	Project undertaken and completed in 2016/17 financial year, however invoice received very late from Main Roads WA. Mostly offset by additional Main Roads WA funding.

3. 2018-19 New Budget Request

It is recommended that Council approve allocation of the unallocated funds to the following project:

Business Unit	Project Name	Cost Estimate
ICT	IT Project: Undertake phone upgrade and Council First improvements projects from 2017-18 operational budget savings.	\$32,000

A further 2018-19 Budget request relating to relocation of communications infrastructure at corner of Stirling Road and Claremont Crescent is requested in a separate report however if approved may be funded from the resulting surplus.

It is recommended the savings, carry-forward projects, and new budget items are incorporated into the 2018-19 Budget through:

- Increase in opening balance from \$536,977 to \$2,106,550
- Decrease in the operating surplus cash by a net \$1,388,062 as detailed within the 2017-18 Surplus Analysis table
- Decrease in the capital revenue & expenditure by a net \$28,761 as detailed within the 2017-18 Surplus Analysis table
- Increase the 2018-19 closing balance from \$35,617 to \$188,368.

Past Resolutions

Ordinary Council Meeting 17 July 2018, Resolution No. 121/18:

That Council notes the Financial Statement of Activity for the period 1 July 2017 to 31 May 2018.

CARRIED

Ordinary Council Meeting 19 June 2018, Resolution No. 107/18.

Part E – Material Variance Reporting for 2018-19.

In accordance with regulation 34(5) of the Local Government (Financial Management) Regulation 1996, and AASB 1031 Materiality, Council adopt the value of \$20,000 to be used in the Statement of Financial Activity for reporting material variances for the 2018-19 financial year.

CARRIED BY AN ABSOLUTE MAJORITY

Financial and Staff Implications

As detailed within the body of the report.

Policy and Statutory Implications

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Communication / Consultation

The Town is required to prepare and submit to Council a financial activity statement each month.

Strategic Community Plan

Governance and Leadership

We are an open and accountable local government; a leader in community service standards.

- Manage our finances responsibly and improve financial sustainability.
- Demonstrate a high standard of governance, accountability, management and strategic planning.

Urgency

Monthly statements of financial activity must be submitted within two months after the end of the month to which the statement relates.

Voting Requirements

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED.

OFFICER RECOMMENDATION

Moved Cr Main, seconded Cr Kelly.

That Council:

1. Notes the Financial Statement of Activity for the period 1 July 2017 to 30 June 2018:
2. Recognises and approves the following unbudgeted transactions as part of the 2017-18 Financials:
 - 2.1. To create new reserve called 'Heritage Grants Maintenance Reserve' with the purpose to assist with funding of the Town's Heritage Grant Maintenance program.
 - 2.2. Unbudgeted transfer of \$65,000 to Heritage Grant Reserve to transfer savings from Heritage Grant budget.
 - 2.3. Unbudgeted transfer of \$140,369 to NEP Developer Contribution Reserve to recognise NEP Planning cost recovery from Landcorp.
 - 2.4. Unbudgeted expenditure for the following items as detailed within 2017-18 Surplus Analysis table:

No.	Item	Amount
1.	Mulder Park Emergency Bore and Pump Replacement	\$25,955
2.	Universal Toilet Golf Course Town's	\$50,000
3.	Stirling Highway/ Queenslea Drive	\$173,403
3. Approves allocation of \$32,000 from unallocated funds for IT projects.
4. Amend the 2018-19 Budget to recognise 2017-18 'carry-forward' projects and savings as detailed within Attachment 2 through:
 - 4.1. Increase in opening balance from \$536,977 to \$2,106,550
 - 4.2. Decrease in the operating surplus cash by a net \$1,388,062 as detailed within the 2017-18 Surplus Analysis table

- 4.3. **Decrease in the capital revenue & expenditure by a net \$28,761 as detailed within the 2017-18 Surplus Analysis table**
- 4.4. **Increase the 2018-19 closing balance from \$35,617 to \$188,368.**

**CARRIED BY AN ABSOLUTE MAJORITY(155/18)
(NO DISSENT)**

13.2 INFRASTRUCTURE

13.2.1 TELSTRA ASSET RELOCATION

File No:	RDS/00244
Attachments:	Design Plan (Attachment 1) Quote (Attachment 2)
Responsible Officer:	Saba Kirupananther Director Infrastructure
Author:	Marty Symmons Engineering Technical Officer
Proposed Meeting Date:	21 August 2018

Purpose

For Council to approve and fund the relocation of the Telstra equipment from the corner of Claremont Crescent and Stirling Road

Background

Design options for the intersection of Claremont Crescent and Stirling Road have been constrained by a number of issues over the years. The majority of these have been or are being addressed, by both the absorption of land into the road reserve and the upcoming removal of overhead power poles.

A significant constraint is the location of Telstra equipment in the vicinity. Quotes for the relocation of these assets have been obtained by the Town on several occasions. The costs of the works have always been too high for the Town to accept. Recently, a quote was received from Telstra, which makes the relocation works more affordable.

Discussion

The design options for Claremont Crescent and Stirling Road intersection vary and may include an additional turn lane or a roundabout. The Congdon Bridge project will provide an opportunity to have different options assessed and modelled. Thereafter, the best design options can be presented to and assessed by Council.

Whichever direction improvements take, draft design options have been completed and are all similarly constrained by the location of the Telstra equipment on the North West corner of the Stirling Road and Claremont Crescent intersection.

The new locations of the pit and pillar will be on site numbers 21 and 23 Claremont Crescent. Please refer to Attachment 1.

Previous quotes for its relocation have varied from \$500,000 to \$800,000, making it unrealistic for the Town to relocate. A recent quote provided by Telstra was for \$112,885. It is opportune to consider this low cost quote at this time, as in the future the costs for these relocation works may increase again.

Past Resolutions

Ordinary Council Meeting 17 May 2016, Resolution No 85/16:

That Council requests Department of Planning to provide the land in its control at the North West corner of Claremont Crescent and Stirling Road and accepts the management of this land as part of the Claremont Crescent road reserve.

CARRIED

Ordinary Council Meeting 1720 March 2018, Resolution No 42/18:

That Council:

- 1. Approves the engagement of a Senior Road Safety Auditor to audit the concept roundabout design for the Stirling Road Claremont Crescent intersection*
- 2. Requests Main Roads WA assess the concept design and Road Safety Audit for feasibility and likelihood of approval.*

CARRIED

Ordinary Council Meeting 19 June 2018, Resolution No 109/18:

- 2. Request Main Roads WA assess the local traffic network and implement changes to the existing configuration to minimise congestion during works, and if needed thereafter, along Stirling Road at the intersections with Barnfield Road and Claremont Crescent and at other locations, which may be required*

CARRIED

Financial and Staff Implications

There is currently no allocation within the 2018-19 Budget to fund the \$112,885 contribution.

Administration has finalised the 2017-18 year end financials (subject of separate report in this agenda), which has increased 2018-19 closing surplus to \$188,368.

This unallocated surplus is available to fund this project.

Policy and Statutory Implications

- Austroads Guidelines
- Main Roads WA Guidelines
- Utility Providers Code of Practice for Western Australia

Communication / Consultation

Liaison with the adjoining neighbours.

Strategic Community Plan

Liveability

We are an accessible community with well-maintained and managed assets. Our heritage is preserved for the enjoyment of the community.

- Promote and support initiatives that improve traffic flow.

Urgency

The Telstra quote expires 30 days after receipt.

VOTING REQUIREMENTS

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED.

OFFICER RECOMMENDATION

Moved Cr Goetze, seconded Cr Browne.

That Council:

1. Approve the relocation of Telstra equipment away from the corner of Claremont Crescent and Stirling Road
2. Accept the Telstra Quote of \$112,885 to undertake the relocation work
3. Amend the 2018-19 Budget to
 - a) Include allocation of \$112,885 to fund the relocation project
 - b) decrease the 2018-19 closing surplus from \$188,368 to \$75,483.

AMENDMENT

Moved Cr Haynes, seconded Cr Kelly.

That Council delete Point 2 and renumber appropriately.

Reason: To facilitate the process of seeking joint funding.

LOST

For: Cr Franklyn, Cr Haynes, Cr Kelly, Cr Tulloch.

Against: Mayor Barker, Cr Browne, Cr Edwards, Cr Goetze, Cr Main, Cr Mews.

THE PRIMARY MOTION WAS PUT

That Council:

4. Approve the relocation of Telstra equipment away from the corner of Claremont Crescent and Stirling Road
5. Accept the Telstra Quote of \$112,885 to undertake the relocation work
6. Amend the 2018-19 Budget to
 - a) Include allocation of \$112,885 to fund the relocation project
 - b) decrease the 2018-19 closing surplus from \$188,368 to \$75,483.

CARRIED(156/18)

For: Mayor Barker, Cr Browne, Cr Edwards, Cr Goetze, Cr Main, Cr Mews.

Against: Cr Franklyn, Cr Haynes, Cr Kelly, Cr Tulloch.

Mr Kirupanather left the meeting at 7:37pm.

13.3 PLANNING AND DEVELOPMENT

13.3.1 LOCAL PLANNING SCHEME NO. 3 REVIEW – AMENDMENT NO. 140

File Ref:	LND/00125
Attachments:	Revised Local Planning Scheme No. 3 (Attachment 1) Track Changed Version of Revised Local Planning Scheme No. 3 (Attachment 2)
Responsible Officer:	David Vinicombe Director Planning and Development
Author:	David Vinicombe Director Planning and Development
Proposed Meeting Date:	21 August 2018
Date Prepared:	13 August 2018
Financial Implications:	NIL
Enabling Legislation:	<i>Planning and Development Act 2005 ('PDA')</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015 ('LPS Regs')</i> Local Planning Scheme No.3 ('LPS3')

Summary

- A review of Local Planning Scheme No. 3 ('LPS3') is required in accordance with regulation 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('LPS Regs') by 25 August 2018.
 - The first change to note in this report is that as a result of the LPS Regs, Town Planning Scheme No 3 ('TPS3') is officially now known as Local Planning Scheme No. 3 ('LPS3').
 - This review (Amendment No. 140 to LPS3):
 - Reconciles LPS3 provisions with the deemed provisions contained in Schedule 2 of the LPS Regs which have overridden the LPS3 provisions since their application September 2015
 - Retains elements of the current LPS3 provisions which are not addressed by the deemed provisions
 - Reviews minor administrative corrections and clarifications to the current provisions of LPS3
 - Updates terminology and legal references
 - Incorporates appropriate provisions contained in Schedule 1 (Model provisions) of the LPS Regs
 - Considers whether LPS3 requires a major overhaul and review, and whether the current provisions are relevant to guide planning outcomes in the Town
-

- Confirms that LPS3 has been continually kept up to date with regard to application of its provisions which control the predominant form of residential and commercial development within the Town
- Identifies matters requiring further review under separate amendments to LPS4 at another time.
- Recommend Council resolve to initiate Amendment No. 140 to LPS3 and proceed to advertising.

Purpose

For Council to consider the initiation of a review of Local Planning Scheme No.3 ('LPS3') under Amendment No. 140.

Background

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('LPS Regs') were gazetted on 25 August 2015 and came into effect in September 2015. They included deemed provisions which automatically override many provisions of local planning schemes.

Clause 65 of the LPS Regs requires local government to carry out a review of its local planning schemes within five years of its last review, or as in the case of LPS3, within three years of the date of the LPS Regs came into effect. Although the deemed provisions of the LPS Regs did not commence operation until September of 2015, instruction from the Department of Planning, Lands and Heritage ('DPLH') is that the gazettal date of the LPS Regs is the date from which the review period is to apply – by 25 August 2018.

It is noted that the deemed provisions contained in Schedule 2 of the LPS Regs already lawfully apply to LPS3 as the intent of these provisions is to apply a consistent standard to common elements of all local planning schemes through the state. The review therefore is to a degree a simple consolidation of the two planning instruments (LPS3 and deemed provisions) in addition to other matters detailed below.

Past Resolutions

There are no past Council resolutions relevant to this application.

Statutory Considerations

The Town is able to amend its current Town Planning Scheme under Section 75 of the *Planning and Development Act 2005* ('PDA'). Scheme amendments are required to be undertaken in accordance with Part 5 of the LPS Regs.

The LPS Regs requires that amendments must be classified as basic, standard or complex, and that justification for the type of amendment must be stated in Council's resolution. The proposed amendment is classed as 'standard' based on the following criteria as set out in the LPS Regs:

- a) the amendment will make the scheme consistent with a region planning scheme, and is not a basic amendment
- b) the amendment would have minimal impact on land in the scheme area that is not the subject of the amendment

- c) the amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

Advice received from DPLH confirms that the scope of issues to be addressed by Amendment No. 140 qualifies the amendment as a standard amendment.

If Council resolves to adopt the amendment it will be referred to the relevant statutory authorities and advertised to the general public for a period of 42 days. Any submissions will be addressed in a second report to Council where Council will determine whether to support the amendment (with or without modification) or not to proceed. Whether the amendment is supported, modified, or not supported, it will be forwarded to the Minister for Planning, Lands and Heritage for determination.

Consultation

Consultation is required to be undertaken in accordance with the LPS Regs following initiation of the amendment.

Discussion

The scope of this review is to include and address the following matters:

Consolidation of LPS3 and LPS Reg Deemed Provisions

The review reconciles LPS3 provisions with the deemed provisions contained in Schedule 2 of the LPS Regs which have overridden the LPS3 provisions since their application September 2015.

The new provisions are identified in italics with direct reference to the deemed provision (e.g. *DP 60 REQUIREMENTS FOR DEVELOPMENT APPROVAL*) and are placed as close as possible to the removed LPS3 provision to provide for consistency within the scheme text architecture. This will allow for both sets of provisions to function together, clear identification in the scheme of Council and LPS Reg provisions and will assist in identification of future changes to the scheme and when the deemed provisions are updated by the WAPC.

Existing provisions of the scheme which have been automatically overridden by the LPS Reg deemed provisions are to be removed from the scheme to avoid confusion. Where an existing LPS3 provision is not addressed by the deemed provisions, they are retained, or in some instance are kept to ameliorate the application of the deemed provisions. For example, clause 25(2) of TPS3 which was the subject of Amendment No. 125 and gazetted in March 2015 dealt with developments which were excluded from applying for Development Approval. DP (deemed provision) 61 also deals with this matter but does not include some elements such as rainwater tanks. These types of development are consequentially included under a new provision 25(A).

Existing LPS3 provisions which cross reference to previous overridden provisions are amended to reference the associate deemed provisions (e.g. clause (DP) 8 and 9 – replacing clause 78 relative to heritage protection). Note – clause 25(3) which links the Heritage List with protection powers under the scheme is retained in a modified form relating to the new DP 8 and 9 Heritage Places and Areas contained in the Heritage List under clause 25.

Clause 5A is added to indicate the scheme has been updated to include the deemed provisions

Update Terminology and Legal References

The LPS Regs introduces a raft of terminology modifications which are automatically updated in LPS3. They include, Local (formerly Town) Planning Scheme, Development (formerly Planning) Application and Approval, Residential Design (formerly Planning) Codes, Local (formerly By-law), Building Permit (formerly Licence), Heritage List (formerly Schedule), Local Government (formerly Municipal) Inventory and a number of new (e.g. Amenity) or modified (e.g. Owner) definitions.

Other definition changes are necessary such as removal 'Uniform Building By-laws' as the term is no longer relevant or applicable (noting also that other references in the scheme in this regard are removed), and changes to 'Day Care Centre' (now defined as 'Child Care Premises' – with associated new legislation (*Child Care Services Act 2007* in lieu of the former *Child Welfare (Care Centres) Regulations 1968*).

Administrative Corrections and Clarifications

Significant formatting changes have been undertaken to consolidate the two sets of provisions. These include at times reformatting existing provisions and the new deemed provisions to enable them to work together under the one scheme architecture.

As indicated below, the currency and suitability of the current scheme provisions is examined in the broad sense, relative to recent and pending changes to the scheme to keep it relevant to the changing planning demands. The review has also identified a number of minor changes necessary to give clarification and correction to existing scheme provisions. These are included in the following table.

Minor Modifications and Clarifications

Current provision	Issue/concern	Proposed change
Cl.22(5) reference to 'planning policy 103 Licenced Premises with the Town of Claremont'	Name change (subject to upcoming Policy review) and incorrect word 'with'	Modify cl.22(5) to correctly reference 'Local Planning Policy 201 – Licenced Premises within the Town of Claremont'
Table 2 references to '**'	A number of reference to * appear in Table 2 relating to setback provisions. These relate to modified development requirements for side and rear setbacks, together with landscaping in some instances for various forms of development	Insert '**' and modify the notes at the base of Table 2 to note reference to modified setback and landscaping requirements applicable under cl.37A
Cl.29(2) (c) and (d) references to Shop (Indeterminate)	Should be Shop (Intermediate)	Modify cl. 29 (2) (c) and (d) to rename Shop (Intermediate)
Note 1 to Table 3 referencing aisle and cap parking space widths in Appendix III	Appendix III was removed as part of the Amendment No. 123 parking provision review	Modify Table 3 to remove Note 1 and remove number 2 from following Note.
Cl.37 provides instruction on calculation of parking requirements for combined land uses	Provision is in wrong location following 37A and is inconsistent with other provisions which provide for discretionary consideration of parking concessions.	Relocate provision ahead of cl.37A and add that the calculation is subject to discretionary consideration provided elsewhere in the scheme
Cl.37A reference specific setback requirements for	The intent of the setback requirements is to protect the	Add reference to residential 'land and use or developed

commercial development adjoining residential use and zone	amenity of residential property, but only specifically refers to use in the introductory paragraph.	property' for clarity under cl.37A
Cl.51 parts 3(a) and (b) relating to Local-law 132 setback requirements	Confusion in reading clause results from incorrect location of (a) and (b) under 3.	Relocate (a) and (b) under subclause 2 of cl.51
Cl.64A relating to development sites either side of Avion Way	The lot description is changed and no specific reference is made to the location either side of Avion Way	Include heading as per other clauses, new lot description (Lot 90) and reference to location under cl.64A
Cl.65 Walt Drabble Lane	Duplication of clause number with cl.65 Light Industrial Zone application	Renumber clause 64B
Appendix VII – Location Particulars	Lacks clarity relative to clause association	Add (Refer clause 14A) to Appendix VII
Appendix VIII – Requirements applicable to development either side of Avion Way	The lot description is changed and no specific reference is made to the location either side of Avion Way	Include new lot description (Lot 90) and reference to location to Appendix VIII
Schedule 1	Lacks clarity relative to clause association	Add 'Development Zones' (clauses 75A-75D) to Schedule 1

Inclusion of Model Provisions

The Model provisions under Schedule 1 of the LPS Regs provides a standard set of provisions which are consistently applied to more recent schemes across the state. The Model provisions have been reviewed to identify any specific requirements desirable for inclusion under this review. In addition to the revised definition for 'Child Care Premises' as identified above, the only other desirable inclusion relates to the new provisions concerning non-conforming uses. The existing non-conforming use provisions under cl.24 is significantly outdated. Given that inclusion of the Model Non-conforming use provisions will not have an unordinary impact on development within the Town it is appropriate to review the current provisions by replacing them with the Model provisions.

Currency and Suitability of Current Scheme Provisions

The review is to consider whether LPS3 is up-to-date and complies with the LPS Regs, and also may be undertaken in conjunction with a consolidation of the scheme.

Town Planning Scheme No. 3 (TPS3) was originally gazetted on 1 June 1999, but has been subject to over 139 scheme amendments, most of which have been gazetted to address the changing planning demands on the Town since that time.

Over the past 5 years the Town has conducted major reviews of TPS3 provisions relating to car parking (Amendment No. 123) and residential development (Amendment No. 132) standards. These Amendments have in many ways been significant for the Town, and with specific reference to parking, ground breaking in the way cash-in-lieu parking is considered and administered in order to promote commercial development within the Town Centre; and also to address changing residential development standards within the Town.

Other recent amendments, such as Amendments 107 and 130 have provided the basic planning parameters to support Development zones through Structure

Planning provisions which have facilitated current major development projects such as the 'Claremont in the Park' North East Precinct development surrounding Claremont Oval.

Recent strategic planning exercises undertaken by the Town have identified further potential amendments which are in various stages of preparation. These studies primarily relate to how the Town will address its housing density growth target stipulated by the Western Australian Planning Commission ('WAPC'):

- The Housing Capacity Study (adopted by Council 2013)
- Stirling Highway Local Development Plan (adopted by Council July 2016) and now subject to three Amendments (136, 137 and 138)
- Loch Street Station Precinct Structure Plan (adopted by Council February 2018).

Acknowledging that the planning provisions of TPS3 have been continually up dated to address emerging planning issues in the Town (notwithstanding those minor clarification issues identified above) and as there are a number of separate scheme amendments in various stages of consideration and preparation to address the next phase of planning demands, a comprehensive review of the scheme is not warranted at this point. It is noted however that an emerging issue with regard to tree coverage and a WALGA study into parking standards may provide impetus for further amendments to the scheme and these will be considered in due course. In addition, the Town is in the process of preparing an Activity Centre Plan for its town centre and a planning study for the Swanbourne shopping centre precinct and these will undoubtedly also lead to further round of scheme amendments to prepare the Town for the next stage of evolution.

Accordingly, it is considered that the current scheme serves the planning demands of the Town and its residential and business communities well. While some future amendments are in the state of preparation, they and others will eventuate as a result of the continual review of strategic planning projects in the Town.

Summary

Based on the above, it is recommended that an amendment to TPS3 be initiated as per the Officer's Recommendation.

Voting Requirements

Simple majority decision of Council required.

OFFICER RECOMMENDATION

Moved Cr Main, seconded Cr Franklyn.

THAT Council resolve the following:

1. In accordance with Section 75 of the *Planning and Development Act 2005*, initiate Amendment No. 140 to Local Planning Scheme No. 3 as detailed in the reviewed Scheme Text and in accordance with the following:
 - a) Insert the deemed provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations*

2015 into Local Planning Scheme No. 3 at the appropriate location of similar provisions under the existing Scheme.

- b) **Modify the existing Local Planning Scheme No. 3 provisions to cross reference and acknowledge the inclusion of the deemed provisions of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and also renumber provisions as required.**
- c) **Modify the definitions and references in Local Planning Scheme No.3 to remove inconsistencies with the *Planning and Development (Local Planning Schemes) Regulations 2015* and replace the definition of Day Care Centre with Child Care Premises from the Model provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- d) **Remove references to the Uniform Building By-laws in clauses 7 and 10 of Local Planning Scheme No. 3.**
- e) **Amend the existing Local Planning Scheme No. 3 provisions as follows to address current anomalies and inconsistencies in the scheme:**
 - (i) **Modify clause 22(5) to correctly reference ‘Local Planning Policy 201 – Licenced Premises within the Town of Claremont’.**
 - (ii) **Insert ‘*’ and modify the notes at the base of Table 2 to make reference to modified setback and landscaping requirements applicable under clause 37A.**
 - (iii) **Modify clause 29 (2) (c) and (d) to rename ‘Shop (Indeterminate)’ to ‘Shop (Intermediate)’.**
 - (iv) **Modify Table 3 to remove Note 1 and remove number 2 from the following Note.**
 - (v) **Relocate clause 37 ahead of clause 37A and add that the parking calculation is ‘subject to discretionary consideration of parking requirements provided elsewhere in this Scheme.’**
 - (vi) **Add reference to residential ‘land and use or developed property’ for clarity under clause 37A.**
 - (vii) **Relocate (a) and (b) under subclause 2 of clause 51 from subclause 3.**
 - (viii) **Include Avion Way as the heading for clause 64A and redefine lot description (Lot 90) and reference to location in Avion Way.**
 - (ix) **Renumber the first clause 65 clause 64B.**
 - (x) **Modify Appendix VII to add (Refer clause 14A) next to the title heading.**

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- (xi) **Modify Appendix VIII to include new lot description (Lot 90) and reference to location in Avion Way.**
 - (xii) **Modify Schedule 1 to add ‘Development Zones’ (clauses 75A-75D) next to the title heading.**
- f) **Remove the existing non-conforming use provisions under clause 24 and insert the Non-conforming use provisions detailed in the Model provisions contained in Schedule 1 of *Planning and Development (Local Planning Schemes) Regulations 2015*.**
2. **Advise the Minister for Planning, Lands and Heritage that proposed Amendment No.140 to Local Planning Scheme No.3 is to be treated as a ‘standard amendment’ for the purposes of the *Planning and Development (Local Planning Schemes) Regulations 2015*, based on the following criteria:**
- a) **The amendment will make the scheme consistent with a region planning scheme, and is not a basic amendment.**
 - b) **The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment.**
 - c) **The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**
3. **Authorise the Mayor and Chief Executive Officer to endorse the Scheme Amendment documents.**
4. **On receipt of advice from the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* indicating that the Amendment need not be subject to an environmental assessment, advertise Amendment No. 140 in accordance the *Town Planning Regulations 1967* for not less than 42 days.**
5. **The Minister for Planning, Lands and Heritage be advised of the Town of Claremont review of Local Planning Scheme No. 3 in accordance with clause 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as detailed above and subject to Amendment No. 140 to Local Planning Scheme No. 4.**
6. **Further, the Minister for Planning, Lands and Heritage be advised that Local Planning Scheme No. 3 has been reviewed on a number of occasions to ensure it meets both the regional and local planning demands of its local residents and businesses and that in addition to the amendments detailed in Amendment No. 140 above, further amendments will be progressed to address emerging planning issues in the Town of Claremont identified under its existing and current strategic planning studies detailed in this report.**

**CARRIED(157/18)
(NO DISSENT)**

13.3.2 LOT 508 (3) SHENTON ROAD, CLAREMONT - EIGHT STOREY MIXED USE DEVELOPMENT

File No:	A-5758
Attachments:	Location & Submission Plan (Attachment 1) Photograph (Attachment 2) Application Report (Attachment 3) Planning Assessment (Attachment 4) Transport Impact Assessment (Attachment 5) Claremont NEP General Design Checklist & Lot 508 Site Specific Checklist (Attachment 6)
Restricted Attachments:	Plans (R-Attachment 1) Submissions (R-Attachment 2) Applicant's response (R-Attachment 3)
Responsible Officer:	David Vinicombe Director Planning and Development
Authors:	Lisa Previti Manager Statutory Planning and Building and Nick Bakker Senior Planner
Proposed Meeting Date:	21 August 2018
Date Prepared:	14 August 2018
Development Application No.:	DA2018.00079
90Days Due Date:	9 September 2018
Property Owner:	TRGP 2015 No.2 Pty Ltd
Submitted By:	Element Advisory Pty Ltd
Lot No.:	508
Area of Lot:	7,418m²
Zoning:	Development
Financial Implications:	NIL
Enabling Legislation:	<i>Planning and Development Act 2005 (PDA) Planning and Development (Development Assessment Panel) Regulations 2011 (DAP Regs) Local Planning Scheme No. 3 (LPS3) Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regs) Claremont North East Precinct (NEP) Structure Plan (SP) Claremont NEP Design Guidelines (DGs) and Detailed Area Plans (DAPs) Residential Design Codes (RDC)</i>

Summary

- Application has been received for a proposed eight storey mixed use development on the western part of Lot 508 (3) Shenton Road, Claremont, located on the southernmost lot of the NEP development area. It covers approximately 75% of Lot 508.
- The proposed development consists of a basement level carpark; mixed commercial uses, car parking and two residential units on the ground floor; a mix of residential multiple dwellings and carpark on the first floor; and five levels of multiple dwellings above. This presents as an eight storey building fronting Shenton Road and up to seven storey building fronting the oval.
- The proposal is to be considered by the Metro West Joint Development Assessment Panel ('JDAP') as the total cost of the development exceeds \$10m (estimated over \$55m).
- The development proposes nine commercial tenancies (including one retail) and 142 multiple dwellings.
- Car parking for the residential component is provided at a rate of 1.79 bays for each multiple dwelling totalling in 255 residential bays located across the basement, ground and first floors. There are 43 non-residential parking bays proposed to be located on the ground floor which will consist of three retail bays, nine commercial bays and 31 visitor bays.
- The proposal is consistent with the requirements of LPS3, however it is inconsistent with many of the requirements of the NEP Structure Plan (SP), Detailed Area Plan ('DAP'), Design Guidelines ('DG') and Residential Design Codes ('RDC').
- Variations to the RDC requirements for visitor parking are not supported and five additional visitor bays to be provided in front of security gates would be required. The other RDC variation in relation to dwelling mix is supported.
- Minor variations to requirements relating to residential and commercial land use location and quantity, residential parking over supply, dwelling mix, ground floor heights and nil setbacks and increased setbacks adjoining the Shenton Walk POS link to the west fronting Shenton Road are supported.
- Other aspects of the proposal are not supported:
 - The proposed splitting of the lot into two development parcels which may result in subdivision of the lot in two and results in relocating all vehicle access from Tiger Way (as required by the SP) to Shenton Road.
 - Variations to requirements relating to increased and decreased building heights (two and three storeys above restrictions), visitor parking, oval interface and view corridor are not supported.
- Some of the NEP DG/DAP requirements have not been specified in sufficient detail. Should the development be approved by the JDAP, it is recommended that conditions are proposed to address these matters at the time of Building Permit; including details on provision of public art, facade materials and colours, acoustics, energy efficiency, lighting and mechanical services.

- Five surrounding land owners were consulted and three submissions were received – two stating no objections, and one which had no objections to the mixed use nature of the development, however raised concerns specific to height, ground floor uses, safety and surveillance, and location of air conditioners.
- The application is recommended for refusal due to non-compliance with the NEP SP, DG and DAP requirements.
- The report however provides a list of conditions and advice notes for application should the JDAP decide to approve the development for Council against the recommendation for refusal.

Purpose

For Council to:

- a) Consider the officer recommendation for the proposed mixed used development at Lot 508 (3) Shenton Road.
- b) Be informed that the application has been referred to the JDAP for determination in accordance with the *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regs).

Background

The land is described as Lot 508 (3) Shenton Road, Claremont and is zoned 'Development' under LPS3. The Development zone is subject to the Claremont NEP Structure Plan ('SP') that was initially endorsed by Council on 2 December 2008 and the Western Australian Planning Commission ('WAPC') in August 2010. Council endorsed variations to the SP in December 2012 and the WAPC endorsed in part the Council supported SP in April 2013 with modifications.

Lot 508 is 7,418m² in area, with frontage to Shenton Road to the south, abuts Shenton Walk public open space ('POS') link to the west, Claremont Oval (edge) to the north, and Tiger Way to the east. It is proposed to stage development on the lot, with this current application for Stage 1 covering approximately 75% of the site to the west.

The applicant presented the key development proposals contained in this application to Council briefings in late 2017 and on 16 July 2018. It is noted that at the first presentation, access was proposed to be maintained through to Tiger Walk as well as to Shenton Road.

From a legislative point of view, the application is required to be assessed by a JDAP. Given the estimated cost of development (i.e. greater than \$55 million), the application under the DAP Regs is listed as a 'Mandatory Development Assessment Panel Application' and therefore must be considered and determined by a JDAP on behalf of Council.

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
11 June 2018	Development Application received by Council
13 June 2018	Application undergoes internal DCU assessment
18 June 2018	Town lodged the application to JDAP
3 July 2018	Application Assessed by Senior Planner
9 July 2018	Advertising commenced
30 July 2018	Advertising closed
12 August 2018	Report prepared for Council

Past Resolutions

The NEP SP was initially approved by Council at its 2 December 2008 OCM and subsequently endorsed by the WAPC on 16 June 2010.

The Design Guidelines ('DG'), which were adopted as Council Policy on 18 December 2012, aim to encourage high quality architectural expression, form and consistency throughout the NEP. The DGs outline the design intent for all development within the NEP and collectively ensures that the principles and objectives are being met. As a Local Planning Policy, advertised and adopted at that time under cl.82 of LPS3 (now in accordance with deemed provision 4 of Schedule 2 Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 - LPS Regs*), any variation to the DGs must have regard to the provisions and the objectives the Policy is designed to achieve.

The Structure Plan (SP) and Detailed Area Plans ('DAP') outline the mandatory fundamental development controls to address the specific requirements of the individual lots. As the DAPs form part of the SP, variations to both are required to be undertaken in accordance with SP requirements, now subject to deemed provision 27(1) of the LPS Regs. The provision requires Council to *'have due regard to, but is not bound by the structure plan (and DAP) when deciding the application.'*

Consultation

The application was advertised in accordance with Local Planning Policy LG525 'Advertising of Development Applications'.

Five neighbouring land owners were consulted. Two submissions of non-objection were received from the Public Transport Authority ('PTA') and Claremont Football Club ('CFC'). One objection was received from planning consultants on behalf of the owners of the neighbouring Lot 509 (cnr Shenton and Davies Roads – Blackburne). A summary of the submissions and responses are provided as follows:

Submissions Received		
Address:	Railway reservation located to south of development along Shenton Road	
Submission	Applicant Comment	Officer Comment
No objections on the proviso rubbish is contained on site and dust is minimised so that rail operations are not compromised.	Construction activities will be controlled using appropriate measures to ensure there are no adverse impacts on rail operations.	A standard condition of approval is recommended on any approval in order to address concerns.

Address: Lot 509 Davies Road, Claremont		
Submission	Applicant Comment	Officer Comment
<p>In general no objection to development of the site for mixed use, however have concerns for aspects which do not comply with the planning framework and development standards:</p> <p>Building Height Height along the entire Shenton Road frontage, exceeds maximum in some areas by three storeys. Considered to be excessive and over-development of the site, especially given the additional storeys are entirely occupied by additional apartments. The additional height will adversely affect Lot 509 through increased overshadowing and restricted views. Increased height will result in inconsistent streetscape along Shenton Avenue, when considered in the context of the height and form of future adjoining buildings.</p>	<p>Stage 1 development has overall building height of eight storeys, in lieu of six storeys for majority of the site. Additional height is a direct response to existing ground levels and shifting of mass from northern to southern boundary, where the existing ground level descends from a high point fronting the oval to its lowest level along Shenton Road. Upper levels of the proposed development are of a consistent height and form, resulting in minor portions of the development being slightly higher than other sections relative to the existing ground level below. Upper levels are setback from the southern boundary to reduce visual impact, it will have no adverse impact on neighbouring developments.</p> <p>Design maximises northern exposure to the proposed apartments for daylighting and solar access and views that engage with the oval. These have been achieved without overshadowing any buildings to the south and minimal overshadowing on the adjacent Lot 509 development.</p> <p>The shadow diagrams outline limited impact at Lot 509, which similarly will cast a shadow over the proposed development on Lot 508. Lot 509 will overshadow itself at 12pm and 3pm on June 21st and December 21st, with Lot 508 having limited impact on the eastern façade of Lot 509 for a</p>	<p>Noted.</p> <p>The additional building height is inconsistent with the SP and DAP, and is likely to have an adverse impact on the streetscape. Excessive building heights are not supported as detailed in report below.</p> <p>While the impacts of overshadowing from this development are noted, and it is acknowledged that the additional height will result in additional overshadowing during the morning on dwellings contained on Lot 509, the accepted midday 21 June reference point for assessment of overshadowing does not impact on Lot 509.</p> <p>Notwithstanding that most of the overshadowing occurs to the south onto Shenton Road at this time, the increased height will result in additional overshadowing on the lower floors of Lot 512 (future commercial use) to the south of the bend in Shenton Road.</p>

<p>Additional height within Lot 508 should be appropriately designed to ensure no adverse impacts result on adjoining properties or the streetscape. In the case of Lot 509, communal facilities were permitted to be provided on the roof terrace, setback from the edges of the building. This minimises the impact of building bulk, and ensures views from adjoining properties are maintained. Similar should be applied to the Lot 508 development to alleviate the impact of any additional building height.</p> <p><u>Ground Floor Uses</u> Two residential apartments at ground level fronting Shenton Walk are inconsistent with DGs, which require retail and commercial ground floor uses to create activation and natural surveillance of the public realm. Whilst balconies are provided to overlook Shenton Walk, the apartments are unlikely to provide an acceptable level of activation or natural surveillance of the public realm, inhibiting the pedestrian experience.</p>	<p>brief period in the morning only.</p> <p>Shadow diagrams show that the proposed development will stop overshadowing Lot 509 from 10:32am in June and 10:35am in December, with the additional height representing an additional 2 minutes in June and 15 minutes in December.</p> <p>Not considered to have any adverse impact on views from Lot 509 as planning framework and development controls allow for substantial built development on Lot 508 that would limit eastern views irrespective of the particulars of a proposed building design. The proposed development does seek to reposition the location of the view corridor as outlined in the DGs, where it will still allow for a break between buildings to reduce the impact of building bulk and scale when travelling along Shenton Road and also when viewed from a distance on Guger Street as intended by the DGs</p> <p>Notwithstanding the removal of the commercial/retail space in this location, there will be no cumulative loss of commercial space being provided overall given the floorspace has been repositioned and reallocated further east along Shenton Road.</p> <p>Location of commercial floorspace within Shenton Walk as depicted in the DGs is concealed from the majority of potential passing trade and likely to result in challenging leasing conditions. The relatively steep ground level incline at this location has significantly constrained the ability for a commercial tenancy to meet disabled access requirements and minimum required floor to ceiling heights. Typical commercial development forms are not an optimal or appropriate land use</p>	<p>Accordingly the eight storey height in the south western corner of the site is not supported.</p> <p>The additional limited height variation to seven storeys for a restricted and setback area was supported on Lot 509 to ensure views for the communal facilities, including to the east, were maintained. It is considered that the additional height of eight storeys along the façade of the Shenton Walk POS link will have adverse impact on the views from the communal facilities to the east from Lot 509.</p> <p>This variation seeks to retain activation of Shenton Walk as it is proposed for the multiple dwellings to be adapted and approved for use as a home occupation (subject to future DA). Noise impacts from the adjacent commercial development on Lot 509 will be the same as for the first floor dwellings – the development on Lot 509 is required to comply with the <i>Environmental (Noise) Regulations 1997</i> in any case.</p>
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<p>Residential apartments are also potentially incompatible with adjacent ground floor commercial uses. Alfresco seating areas are provided outside the retail/commercial tenancy within Lot 508 and commercial tenancy 1 within Lot 509 fronting Shenton Walk. Noise and other potential amenity impacts may adversely impact on the ground level apartments located immediately adjacent to these alfresco seating areas and commercial uses.</p> <p><u>Safety and surveillance</u> Internal walkway running along the southern side of the south facing row of apartments on levels two and above. Apartments will gain access from the walkway, which extends approximately 80m along the front of the apartments. The design of these apartments does not provide for any passive surveillance of the walkway, with only high-level windows provided to bedrooms abutting</p>	<p>in this location for these reasons.</p> <p>Conversely, locating commercial uses along Shenton Road will ensure tenancies are capable of providing disabled access, desirable four metre floor to ceiling heights and necessary high visibility to the surrounding location to secure viable commercial tenants.</p> <p>The townhouse apartments provided in Shenton Walk propose the additional use of 'Home Occupation', which will serve to activate Shenton Walk in accordance with the intent of the DGs, and provide opportunities for passive surveillance throughout the day and into the evening. The townhouses are two storeys, with bedrooms being provided on the upper floor, which is consistent with the DGs requiring residential uses above the commercial floorspace in this location.</p> <p>The relocation of the commercial space and inclusion of home based commercial uses in this location is considered appropriate. Also responsive to the needs of an ageing demographic, catering for professionals to live and work within their residence.</p> <p>Double glazing and visually permeable secure fencing will alleviate any potential adverse amenity issues such as noise that may occur within the vicinity of the apartments. Associated amenity impacts from nearby land uses would not have any different impacts on the ground floor as compared to the first floor preferred residential use.</p> <p>The overall development provides substantial passive</p>	<p>Relocation of commercial uses to Shenton Road is considered an appropriate response to existing ground levels. The proposed variation is supported, as detailed in the report below.</p> <p>The internal walkways are proposed to be screened from Shenton Road with transparent fins, providing a visual link between the walkway and the street. It is considered that the casual surveillance provided between the walkways and Shenton Road is sufficient to ensure resident and pedestrian safety in accordance with the SP and DGs.</p>
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<p>the walkway.</p> <p>This internal walkway layout results in a potentially unsafe environment and also significantly decreases the potential for passive surveillance of Shenton Road. Above the ground floor, the proposed development effectively turns its back on Shenton Road, with only the two corner apartments on each residential level having balconies overlooking the street. This is considered to result in an inappropriate outcome and visual appearance to the Shenton Road frontage.</p> <p>The objectives of cl.4.8 of the DGs encourage 'natural surveillance' of the public realm, with development controls requiring casual surveillance from internal living spaces to the public realm, and requires openings be designed to provide for natural surveillance of the public realm. It is not considered to achieve either the development controls or objectives relating to safety and surveillance along Shenton Road, and should not be supported in its current form.</p> <p><u>Other matters</u> Air conditioning units within enclosed storage areas on residential balconies. Whilst visual impacts of the services been addressed, it is expected that aural impacts are likely to impact on the amenity of future residents within Lot 508 as well as nearby residents within Lot 509. Ideally, air conditioning units and other services should be located on the roof of the development, screened from view from adjoining sites and the public realm.</p>	<p>surveillance opportunities to the public realm through extensive apartment frontages to all boundaries. Several apartments are oriented entirely or partly to the southern Shenton Road environment, along with 90% of the ground floor level and 80% of the first floor level façades providing active surveillance. Approximately 50% of the upper levels of the southern façade are provided as walkway, where residents will gain access to their apartment being protected from weather and allowing for natural light, air and breezes to flow through and assist with passive cooling.</p> <p>The transparent design outcome in effect encourages 2-way surveillance to and from the street and corridors and is considered to be an optimal solution that improves on typical internalised corridors that would provide no external surveillance.</p> <p>Air conditioning units are screened from view and located within enclosed storage areas on residential balconies in accordance with design guidance provided by Draft Design WA.</p> <p>Enclosures are fully integrated into the overall building design, which will also assist to dampen sound from condensers that are facing inwards to balconies as opposed to outwards to buildings. Air conditioning units are designed to a maximum 56DB rating as are conventional residential units and are considered to have no adverse impact on neighbouring developments given the separation distances being far greater than conventional low density housing.</p>	<p>The location of individual air conditioners fully screened from the public realm is considered to meet the requirements of the DGs and is supported, providing they are located so as not to blow directly onto the main usable area of the balcony.</p>
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<p>Combined effect of variations results in a vastly non-compliant development. NEP planning framework is highly detailed and has been established following comprehensive and careful consideration of the ultimate built form outcome appropriate for the unique location of the precinct. It is essential that the precinct continues to be developed to a high standard, and the proposed variations to the design guidelines pose a potential risk in achieving the desired development outcome for Lot 508 and the broader precinct. It is considered that the development proposal should be reviewed in light of the points outlined above.</p>		<p>Agreed. It is considered that overarching variations to building heights, vehicle access, oval edge and view corridor combine to create a development, which although providing for greater connectivity between the residents and the oval and meeting/exceeding other environmental design and performance objectives established under the DGs, is on the whole inconsistent with the objectives and requirements of the NEP SP, DGs and DAP applicable to the site – see further comments below..</p>
<p>Address: 3 Davies Road, Claremont</p>		
<p>Submission</p>	<p>Applicant Comment</p>	<p>Officer Comment</p>
<p>Fully support as it maximises the resident's experience of Claremont Oval environment and activities which take place on a daily basis.</p> <p>The design will strengthen the association between residents and the Claremont Football Club and lead to greater utilisation of the CFC's facilities.</p> <p>The design will have no adverse effects on the football matches or on the players playing in those matches.</p>	<p>N/A</p>	<p>Noted, however the overall design of the development is inconsistent with the development hard edge fronting the oval required by the NEP DGs and DAP and is not supported.</p>

Full copies of the submissions and responses from applicant are attached to this report (R-Attachment 2 and R-Attachment 3).

Discussion

Description

A staged development scenario is proposed for Lot 508, with approximately 75% of the western portion of the site proposed as Stage 1, with the remainder of the site to the east as Stage 2. The applicant has advised that a subdivision may be pursued to create two lots for the two stages.

This application for Stage 1 seeks approval for an eight storey mixed use development (nine levels including basement) comprising nine commercial tenancies (including one retail tenancy) and 142 multiple dwellings. It contains a basement level car parking area, nine ground floor commercial tenancies with car parking, additional car parking and residential apartments on the first floor and six levels of residential multiple dwellings above (total eight stories above ground at the Shenton Road frontage). Communal open space and amenities are located on the first and second floors. Communal amenities are located on the first and second floors.

The basement level contains 144 residential parking bays, storerooms and plant infrastructure.

The ground floor consists of 631m² commercial space and 155m² retail space, refuse area, end of trip facilities, two multiple dwellings, residential stores and 89 car parking bays consisting of: 31 visitor bays, three retail bays, nine commercial bays and 46 residential bays.

Level one consists of 65 residential parking bays, 14 multiple dwellings, communal gym and storerooms.

Level two consists of 23 multiple dwellings and communal facilities.

Levels three to seven consist of 103 multiple dwellings.

A total of 298 parking bays are provided for the site (255 residential, 31 residential visitors, nine commercial and three retail). The sole vehicular access to the site is proposed as a left-in/left-out arrangement from Shenton Road (rather than Tiger Way as per the NEP SP and DAP).

Compliance

The proposal has been assessed against the LPS3, RDC and the NEP SP, DAP and DGs for the subject site. It is noted that the RDC provisions with regard to multiple dwellings apply to augment the various NEP requirements wherever the NEP requirements do not address RDC requirements (e.g. visitor parking).

This report will detail variances to these requirements rather than detailing the proposal's compliance with all these requirements. The applicant's planning assessment (Attachment 4) and Architect's Checklists (Attachment 6) details how the proposal complies with the various development requirements not detailed below. It is noted that the architect's checklist makes no reference to the key design objectives contained in the introduction to the Design Guidelines. Also the design principle is not specifically backed up or amplified by any of the specific Development Controls contained elsewhere in the Design Guidelines, as it is expected the overarching design principles will be satisfied first and foremost.

It is noted that the NEP DG and DAP requirements include significant duplication. Accordingly, to reduce the content of this report, cross referencing will be made on duplicated requirements rather than repeating the specific comments which apply to each.

LPS3 - Land Use

In accordance with Table 1 of LPS3, the permitted uses within the 'Development' zone are to be determined with reference to the designations in the approved SP. The SP identifies the subject site as 'Mixed Use' and the application proposes commercial, retail and residential land uses that are consistent with the SP, however

as noted below the floorspace allocation under the DAP of 180m² for retail and 2,250m² for commercial are varied to 155m² retail and 631m² commercial.

Residential Design Codes

The NEP DGs outline that the requirements of the RDC apply in all respects except where modification is indicated within the DGs. Where there is inconsistency between the RDC and NEP DG and DAP requirements, the requirements of the SP and DGs prevail.

The non-compliant elements of the RDC which are not covered by the provisions of the SP and DGs for Lot 508 are in relation to the deemed-to-comply requirements cl.6.3.3 Parking and cl.6.4.3 Dwelling Size. These items can be addressed by conditions and consideration of the relevant design principles in the RDC.

- Visitor car parking – the development requires 36 car parking bays to be available for residential visitors, however only 31 bays have been earmarked for visitor bays. The visitor car parking shortfall is not supported as it is considered that all efforts need to be made to reduce reliance on public parking in the area, particularly as the site is not located directly adjacent to public parking facilities in Davies Road. The development has an oversupply of 28 car parking bays available to the residents, therefore it is recommended that a condition be included on any approval requiring that five additional parking bays be set aside from the resident parking to be allocated to residential visitors – these bays should be located in front of security gates.
- Dwelling size – In this instance the development proposes 13.3% (19) single bedroom dwellings in lieu of 20% (29) specified by the deemed-to-comply requirements of the RDC. Given that this sized development in the context of the NEP, and that the overall development achieves a large range of dwelling sizes (in terms of both number of bedrooms and areas) it is considered that the minor variation can be supported under the RDC design principles. The development provides diversity in its dwelling sizes, from 50m² to 150m², incorporating one, two and three bedroom dwellings, so that a range of types and sizes is available to cater for the diverse needs of the future residents. It is considered that this variation can be supported.

Structure Plan

6.3 Built Form and Public Realm

The SP built form objectives are to create a circular hard edge around the oval, and this is further reiterated in the requirements of the DGs and DAPs. Integral to the DGs are the fundamental Design Principles located on page viii of the Introduction to the NEP DG and DAPs:

It is stated that *‘Whilst these guidelines do not seek to restrict creativity, buildings within the Claremont NEP will also be assessed based on their contribution to the following core principles, which have been developed to promote a degree of consistency of quality, form and amenity throughout the development.’* The first principle states:

- *‘Emphasise the oval as a key feature of the site by providing a strong, framed building edge and sense of containment to the oval.’*

All residential developments within the NEP have been approved with an edge to the oval. The concept built forms for Lot 508 demonstrate a large doughnut shaped development, split in two by centrally located view corridor (which links to the northern extremity of Mary Street), together with internal communal space.

The proposed development is crescent shaped, opening up the center of the development towards the oval. The intention is to provide improved solar access to the dwellings, and open up the oval as an active edge to the internal dwellings of the development. Creating an open area towards the oval has contributed to the increased height along Shenton Road and also facing the adjacent Lot 509 and the remaining 25% (approx.) of the site to the east. All other residential developments within the NEP abutting the oval interface generally have a hard edge to the oval where possible, creating a defined space around the oval. The proposal to open up the northern portion of the development will be out of character with the current built form around the oval edge and is not considered consistent with the intent of the SP, DGs and DAP.

Although the proposal achieves design improvements for future residents by providing improved connectivity between the units and the oval, and also in terms of improved environmental outcomes, the proposal is not considered to achieve the first and foremost fundamental design principle of emphasising the oval as a key feature of the site by providing a strong, framed building edge and sense of containment to the oval.

The Town engaged wind engineers to comment on the proposal. Advice received indicated the proposed development might create additional wind turbulence to the southern football goals compared to the heights stipulated of min. 4 and max. 6 storeys provided for in the Detailed Area Plan due to the proposed breaks in the building edge along the oval for southerly winds.

Detailed Area Plan- Lot 508 – Site Specific Guidelines

The proposal complies with the DAP requirements for Lot 508 with exception to the matters as outlined in the Table below.

Detailed Area Plan (Lot 508)			
Design Element	Development Requirement	Proposal	Compliance / Comment
Building Height	Minimum 4 storeys and Maximum 5 storeys south-eastern section of the site, toward Shenton Road.	The proposed Stage 1 development has an overall building height of eight storeys, in lieu of the five and six storey maximum height limits outlined on the DAP for Lot 508.	<u>Variation Not Supported</u> The development proposes height increases of between two and three storeys through various portions of the building (significantly three additional storeys along approximately two thirds of the site fronting Shenton Road).
	Minimum 5 storeys and maximum 6 storeys at the north west section and north eastern portion of the site, as depicted by on the DAP.	The south western corner has a height of one storey in lieu of four storey minimum.	Notwithstanding that most of the development will overshadow Shenton Road to the south, the additional height may contribute to morning shadow on the upper levels of adjoining properties and will result in additional overshadowing to the south on Lot

			<p>512 at midday on 21 June.</p> <p>Lot 509 Davies Road (Blackburne site) to the west was approved with one to two additional levels in parts, with the highest section being seven storeys, being one storey above the relative height provided by the DAP for that portion of the site. This section was setback from the main façade so as to not impact on the streetscape view from Shenton Road and maintained the SP objective of providing for a gradual height increase along Shenton Road to the intersection of Davies Road (the western entrance) which promoted a corner feature at the six storey corner adjacent the intersection.</p> <p>The height variations are not supported - see detailed comments under the DG requirements below.</p> <p>The four storey minimum height was proposed to act as a wind baffle for the Shenton Walk POS link between the subject site and Lot 509. If supported, the removal of building adjacent the Shenton Walk POS link adjacent the junction with Shenton Road will require secondary wind baffling to reduce wind tunnel/turbulence along the POS corridor.</p>
<p>Building Setbacks</p>	<p>Zero setbacks to all boundaries for a minimum of 70% of the Façade.</p>	<p>Of the 243m boundary with direct street/ oval frontage, zero setbacks are proposed for 152m (62%).</p>	<p><u>Variation Supported</u></p> <p>Although the development does not achieve the minimum 70% nil setback requirement, the variation is due to a 3m setback with landscaping along the oval edge and small setbacks along Shenton Road for building entries. The building façade has also been designed to incorporate a high level of activity and provide clearly defined entry points for the lobbies at street level.</p> <p>The 3m setback to the oval edge is to facilitate landscaping requirements in the DGs.</p> <p>The proposed 8% reduction to the zero setback is relatively minor and given the additional setbacks promote architectural articulation of</p>

			the façade and facilitate the required landscaping at the oval edge, the proposed reduction in zero setbacks is considered to achieve the active edges objectives of the DGs.
Special Corner Element	The inclusion of an architectural feature or element, contained within the prescribed height range, that addresses the corner and has a special or distinct character or treatment that is visually distinguishable from the main façades of the building in the location depicted on the DAP (south eastern and south western corners of the lot) is lacking.	The architectural features are in the location depicted on the DAP, however exceed the maximum height prescribed by the DAP	<p><u>Variation Supported</u></p> <p>The architecturally designed corner features are proposed in the location depicted on the DAP and have been designed as 'book ends' to the main southern facade along Shenton Road whilst also terminating the apartment balconies that return the corner.</p> <p>Although the corner features are not within the maximum heights prescribed by the DAP, it is considered the proposed development achieves the objective of the DGs relating to the special corner elements. Building heights are discussed separately in this report.</p>
View corridor over car park level	10 wide view corridor over the car park level in the location depicted on the DAP.	<p>11.5m wide view corridor located to the east of the nominated location, on the first level.</p> <p>Note: proposed to be widened to 14.5m on construction of stage 2.</p>	<p><u>Variation Not Supported</u></p> <p>The intention of the view corridor in the centre of the site is to provide legible access and views around the oval and visible linkages from the south (northern end of Mary Street south of the railway). Offsetting the view corridor will disrupt the pattern of POS and view corridors around the oval and also to/from the south.</p> <p>The view corridor is situated at additional height due to parking being provided at ground level, further restricting view, discussed below.</p>
Vehicle Access Location	Vehicle access to be provided via Tiger Way	Vehicle access is proposed via Shenton Road	<p><u>Variation Not Supported</u></p> <p>The location of the vehicle access from Tiger Way was specifically required to deviate traffic in order to avoid traffic issues on Shenton Road. Access from Shenton Road will likely result in illegal U-turns, cars mounting the kerbed median on Shenton Road or traffic unnecessarily lapping around Tiger Way to Graylands Road when</p>

			<p>exiting to the west, and illegal U-turns, cars mounting the kerbed median near the bend in Shenton Road or traffic unnecessarily lapping around Davies Road Kyle Way/Lapsley Road and Graylands Road when entering from the east. Separation of the two lots for staged development is insufficient justification to create an undesirable road network. It is recommended that a condition be included on any approval that the access be maintained from Tiger Way, this would be via an easement should the entire site be subdivided into two lots.</p> <p>Additional comment is provided below.</p>
Target Dwelling Yield	The target yield for Lot 508 is 174 dwelling.	142 dwellings proposed.	<p><u>Variation Supported</u></p> <p>If stage one of the proposal is supported being on the reduced site area proposed then the dwelling yield of 142 is on target to exceed the DAP requirement by approximately 9%. Dwelling yield is discussed in further detail below.</p>

Dwelling Yield

The dwelling yield of 142 for the western portion of the lot is proportionally a 9% increase on the target for that portion of the site. Based on a 9% increase of the western side, the eastern side could potentially be developed to target (44 dwellings) or if extrapolated by 25% up to 55 dwellings, as noted in the below table.

Lot 508	Target Yield (total 174)	Actual Yield	Additional dwellings	Percentage increase
Stage 1 (75%)	130	142	+ 12	9%
Stage 2 (25%)	44	55*	+ 11*	25%*
Total	174	197 (est.)	+ 23 (est.)	13% (est.)

* Based on normal 25% extrapolation – see table below.

All NEP developments to date have been approved with an increase to the target yields identified in the DAPs as follows:

Lot	Target Yield	Actual Yield	Additional dwellings	Percentage increase
503 (Georgiou)	77	95	+ 18	23%
504 and 505 (Mirvac)	97 + 81 = 178	142 + 91 = 233	+ 55	24%
509 (Blackburne)	119	143	+ 24	20%
600 (Celsius)	N/A	40	+ 40	N/A

Total to date	374	511	+137	36%
Iris	174	197 (est.)	+ 23 (est.)	13%
506 (Oryx - based on preliminary concept plans)	129	162	+ 33	26%
Total (est.)	677	870	+ 193	28%

The development yields for the NEP have consistently been varied (increased) for sites approved for development in the NEP. The SP initially identified a development yield of 527 dwellings for the NEP (including the PCYC site not represented above) which has increased to 706 dwellings under the current SP (including 29 PCYC lots) and DAPs. Given the WAPC did not support Council's proposal to have a minimum unit size of 93m², developers have responded to market demands and at the present time, approved residential developments have increased their development yield by an average of 36% (137 additional multiple dwellings), although if not for the recent Celsius approval (conversion of commercial tenancies to 40 multiple dwellings), the increase in yield would be 26%. As indicated above, if this trend continues (and making allowances for the current proposed development), the target development yield for the NEP will increase by a further 44 multiple dwellings (Stage 2 of this development site and Oryx) to 193 additional multiple dwellings, resulting in a final development yield at the NEP of approximately 870 dwellings (28% increase on current SP and DAPs).

The final development yield of the NEP is expected to significantly contribute 67% to the Town's WAPC identified target infill growth target of 1300 dwellings by 2050.

No objections are raised to this increased development yield, as although higher than the initial expectations, the Claremont on the Park development is capable of delivering this capacity in a master-planned and environmentally sustainable Transit Oriented Development form.

In respect of the proposal for Lot 508, it is noted however that the combined open built form fronting the oval (in lieu of a hard edge) and additional height has not significantly contributed to achieving additional future dwelling targets as other development have consistently achieved through the Claremont on the Park development. The variations to the SP provisions have resulted in only minimal increase in dwelling yield of 9% for 75% of the site, which may increase to an overall 13% if the remainder of the site is developed with the standard 25% increase in dwelling yield evident from the other residential developments at Claremont on the Park.

Vehicle Access Location

The Town engaged traffic engineers to comment on the Transport Impact Assessment provided by the application. They advised as follows:

'When assessing the proposed development access, it is important to reiterate that the proposal to provide a left in/left out only access arrangement and the impact of driver behaviour does not appear to have been assessed in any great detail. A left in/left out access arrangement may in fact result in potential trip redistribution onto the surrounding local road network.

When travelling from the east toward the development, unable to make a right turn in, there is the potential that traffic may:

- *Use Graylands Road, Kyle Way and Davies Road to then turn left into the development adding additional traffic volumes into this road network.*
- *Due to the proposed design for left in/left out only denoting a short solid median in front of the proposed access, a degree of traffic entering from the east may undertake unsafe u-turn movements at the end of the solid median to then turn left into the development.*
- *Further, depending on the design of the solid median, drivers of larger vehicles such as four-wheel drive vehicles may try and traverse across the median in order to enter the development.*

When exiting the development wanting to head west, unable to make a right turn out, there is the potential that traffic may:

- *Use Graylands Road, Kyle Way and Davies Road to then continue west along Shenton Road.*
- *Due to the proposed design for left in/left out only denoting a short solid median in front of the proposed access, a degree of traffic exiting from the development that wish to head west along Shenton Road may undertake unsafe u-turn movements at the end of the solid median.*
- *Further, depending on the design of the solid median, drivers of larger vehicles such as four-wheel drive vehicles may try and traverse across the median in order to exit the development and travel west along Shenton Road.*

The proposed development access assessment should consider all options to be modelled to ensure that the proposed left-in/left-out access is the most favourable and most appropriate intersection access arrangement assessing the potential redistribution and safety implications as noted above.'

As noted above, the proposed access to Shenton Road is not supported on the basis that it is likely to cause adverse traffic issues. It is therefore recommended that any approval for this development be conditioned to restrict all vehicular access to Tiger Way across future stage 2 site.

It is noted that the applicant has indicated that the proposed access to Shenton better serves the commercial tenancies and original proposals to provide for access to Tiger Way as proposed are difficult to achieve due to site level differences. However, it is noted that the DAP already identified the commercial uses with the allocated access and the level differences may be accommodated within the remainder of the site (25%) and can be linked into the current car park design for the ground floor.

It is also noted that the median island proposed for Shenton Road to restrict vehicle movements in and out of the entrance will require modifications to the road/parking and footpath geometry in proximity of the entrance. If approved, the applicant will be responsible for making these changes within the road reserve and a suitable condition will be required.

Claremont NEP Design Guidelines

As per the requirements of the DGs, the proposal has also been assessed by a Claremont on the Park Architect. Attached is a Schedule of the DG and DAP requirements and the Claremont on the Park Architect's comments. The proposal is

supported by the Claremont on the Park Architect noting that it varies some of the DG and DAP requirements, but in his opinion meets the objectives and intent of the DGs.

The proposal complies with the NEP DG requirements with the exception of the following:

4.5.1 Commercial/Retail Diversity

The DG specifies the ground floor non-residential land uses are to be located in the in the south east corner of the development fronting Shenton Road and Shenton Walk, east of the view corridor. The commercial tenancies extend the entire length of the Shenton Road frontage to the proposed western boundary and the associated view corridor. It is proposed for two residential units to be located on the ground floor fronting Shenton Walk which although varies the DGs it is proposed for the apartments to be adapted and approved for use as a 'home business' and is supported. This variance is supported on the basis that the dwelling fronting the Shenton Walk POS link are designed/proposed to accommodate home businesses on the ground floor where the commercial tenancies were to be located.

The SP identifies the subject site as 'Mixed Use' and the application proposes commercial, retail and residential land uses that are consistent with the SP, however as noted below, the floorspace allocation under the DAP of 180m² for retail and 2,250m² for commercial are varied to 155m² retail and 631m² commercial.

While the reduction in commercial space is significant, no objections are raised to either of these aspects of the proposal.

4.5.2 Residential Diversity

The DG specifies that residential diversity be as per the cl.6.4.3 of the RDC 'Dwelling Size'. In this instance the development proposes 13.3% single bedroom dwellings in lieu of 20% specified by the deemed-to-comply requirements of the RDC. This is discussed and supported above in the RDC requirements.

4.9.2 Vehicle Parking

The DG specifies that car parking shall be provided in accordance with the NEP SP which requires a maximum ratio of 1.2 bays per residential dwelling (170 bays), 1.5 bays per 100m² of commercial floor space (nine bays) and two bays per 100m² of retail floor space (three bays).

The proposed number of bays for the commercial and retail tenancies will be nine and three respectively, both in compliance with SP provisions. The number of parking bays proposed for residential use is at a ratio of 1.795 per dwelling which equates to 255 bays in lieu of the required 170.4 bays (84.5 additional bays). The over-supply is supported on the basis that the multiple dwellings are large and likely to accommodate residents with more than one vehicle (average of 1.6 bays per dwelling). The provision of additional residential bays will ensure less pressure for on street and public car parking in the locality. As noted above, it is recommended that the resident parking be reduced to 250 and visitor parking increased by five to allow for compliance with the Residential Design Codes, with these bays being located in front of security gates.

It should be noted that 130 of the car parking bays have been provided in a tandem arrangement, therefore if the development is approved, any future built strata would require that tandem bays be allocated to a single dwelling.

5.1.1 Building Depth

The DG requires residential buildings to be no deeper than 20m (glass line to glass line, not including open balcony structures). The building is 23.7m deep in a single location in the south western corner where the apartments are double loaded. This minor variance is supported due to the location of the double loaded section of the apartments being internal to the courtyard forming the C shaped design.

5.1.2 Maximum Heights

The proposed development has an overall building height of eight storeys, in lieu of the five - six storey maximum height limits outlined on the DAP for Lot 508. The NEP DGs outline the following objectives regarding building heights controls:

- *To provide sufficient access to sun, breezes, views and privacy.*
- *Maintain the character envisaged for the Claremont NEP.*

The design incorporates a central void, maximising northern exposure and providing dual aspect to as many of the multiple dwellings as possible. By cascading the building mass back from the oval, the multiple dwellings facing into the central landscape space are visible from the other end of the oval rather than being hidden within the development. The proposed height of the development has endeavoured to meet the intent to maintain sufficient access to sun, breezes, views and privacy within and external to the development.

Overshadowing impacts are confined primarily to the less sensitive adjacent Shenton Road and rail line to the south of the site, however the overheight portions will have some impact on adjacent Lot 512 at 12.00 noon on 21 June and access to morning sun on the adjacent Lot 509. The proposed height of the development has attempted to stay in keeping with neighbouring development which has previously been approved in the NEP DG area, including that on Lot 509 directly adjacent to the site. The Lot 509 development was approved with a maximum height of seven storeys including a small and stepped-in roof-top communal space, plus a lower mezzanine level, with an overall height of 42.4 metres AHD. This development was approved by the JDAP in December 2016, based upon a positive recommendation from the Town. The proposed development has a similar overall height of 43.4 metres AHD, however the objective of the SP is to increase building heights along Shenton Road from east to west, with the highest point being at the intersection of Davies Road (Lot 509), the western entry to the Claremont on the Park development site. The additional height at Lot 509 was to ensure that views would be available, including to the east, and the proposed eight story development at Lot 508 will adversely impact on Lot 509 views to the east. It is therefore considered that the height of the building on Lot 508 should be reduced to six storeys, being one storey less than the development on neighbouring Lot 509 with the top level stepped in similar to Lot 509 except in the western supported maximum six storey section with associated special corner element, in keeping with the objective of the SP, DGs and DAP. This will effectively deliver a one storey height increase for approximately half of the site as a significant height variation in its own right.

The bulk of the development on Shenton Road, as a result of the additional height, will have a negative impact on the streetscape and create additional overshadowing on the Lot 512 to the south and inhibit morning access to light from the upper level dwellings to the west on Lot 509. Lots 504 and 505 were approved with an additional height of one storey, and on completion their bulk and height is notable from Shenton Road, the rail line and Guger Street. Taking into account the additional height of the development and perspectives relative to the Mirvac development, the location of the eight storey development directly on Shenton Road will create an undesirable and overly imposing element to the streetscape, and is not supported.

The Town could consider a condition being recommended for any Development Approval that the seventh and eight levels of the proposed development are to be removed, and the eastern two thirds of the sixth level to be stepped in with a setback of at least 4m, to reduce the impacts of the development on the streetscape and overshadowing on the adjacent Lots 509 to the west and 512 to the south.

However a condition of development approval may not necessarily be valid if it has the effect that it would significantly alter the proposed development. The determination could be seen as a quasi-refusal rather than an approval, which is an interpretation that been taken by the SAT on many occasions. The appropriate approach for the decision-maker in such a case is to refuse to grant approval, as per the Town's recommendation to the JDAP.

5.1.2 Minimum Heights

The south west corner reduction in height to nil in lieu of four to five storeys is considered likely to negatively impact on wind turbulence along the adjacent Shenton Walk POS corridor.

The applicant has advised that whilst they expected an improved impact on the wind conditions, their wind consultant report indicates there will not be any adverse impacts as follows:

'The proposed changes to the building massing of Lot 508 are expected to have minimal impact on the wind conditions along Shenton Walk regardless of any construction staging with the neighbouring buildings. In certain areas along the laneway, wind conditions would improve and others would become slightly worse, specifically around the north-west corner. In terms of staging, the inclusion of Lot 512 is expected to have a greater positive impact on the wind conditions along Shenton Walk for winds from the south-west'. ARUP

The four storey minimum height was included in the development requirements to reduce wind impacts at the entrance to the Shenton Walk POS link, therefore the reduced height is not supported.

The Town engaged a wind engineer to consider the impacts that the development may have on wind in the immediate locality. They predicted that the proposed development will present some changes to existing wind conditions in adjacent ground level areas. They advised the proposed scheme might bring more air flow through the Shenton Walk pedestrian access way than the DAP provisions, however the wind conditions created through this arcade are still expected to be acceptable.

They also predicted that the outdoor seating areas at south west corner might exceed the recommended Sitting criterion and therefore recommended up to 1.5 m

high porous windscreens be incorporated at the south and west edge of the seating areas within the Shenton Walk POS link to address wind tunnel/turbulence concerns. This can be included as a condition on any approval.

5.2.3 Oval's Edge Interface Zone

The DG stipulates that the finished floor level of the first residential level is to be a minimum of 0.9m and a maximum of 1.5m (maximum average of 1.2m) above the proposed finished landscape level at the development lot boundary.

The first residential floor level is 2.1m above the proposed finished oval edge. The boundary treatment also ensure blank wall conditions are limited. Central lower communal terrace is 1.2m above oval edge for 20m width (25% of oval boundary).

The additional height on the first storey in the north eastern section results in the view corridor on this level being elevated higher than intended by the DGs, being 4m high at the southern elevation, and completely restricting pedestrian views from Shenton Road (and the northern end of Mary Street south of the Railway). The view corridor is effectively restricted to the residents. This is not in accordance with the objectives of the DGs to ensure that development interfaces appropriately with the variety of landscape conditions around the oval's edge, and is not supported.

5.3.1 Solar Access

The DGs require that adjacent building envelopes be taken into account in considering solar access. The adjacent building envelopes of Lot 509 will in part be impacted by increase in overshadowing as a result of the additional height proposed on the north-west and north east corner of the proposal, as will the lower floors of development on Lot 512 to the south of Shenton Road.

5.5.5 End of Trip Facilities

The DGs require bike storage to be provided at a rate of 1 per dwelling, 1 per 200m² commercial office, 1 per 500m² GFA commercial visitor and 1 per 200m² retail.

Residential bike parking is supposed to be located at car parking level and provided at a rate of one bike bay per residential dwelling. The commercial bike parking has been provided within the parking level, and a 14m² secure bike parking area for residents, which will fit in the order of ten bikes depending on rack configuration. The majority of the bike parking is intended to be located within the screened storage areas provided for the air-conditioning units on the balconies of the multiple dwellings, which may not be practical. Provision of bike parking within car parking areas is recommended given that the balcony stores are proposed to house air-conditioning units. A condition requiring all residential bike racks to be provided in car parking levels can be included on any Development Approval.

Additional detail to be provided at Building Permit stage

Several aspects of the application do not presently address the DG requirements due to the lack of detail provided by the applicant. Notwithstanding, these requirements may be conditioned in any Development Approval to ensure compliance.

These matters include:

4.7 Public Art

The NEP DGs outline the following Development Controls regarding the provision of public art integration into multiple dwelling / mix use developments:

- *Developments other than a single dwelling shall contribute some form of public art to the public realm on or adjacent to their lot to the value of 1% of total construction cost.*
- *LandCorp will be provided with 25% (or 0.25% of total construction cost) of the abovementioned contribution, which will be retained within a consolidated fund and utilised to deliver precinct-wide public art. The remaining 75% (or 0.75% of total construction cost) will remain as the public art contribution for implementation by the Developer.*
- *Public art elements shall be submitted for the approval of the Claremont on the Park Architect along with application for Design Guidelines approval.*

The applicant has provided indicative public art elements, with a large sculpture to the eastern façade (Oval) and art to be incorporated into the northern ground floor wall (PAW) and blank walls fronting the Oval and a short section of wall housing the Fire Room on the Davies Road frontage at ground level. Accordingly a condition of Development Approval is proposed which ensures appropriate public art is provided as per the above requirements.

5.3.6 Energy Efficiency

The DGs require all development to achieve a 'plus 1' energy rating standard. However Council may support development at the prevailing energy rating standards where it can satisfactorily be demonstrated that the higher standard is impractical or detrimental to other design outcomes for the development.

The 'plus 1' requirement has been consistently applied to all JDAP recommendations for the multiple dwelling developments in the NEP. A condition which requires design details to be provided with the Building Permit application indicating compliance with the Design Guideline requirements for a 6 Star individual and 7 Star collective average rating under Section J of the *National Construction Code 2013* (NCC) to the satisfaction of the Town of Claremont has been recommended for each of these developments. Although the applicant has confirmed a 'plus 1' standard will be targeted, a condition to require the 'plus 1' standard should be provide on any approval granted.

In addition, conditions requiring further detail and information at Building Permit stage are also recommended on any approval as detailed below:

4.10 Signage

The application provides for commercial tenancies, but does not propose signage details. Signage will be subject to provision of Sign Permit application details which satisfy the DGs and Council's Local Law Relating to Signs prior to occupation of the commercial tenancies. A condition to reflect this is recommended to be included on any approval.

5.2.2 Facades

The DGs and DAP provide for a variety of materials, textures and articulation. The proposal demonstrates a variety of materials and colours, however additional detail is required. The Claremont on the Park Architect has recommended further review at Building Permit stage. A condition can be included on any approval requiring details of materials and colours to be provided at the Building Permit stage.

5.3.2 Openings and Ventilation

Information regarding glazing and window types to maximise cross ventilation is required. A condition can be included on any approval requiring details to be provided at the Building Permit stage.

5.3.4 Noise and Acoustic

The DGs require development to be designed to consider impacts of adjacent noise sources. The Showgrounds, CFC, and rail will be somewhat addressed by noise notifications on the Certificate of Title discussed above. An acoustic report to be submitted with the Building Permit can be imposed as a condition on any Development Approval to ensure that noise issues are adequately addressed.

5.3.7 Water Saving

The DGs require all tap ware and showers to exceed NCC requirements by one star per fixture. No detail regarding water saving has been provided, therefore a condition to require the 'plus 1' standard is proposed.

5.3.8 Lighting

Motion sensors are required for common areas and lighting is to be provided under the awnings to illuminate the footpath below for effect and security. No information has been provided therefore lighting should be reviewed at Building Permit stage. A condition to reflect this requirement is proposed to be included in the Development Approval.

5.3.9 Stormwater Management

Details of provision of on-site retention of rainwater and re-use will be required to be submitted at Building Permit stage. Any approval should be conditioned accordingly.

5.5.3 Mechanical Services

Details of screening to services such as fire hydrants etc. should be reviewed at Building Permit stage. A condition to reflect this requirement is recommended to be included on any Development Approval.

Officer Recommendation to JDAP

As this application is to be determined by the JDAP, Council is required to submit its recommendation and accompanying report to the JDAP. The officer's recommendation to the JDAP is as follows:

Recommend that the Metro West JDAP refuse the proposed eight storey mixed use development containing 142 multiple dwellings and nine commercial tenancies for the following reasons:

1. The proposed vehicular access from Shenton Road is inconsistent with Claremont North East Precinct Structure Plan, Design Guidelines and Detailed Area Plan requirements for vehicular access to be restricted to Tiger

Way. The proposed vehicle access location has the potential to cause unsafe and problematic traffic management issues resulting in additional unnecessary traffic movements through the Claremont on the Park development.

2. The proposed eight storey height is inconsistent with Claremont North East Precinct Structure Plan and Detailed Area Plan requirements for five to six storey maximum building height. The additional height will have an adverse impact on the streetscape amenity along Shenton Road overshadowing at 12.00 noon on 21 June on the lower levels of the adjacent development site on Lot 512 Shenton Road and also reducing morning light access for the upper level dwellings on Lot 509, and restricting views from communal amenity facilities on Lot 509.
3. The proposed nil height in the south west corner is inconsistent with Claremont North East Precinct Structure Plan, Design Guidelines and Detailed Area Plan requirements for four storey minimum building height. The reduced height will likely have a negative impact on wind tunnel/ turbulence along the adjacent Shenton Walk Public Open Space link.
4. The proposed location and height of the view corridor is inconsistent with Detailed Area Plan requirements for the view corridor to be located central to Lot 508 and a height above the semi-underground parking. This will disrupt views to the oval from Shenton Road, Gugerri Street, the rail line and the northern end of Mary Street to the south and result in reduced pedestrian access to the view corridor as it is located on first floor level in lieu of ground floor.
5. The proposed open built form fronting Claremont Football Oval is inconsistent with Claremont North East Precinct Structure Plan, Design Guidelines and Detailed Area Plan requirements for a hard built edge. This proposed development is inconsistent with the first and primary Design Principle for the Design Guidelines which aims to emphasise the oval as a key feature of the site by providing a strong, framed building edge and sense of containment to the oval.
6. The number and nature of the variations proposed to the specific and detailed guidance in the planning framework for the future development of the site is inconsistent with the principles of orderly and proper planning.

Should the Metro West JDAP decide to approve the application, the following conditions and advice notes are recommended:

1. In all other respects, development is to occur in accordance with the drawings submitted with the application for development approval (Development Application 2018.00079), as amended by these conditions.
2. Permanent vehicular access to Shenton Road is not approved as part of this application. Temporary access is permitted subject to all modifications to the road, parking and footpath geometry being carried out at the cost of the applicant in accordance with a design approved by the Town of Claremont. The temporary access is to be closed and the road reserve reinstated and landscaped to a design approved by the Town of Claremont when Stage 2 of the development of Lot 508 is completed, allowing permanent vehicular

- access to Tiger Way across the eastern side of Lot 508 through a link which must be provided on the ground floor adjacent the bin area of this development, to the satisfaction of the Town of Claremont.
3. The requirements relating to temporary access arrangements to Shenton Road and permanent access arrangements to Tiger Way are to be secured by a legal agreement between the landowner and the Town of Claremont. The legal agreement will provide for the Town to lodge an Absolute Caveat on the Certificate of Title for Lot 508, and for an easement in gross in favour of the Town to be registered to provide a public access easement to Tiger Way pursuant to sections 195 and 196 of the Land Administration Act should Lot 508 be subdivided. The legal agreement is to be prepared by Town's solicitors on instructions from the Town, entirely at the cost of the applicant.
 4. Prior to the issue of a Building Permit, final details of the proposed materials, colours and finishes of the proposed development compliant with the requirements of Clauses 76 and 77 of the Town of Claremont Local Planning Scheme No. 3 and the North East Precinct Design Guidelines to be submitted and approved by the Town of Claremont.
 5. All facades of commercial tenancies on the ground floor facing the public realm as indicated on the approved plans are to be provided with an open glazed front and not to be obscured with obscure glazing/film in order to maintain street activation of the commercial frontages and a high level of pedestrian interface to the satisfaction of the Town of Claremont.
 6. Prior to application for a Building Permit, final details of the proposed vehicle entry and exits are to be provided inclusive of high quality finishes for the driveway and walls to be submitted and approved by the Town of Claremont.
 7. Vehicle crossovers are to be designed, constructed and maintained in accordance with the Town of Claremont crossover requirements and are to be provided at the same grade as the adjoining footpath to ensure continuity for pedestrians to the satisfaction of the Town of Claremont.
 8. Provision of 250 residential car parking bays on site with a minimum of one car parking bay per dwelling, and a minimum of 36 residential visitor parking bays to be provided on site in front of security gates, to the satisfaction of the Town of Claremont.
 9. All commercial parking bays for the proposed commercial and retail tenancies are to be marked as tenant and visitor bays in accordance with the requirements of the Claremont North East Precinct Structure Plan to the satisfaction of the Town of Claremont.
 10. The dimensions of all car parking bays, aisle widths and circulation areas complying with the Australian Standard AS/NZS 2890.1/2004. The 130 residential car parking bays provided in a tandem arrangement will need to be allocated to single dwellings.
 11. Bicycle racks to accommodate 142 residential bicycles shall be provided within the basement, ground and first floor car parking areas. Details are to be provided at the time of the Building Permit to the satisfaction of the Town of Claremont.

12. Porous windscreens with a minimum height of 1.5m shall be incorporated at the south and west edge of the seating areas at the corner of Shenton Road and Shenton Walk to prevent adverse impacts from wind. Details to be provided in the Building Permit to the satisfaction of the Town of Claremont.
13. Prior to the issue of a Building Permit, design details are to be provided with the building application indicating compliance with the Design Guideline requirements for a 6 Star individual and 7 Star collective average rating under Section J of the *National Construction Code 2013* to the satisfaction of the Town of Claremont.
14. Prior to the issue of a Building Permit, details are to be provided with the building application indicating compliance with the Design Guideline requirements for tap ware and showers to exceed the *National Construction Code 2013* for WELS star ratings by one star per fixture to the satisfaction of the Town of Claremont.
15. Prior to the issue of a Building Permit for the proposed development, details of the proposed public art work, consistent with Council's Design Guideline requirements for the North East Precinct, to be submitted and approved by the Town of Claremont. All approved art work on site is to be installed prior to occupation to the satisfaction of the Town of Claremont.
16. Prior to the issue of a Building Permit for the proposed development, a detailed Acoustic Report shall be provided, consistent with Council's Design Guideline requirements for the North East Precinct, to be submitted to the satisfaction of the Town of Claremont.
17. Prior to the occupancy of the commercial tenancies in the proposed development, details of the proposed signage, consistent with Council's Design Guideline requirements for the North East Precinct and Council's Local Laws Relating to Signs are to be submitted and approved by the Town of Claremont. All signage on site is to be installed to the satisfaction of the Town of Claremont.
18. All signage is to be kept clean, intact and free of graffiti/vandalism at all times and any such graffiti or vandalism being removed within 48 hours.
19. Prior to the issue of a Building Permit, a Lighting Plan is to be prepared and approved to the satisfaction of the Town of Claremont. The Lighting Plan shall cover all public areas of the building including stairwells, entry points and the building perimeter, showing suitable levels and types of lighting to ensure maximum visibility and safety for pedestrians and users of the site in accordance with the Australian Standards.
20. All servicing areas and other parts of the land or building which are likely to be untidy in appearance are to be completely screened from public view and from view from adjoining properties. Details are to be provided to the satisfaction of the Town of Claremont with an application for a Building Permit.
21. Prior to the issue of a Building Permit for the proposed development, details of screening to all external Mechanical Services visible from the public realm shall be provided, consistent with Council's Design Guideline requirements for the North East Precinct, to be submitted and approved by the Town of Claremont.

22. All air conditioning equipment is to be screened and when on balconies, not to be located so as to blow directly on to the main usable space of the balcony to the satisfaction of the Town of Claremont, with all details being provided at the time of lodging for a Building Permit.
23. Prior to the issue of a Building Permit, information regarding glazing and window types to maximise cross ventilation is to be submitted and approved by the Town of Claremont.
24. Prior to the issue of a Building Permit, a final Landscaping and Reticulation Plan for the whole development is to be submitted and approved by the Town of Claremont. The approved landscaping shall be installed prior to occupation of the development and maintained thereafter to the satisfaction of the Town of Claremont.
25. Prior to the issue of a Building Permit, a plan is to be submitted and approved by the Town of Claremont identifying a Tree Protection Zone around the trees to be retained on the Shenton Road verge fronting the development site in accordance with AS 4970-2009. The Tree Protection Zone shall be provided with a fixed barrier prior to the commencement of any construction works and the fixed barrier shall remain until the development is completed to the satisfaction of the Town of Claremont.
26. A Site, Traffic and Noise Management Plan for the construction of the proposed development including tradespersons and delivery vehicles is to be provided and approved by the Town of Claremont prior to the issue of a building permit and implemented for the duration of construction. The Plan is to also include details on the 2m wide construction zone, along the sites boundary adjoining the oval, being provided for temporary use by the developer to facilitate the construction process and to ensure all rubbish is contained on site and dust is minimised so that rail operations are not compromised.
27. All stormwater is to be contained on site. Details are to be provided with an application for a Building Permit and approved to the satisfaction of the Town of Claremont.
28. Prior to the issue of a Building Permit for the proposed development on Lot 508 Shenton Road, the owner shall enter into a Deed with the Town of Claremont whereby the owner:
 - (a) Indemnifies the Town of Claremont and its officers, employees and contractors in respect of any potential damage that may occur within the land to any property or person relative to the performance of waste collection services for the occupants of the subject development.
 - (b) Agrees to take out and maintain a policy of public liability insurance to the satisfaction of the Town of Claremont in respect of all claims arising out any loss or damage occurring on the land in the course of the waste collection services by the Town of Claremont employees, officers or contractors.
 - (c) Agrees to provide internal storage for all waste on site and to maintain all common accessways on the land so as to permit the Town of

Claremont employees, officers or contractors to gain access to the land for the purposes of collecting rubbish and carrying out waste management services on the land.

The agreement shall be prepared by Council's solicitors to the satisfaction of the Town of Claremont. The legal agreements is to be prepared at the applicant's cost and registered as an Absolute Caveat on the relevant Certificates of Title to the satisfaction of the Town of Claremont.

29. Prior to the occupation of any part of the proposed development the owner shall grant to the Town of Claremont an easement in gross for vehicular access purposes pursuant to Section 195 of the *Land Administration Act 1997* over the common accessways and waste storage areas forming part of the proposed development in accordance with the specifications and to the satisfaction of the Town of Claremont to ensure that Town of Claremont officers, employees and contractors may access the waste storage areas and common accessways for the purposes of collecting rubbish and carrying out waste management services on the land. The Easement shall be prepared by Council's solicitors and the owner shall be responsible to cover all associated costs.
30. This approval is valid only if the development is commenced within 24 months of the date of approval.

Advice Notes:

- (i) This is not an approval to commence development. A Building Permit must be obtained from the local government's Building Services prior to the commencement of any building works.
- (ii) The applicant/owner is advised of the following health requirements from the Town's Health Services. For further information please contact the Town's Health Services on 9285 4300:
- The development and use of the land is required to comply with the *Environmental (Noise) Regulations 1997*.
 - The applicant is required to remove any hazardous materials encountered during construction/demolition at their own expense and in accordance with the Code of Practice on Safe Removal of Asbestos (NOHSC: 2002 (1988) as stipulated by the *Occupational Health and Safety Regulations 1996*, and disposed of in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2004*.
 - All plant and machinery (such as air-conditioners and pool pumps) are to be suitably sound proofed to comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* and so as not to cause an adverse impact on the amenity of any adjoining residential properties.
 - Under the *Environmental Protection (Noise) Regulations 1997* no work is to be permitted or suffered to be carried out:
 - a) Before 7.00am or after 6.00pm Monday to Saturday inclusive, or

- b) On a Sunday or on a public holiday.
- (iii) If the 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 the determination.

Summary

Based on the above, it is recommended that approval not be granted for the reasons outlined in the officer's recommendation. Should the JDAP approve the Development Application appropriate conditions have been included in the Officer's Recommendation.

Voting Requirements

Simple majority decision of Council required.

OFFICER RECOMMENDATION

Moved Cr Tulloch, seconded Cr Edwards.

THAT Council:

- 1. Support the officer recommendation to the Metro West Joint Development Assessment Panel that Development Approval not be granted for the proposed eight storey mixed use development containing 142 multiple dwellings and nine commercial tenancies, for the reasons detailed in the Council report.**
- 2. Authorise the Director Planning and Development to forward a report on the application to the Metro West Joint Development Assessment Panel.**

**CARRIED(158/18)
(NO DISSENT)**

14 ANNOUNCEMENTS BY THE PRESIDING PERSON

Mayor Barker reported on his attendance at the Town of Claremont Art Awards.

Cr Browne reported on his attendance at the Town of Claremont Art Awards and City of Wanneroo OAM function.

Cr Franklyn reported on her attendance at the Town of Claremont Art Awards and noted the two articles in the Western Suburbs Weekly featuring the Town of Claremont Council.

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

NIL

17 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**MOTION**

Moved Cr Main, seconded Cr Edwards.

That the doors be closed in accordance with Section 5.23(2)(c) 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.

**CARRIED(159/18)
(NO DISSENT)**

Mayor Barker adjourned the meeting at 7:53pm.

All members of the public and press left the meeting at 7:53pm.

Mayor Barker reconvened the meeting at 7:54pm.

17.1 WASTE AND RECYCLING COLLECTION CONTRACT – CONTRACT NEGOTIATIONS

Responsible Officer: Les Crichton
Director Corporate and Governance

Author: Eugene Lee,
Principal Environmental Health Officer

Proposed Meeting Date: 21 August 2018

Purpose

The following item was considered in a closed session.

Voting Requirements

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED.

OFFICER RECOMMENDATION

Moved Cr Haynes, seconded Cr Edwards.

That Council adopts the Recommendation as outlined in Confidential Report Item 17.1 Waste and Recycling Collection Contract – Contract Negotiations.

CARRIED BY AN ABSOLUTE MAJORITY(162/18)
(NO DISSENT)

MOTION

Moved Cr Haynes, Cr Edwards.

That the doors be opened.

CARRIED(163/18)
(NO DISSENT)

The doors opened at 8:09pm.

Two members of the press re-entered the meeting 8:10pm.

MAYOR BARKER READ ALOUD THE RESOLUTIONS MADE BEHIND CLOSED DOORS.

