



# TOWN OF CLAREMONT

## ORDINARY COUNCIL MEETING

### MINUTES

TUESDAY 4 JUNE 2019

Liz Ledger

CHIEF EXECUTIVE OFFICER

Date: 6-6-2019

## **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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Question: Mrs Sinclair requested a response to her letter dated 29 January 2019.

Answer: On 22 May 2019 a letter was sent to Mrs Sinclair requesting she re-send her correspondence so a response can be prepared. A search of the Town's records found no correspondence received from Mrs Sinclair on that date.

**5 PUBLIC QUESTION TIME**

NIL

**6 PUBLIC STATEMENT TIME**

**Ms Felicity Knowles, 35b Victoria Avenue, Claremont.**

**Re: Item 13.2.1, Lot 10 (1b) Warwick Street, Claremont – New two storey dwelling.**

Ms Knowles spoke against the proposed development application.

**Ms Bianca Sandri, 231 Bulwer Street, Perth.**

**Re: Item 13.2.1, Lot 10 (1b) Warwick Street, Claremont – New two storey dwelling.**

Ms Sandri spoke in favour of the proposed development application.

**Mr Victor Tana, 1b Warwick Street, Claremont.**

**Re: Item 13.2.1, Lot 10 (1b) Warwick Street, Claremont – New two storey dwelling.**

Mr Tana spoke in favour of the proposed development application.

**7 APPLICATIONS FOR LEAVE OF ABSENCE**

NIL

**8 PETITIONS/DEPUTATIONS/PRESENTATIONS**

NIL

**9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**Moved Cr Goetze, seconded Cr Mews**

**That the minutes of the Ordinary Meeting of Council held on [21 May 2019](#) be confirmed.**

**CARRIED(54/19)  
(NO DISSENT)**

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

Item 17.1.1, Metropolitan Cemeteries Board and Removal of Loch Street Sump.

**11 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING**

NIL

**12 REPORTS OF COMMITTEES**

NIL

**MOTION**

**Moved Cr Browne, seconded Cr Franklyn**

**That item 13.2.1 be considered before proceeding to the next item.**

**CARRIED(55/19)  
(NO DISSENT)**

**13 REPORTS OF THE CEO****13.1 CORPORATE AND GOVERNANCE****13.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD  
ENDING 30 APRIL 2019****File No:** FIM/0062-03**Attachments:** [Financial Report for the Period Ended 30 April 2019 \(Attachment 1\)](#)  
[Infrastructure Assets 2018-19 Schedule of Work \(Attachment 2\)](#)**Responsible Officer:** Les Crichton  
Director - Corporate and Governance**Author:** Hitesh Hans  
Finance Manager**Proposed Meeting Date:** 4 June 2019**Purpose**

To present to Council the Statement of Financial Activity for the month ending 30 April 2019.

**Background**

The Monthly Financial Report is presented in accordance with the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

**Discussion**

The Financial Statements to 30 April 2019 present the operational results for the nine months of the 2018-19 financial year and compares year-to-date expenditure and revenue against revised budget. The budget figures incorporate all 2017-18 carry-forwards approved as part of the June 2017 end of year report and mid-year budget review adopted by Council on 19 February 2019.

The closing surplus of \$7,614,425 compares favourably against the budgeted surplus of \$5,076,905. The budgeted Closing Surplus estimates the total (capital and operating) revenue expected at the end of April less the total expenditure expected for the period.

As detailed below, the \$2,537,521 is variance is made up of:

Under budget	
Operating expenditure	\$1,178,601
Capital expenditure	\$771,359
Over Budget	
Capital revenue	\$271,657
Operating revenue	<u>\$315,903</u>
Variance	<u>\$2,537,521</u>

While project/works timing accounts for some of the variance between budgeted and actual results, a further review of projected 2018-19 surplus (and above variations) was conducted part of the 2019-20 draft budget process.

This identified permanent savings of \$578,637 which are incorporated into 2019-20 draft budget. The remaining variance relates to timing and projects may be required to carry forward into 2019-20 financial year. The year-end report (June 2019) will provide complete analysis of the 2018-19 performance and closing surplus.

In accordance with Council's adopted variance reporting requirement for 2018-19 Budget, only the variances above \$20,000 are reported below as major contributors. For further detail on all variances, refer to Attachment 1.

Operating revenue – \$315,903 above budget.

The major contributors to the operating revenue variations are:

	Revenue Budget	Revenue Actual	Variance
Fees and charges	\$2,950,814	\$3,016,395	\$65,581
Reimbursement	\$109,071	\$143,580	\$34,509
Interest Earnings	\$540,770	\$626,453	\$85,683
Rates Revenue	\$14,624,790	\$14,743,702	\$118,912

\$65,581 Fees and charges – due to income from the removal of box trees \$22,000 and various timing differences across departments.

\$34,509 Reimbursement – mainly due to reimbursement of Paid Parental Leave payments \$20,000 and Ashton Ave Footpath works of \$9,000.

\$85,683 Interest Earning – increase in interest income due to \$25,000 increase in interest income above estimates, and timing of the maturity of term deposits.

\$118,912 Rates Revenue – is mainly due to increase in rates income from interim rates adjustment on addition of new apartments.

Important revenue indicators are:

Total rates (including arrears, ESL and other charges) are \$17.802M with collection to date of \$17.361M or 97%. This compares to 98% collection in the previous financial year for this period.

Total UGP service of \$4.16M levied with collection to date of \$2.23M or 54%.

Note – Instalment option of UGP will be paid in 5 years.

Debtors show +90 days outstanding of \$12,936 which relate mainly to utility reimbursement and contribution invoices. Most have been escalated to debt collection for further follow up.

Operating expenditure – \$1,178,601 under budget

The major contributors to the operating expenditure variations are:

	<b>Expenditure Budget</b>	<b>Expenditure Actual</b>	<b>Variance</b>
Employee costs	\$5,944,948	\$5,901,350	\$43,598
Material and Contracts	\$9,381,837	\$8,347,163	\$1,034,674
Other Expenses	\$761,199	\$612,615	\$148,584

- \$43,598 Employee costs – savings relating to training and other employee related expenses.
- \$1,034,674 Materials and contracts – a combination of savings (\$175,000) and timing (\$859,000) differences across material and contracts.
- \$148,584 Other expenses – timing of contributions \$84,000 and WESROC projects \$35,000.

Some of the more significant variances within material and contracts are:

UGP Project – budgeted \$3,903,417 with expenditure to date of \$3,443,466 which is under by \$459,951.

IT expenses – budgeted \$319,078 with expenditure to date being \$200,425 which is under budget by \$118,653. \$30,000 has been identified as savings while remaining is due to timing.

Infrastructure maintenance – budgeted \$1,598,245 with expenditure to date being \$1,347,212 which is \$251,033 under budget. \$40,000 has been identified as savings with remaining due to expenditure timing.

Consultancy – budgeted \$625,384 with expenditure to date being \$485,849, \$139,535 under budget. \$30,000 has been identified as savings with remaining due to timing.

Capital revenue – \$271,657 above budget.

This variance is due timing on the proceeds from sale of vehicles \$28,000 and non-operating grant \$299,000 received ahead of the budget timing.

Capital expenditure – \$771,359 below budget.

As detailed within the capital works schedules (Note 10), the capital expenditure comprises:

- \$382,724 below budget in infrastructure works due to both timing and savings. Attachment 2 provides further detail on the projects and variance explanation.
- \$306,830 and \$110,618 under budget in Land & Building and Plant & Equipment respectively is mainly due to timing. Note 10 provides further details about the projects.
- (\$32,647) transfer to Reserve is due to interest income transferred to reserve ahead of the budget timing.

LG508 Accounting Policy - Capitalisation of Non-current Assets

Council's policy 'LG508 Accounting Policy' sets the capitalisation threshold for non-current asset. This details the minimum value at which different asset categories expenditure are treated as capital expenditure rather than operating expenditure

Amendments to Regulation 17A of *Financial Management Regulation 1996* now requires an asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5,000.

To align this regulation change to the Accounting policy, it is recommended the capitalising thresholds of asset categories be amended as detailed below.

<b>Asset Categories</b>	<b>Current Threshold</b>	<b>New Thresholds</b>
Plant & Equipment	\$2,000	\$5,000
Furniture & Equipment	\$2,000	\$5,000
Electronic Equipment	\$2,000	\$5,000
Software	\$5,000	\$5,000
Buildings	\$2,000	\$5,000
Land	All	\$5,000
Infrastructure	\$5,000	\$5,000
All Other Assets	\$5,000	\$5,000

Once approved, administration will write-off all the assets with acquisition cost of under \$5000 from the Asset Register.

As required by regulation 17B, steps will also be taken to protect excluded portable and attractive assets by establishing procedures to establish and maintain a separate register of these assets.

**Past Resolutions**

Ordinary Council Meeting 21 May 2019, Resolution 50/19:

*That Council*

1. *Notes the Financial Statement of Activity for the period 1 July 2018 to 31 March 2019,*
2. *Reduce the capital budget allocation for depot relocation from \$200,000 to \$60,000,*
3. *Increase surplus by \$140,000 to \$222,987 by reducing capital expenditure.*

**Financial and Staff Implications**

Resource requirements are in accordance with existing budgetary allocation.

**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**

Simple majority decision of Council required.

**Moved Cr Haynes, seconded Cr Edwards****That Council**

1. **Notes the Financial Statement of Activity for the period 1 July 2018 to 30 April 2019,**
2. **Amend LG508 Accounting Policy to reflect the new capitalisation threshold of all asset categories to \$5,000 and above.**

**CARRIED(57/19)  
(NO DISSENT)**

**13.1.2 DRAFT 2019-20 ANNUAL BUDGET**

<b>File No:</b>	<b>FIM/00204</b>
<b>Attachments:</b>	<a href="#">Draft 2019-20 Annual Budget (Attachment 1)</a> <a href="#">Draft 2019-20 Fees and Charges (Attachment 2)</a>
<b>Responsible Officer:</b>	<b>Les Crichton</b> <b>Director - Corporate and Governance</b>
<b>Author:</b>	<b>Hitesh Hans</b> <b>Finance Manager</b>
<b>Proposed Meeting Date:</b>	<b>04 June 2019</b>

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**Purpose**

This report recommends Council to authorise the Draft 2019-20 Annual Budget for public submissions for a period ending 17 June 2019.

**Background**

The Draft 2019-20 Budget has been prepared in accordance with Council's Annual Budget Policy LG503. Council endorsement is sought to advertise the Draft Budget for public comment.

The Draft reflects consolidation of the operating, capital and specific projects presented at Elected Member Forum's over the past three months, together with agreed adjustments to date.

**Discussion**Overview

The 2019-20 Budget continues to deliver the strategic objectives outlined in Council's Strategic Community Plan. The main features of the 2019-20 Budget:

- continue the broad range of statutory and discretionary services generating a net operating surplus of \$3,599,474. These funds are available for asset development and renewal (capital works), transfer to reserves including interest earnings, and loan reduction
  - invest in the renewal of and additions to the Town's infrastructure with a budget provision of \$6,035,813. In addition to expenditure on roads and footpaths of \$1.94M, a significant component is the proposed \$2.5M upgrade of McKenzie Pavilion.
  - fund \$2,147,162 of these capital works through grants
  - build on reserves holdings by \$305,484
  - reduce borrowings by \$211,984
  - use an estimated surplus of \$801,624 anticipated to be brought forward from 30 June 2019 providing additional funds for 2019-20 budget
  - require a 0.94% increase in the rate in \$ and minimums. Increase in Gross Rental Valuation over the year through new developments will provide an increase in rate revenue equates from last year of 4.4%
-

- provide a projected surplus of \$54,679. .

### Capital Projects

Capital works proposed within this draft total \$6.03M including those additions detailed above. This shows Town's commitment in development of new assets along with upgrade and renewal of existing assets. This program is primarily driven by scheduled renewal as set out by Council's various Asset Management Plan's ('AMP's').

#### Renewal

##### Road infrastructure

Melvista Avenue	\$196,313	
Brockway Road	\$97,000	
Anstey Street	\$143,423	
Mofflyn Avenue	\$108,232	
Warwick Street	\$63,337	
Lapsley Road	\$62,147	
Brown Street	\$211,385	
Cliff Road	\$59,300	
Goldsmith Road	\$7,216	
College Road	\$85,420	
Servetus Street	\$148,802	
Ashton Ave landscaping	\$30,000	

##### Road upgrade

Stirling Road and Claremont	\$20,000	
Crescent LATM		
Barnfield Road	\$20,000	
Gugeri Street upgrade design	\$30,000	
Princess Road and BVT	\$20,000	<u>\$1,302,575</u>

##### Shared paths

\$642,614

#### Other

Lapsley Road car park (1C)	\$286,262	
Drainage	\$180,000	
Street lighting	\$100,000	
Reticulation	\$163,712	
Playgrounds	\$49,000	
Pumps	\$42,840	
Electrical cabinets	\$30,000	
Bores	\$20,760	
Flowmeters	\$13,650	
Street furniture	\$5,000	
Other parks	\$11,700	
- Claremont Parkland dog agility	\$30,000	
- Claremont Park toilet landscaping	\$12,000	<u>\$944,924</u>

#### Land & Building

McKenzie Pavilion upgrade	\$2,500,000	
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Building renewal program	\$100,000	
Aquatic Centre LED lighting	\$30,000	
Pool deck anti-slip refurbishment	\$30,000	
Dive pool shades	\$15,000	
Pool tile replacement	\$10,000	
Plant room switch board	\$10,000	
Plant room chemical controller	\$9,000	<u>\$2,704,000</u>

#### Plant

Vehicle changeovers	\$119,700	
Christmas lights	\$30,000	<u>\$149,700</u>

#### Electronic Equipment

ERP system	\$200,000	
Museum IT requirements	\$52,000	
Network switch	\$40,000	<u>\$292,000</u>

### Reserve Transfers

Reserve Fund transfers to be undertaken within 2019-20 are:

#### To Reserves

Future Fund – proceeds of lease of 327\$ Stirling Highway premises	235,848	
Pool Upgrade Reserve - annual transfer\$	80,000	
Building Reserve	\$ 50,000	
Art Reserve	\$ 20,000	
Bore Replacement Reserve	\$ 20,000	
Various - Interest earnings on Reserves\$	264,636	<u>\$670,484</u>

#### From Reserves

Building Reserve – McKenzie Pavilion\$	365,000	<u>\$365,000</u>
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Total Reserves as at the 30 June 2020 is projected to be \$10,890,893 with a projected opening balance as at 1 July 2019 of \$10,585,409.

### Rates

The budget projects \$15.142M to be raised from rates. This has been estimated as follows:

Rates levied 2018-19	\$14,504,790
Rates increase - 0.94%	\$136,028
Rate increase as result of increased GRV <sup>1</sup>	\$405,949
Interim rating	<u>\$96,000</u>
Total Rates	<u>\$15,142,767</u>

Each 1% increase provides an additional \$149,107 of rate income.

<u>Specified Area Rates</u>	\$120,000
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The 2019-20 year includes a Special Area Rate (SAR) on commercial properties within the Business Improvement District (Stirling Highway – Stirling Road – Gugerri Street – Leura Avenue).

This levy together with Council's contribution of \$120,000 will fund business strengthening initiatives as determined by the Claremont Town Centre Committee.

#### Closing Balance (2019-20 Surplus C/Fwd)

The 2019-20 Budget results with a closing surplus balance of \$104,679.

#### Opening Balance (2018-19 Surplus B/Fwd)

A further review of the 2018-19 budget has identified a \$578,637 increase in forecasted closing surplus. These cost savings and increased revenue provides additional funding for the 2019-20 year.

The final opening balance is yet to be determined however it will mainly comprise any projects not completed by year end. These adjustments will have minimal impact on the Draft 2019-20 Budget with incomplete works carried forward with unspent funding, or where appropriate transferred to reserves.

#### Further adjustments

A provision for \$50,000 towards the upgrade of reticulation and turf replacement has been included in this draft. While the scope of the work has increased significantly since last considered by Council, it recognises Council's 4 December 2018 commitment to provide a \$50,000 contribution to support this upgrade work.

The CFC were recently successful in obtaining a SportAus (Federal) grant of \$170,000 towards upgrade work.

The Club was advised in December 2018 that the grant was unsuccessful in the first round however was advised in March 2019 that it had been successful in the second round, and they would be receiving a grant of \$170,140.

The Club revised the proposed scope of works contemplated by the original grant application due to:

- the imminent start of the WAFL football season, preventing any major works being undertaken on the oval prior to the end of the football season; and
- advice from turf consultants that the state of soil profile is such that a complete replacement of the soil and turf is required – as opposed to loosening the existing soil and inserting new sand and compost to improve the root system (per the grant application).

While retaining the intent of the grant application the complete replacement of the soil and turf and additional drainage has increased the project cost to \$510,000 and the club have sought a contribution of 50% of the balance from the Town.

The Oval Management Agreement between the Town and the CFC sets out each shall be equally responsible for all costs of the maintenance and replacement of all reticulation equipment and other plant and equipment on the land. The CFC is responsible for all costs of maintenance of the upkeep of the surface including mowing, weed control, replanting, fertilising and watering.

#### Fees and Charges

The proposed 2019-20 Schedule of Fees and Charges reviewed by Administration generally reflect charges on the cost recovery basis. The provision of new debt

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collection costs have been added to enable recovery of costs provided by in-house counsel.

### **Past Resolutions**

Ordinary Council Meeting 7 May 2019, Resolution 41/19:

*That Council*

1. *Supports the creation of a three year partnership agreement between the Town and WASO to produce 'A Night on Bay View' commencing 2019/20; and*
2. *Includes \$40,000 in the draft 2019/20 budget to support the partnership.*

Ordinary Council Meeting 7 May 2019, Resolution 43/19:

*That Council;*

1. *Endorse, for the purpose of applying for the Better Bins grant funding, strategy to stage the Waste Authority's objective of implement FOGO bins by 2025, through introduction of standard kerbside service comprising :-*
  - a. *120 litre MSW bin – red lid collected weekly,*
  - b. *240 litre co-mingled recycling bin – yellow lid, collected fortnightly, and*
  - c. *240 litre garden organics (GO) bin – lime lid collected every other fortnight;*
2. *Make provision in the 2019-20 draft Budget for implementation of the third (GO) bin system should the grant be successful. Implementation to –*
  - a. *be rolled out in January 2020*
  - b. *be mandatory for all properties larger than 400m<sup>2</sup>*
  - c. *be available to properties less than 400m<sup>2</sup> on opt-in basis*
  - d. *retain three green waste verge collections and review continuation after 12 months of operation with a view to possibly ceasing the green waste verge collection.*

Ordinary Council Meeting 7 May 2019, Resolution 46/19:

*That;*

1. *The fees for the Dolphins Water Polo Club for use of the water space at the Claremont Aquatic Centre be set at 11% of the applicable 'Not for Profit' hourly rate for the 2019-20 financial year:*
2. *Include this provision in the draft 2019-20 Fees and Charges Schedule for consideration in the 2019-20 Budget.*
3. *Include a further review of the subsidised Dolphins Water Polo Club fees when undertaking its fees and charges review in preparation of its annual Budgets.*

Ordinary Council Meeting 5 February 2019, Resolution 4/19:

*That Council:*

1. *Declares the Western Australian Electoral Commissioner responsible for the conduct of its 2019 ordinary elections together with any other elections or polls which may be required; and*
2. *Conducts the 2019 local government election as a postal election.*
3. *Considers the amount of \$42,000 in the 2019-20 Budget.*

Ordinary Council Meeting 4 December 2018, Resolution 219/18:

*That Council:*

1. Approves the release of \$50,000 from the Future Fund Reserve for the Towns' 50% contribution towards the replacement of the irrigation system at Claremont Oval
2. Supports the inclusion of \$50,000 in budget 2019-20 considerations for replacing the Future Fund Reserve.

Ordinary Council Meeting 20 November 2018, Resolution 211/18:

*That Council:*

1. Approves the Lake Claremont Sign Plan.
2. Supports the delay in entry/directional signage at Lake Claremont until the dog exercise area review is resolved.
3. Approves the designs and installation of the:
  - a) Two town entry signs
  - b) Two directional signs on Davies Road, and
  - c) Four reserve signs.
4. Supports the request for a budget allocation for remaining reserve signage upgrade as part of budget 2019-20 deliberations.

Ordinary Council Meeting 7 August 2018, Resolution 137/18:

*That Council endorse the State Black Spot Program submission for the intersection improvements at Guger Street and Shenton Road.*

### **Financial and Staff Implications**

The financial implications are detailed with the report.

### **Policy and Statutory Implications**

*Local Government Act 1995 Part 6 – Financial Management*

- Division 2 - Annual Budget
- Division 5 – Financing Local Government Activities
- Division 6 – Rates and Service Charges
- LG503 - Annual Budget Preparation and Plan for the Future Review.

### **Communication/Consultation**

Development of the draft Budget has included elected member feedback through five forums held over the last three months. Further feedback arising from the advertising period will be included when the budget is presented for formal adoption, currently proposed to be 18 June 2019.

### **Strategic Community Plan**

#### **Governance and Leadership**

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

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

## Urgency

It is proposed that following the consultation period, the final draft will be presented to the Council's 18 June 2019 ordinary meeting for consideration and adoption.

## Voting Requirements

Simple majority decision of Council required.

## Moved Cr Goetze, seconded Cr Edwards

**That Council endorse advertising of its draft 2019-20 Annual Budget for public comment ending 17 June 2019, highlighting the significant elements including:**

- a) A 0.94% rate increase
- b) Net Operating Surplus \$3,649,474
- c) Infrastructure Capital Works \$2,890,113
- d) McKenzie Pavilion Upgrade \$2,500,000
- e) Other Capital Projects \$645,700
- f) Funding of capital through mix of operational surplus, reserve funds and debt.

## AMENDMENT

Moved Cr Haynes,

- a) be amended to 1.50% increase
- b) be amended to \$3,730,512
- a new f) be added to read 'provision of \$170,000 contribution towards the Claremont Oval upgrade'.

Reason: To fund Council contribution towards the Claremont Oval upgrade in the event further external funding is not obtained.

The motion lapsed for want of a seconder.

## RETURN TO THE PRIMARY MOTION

**That Council endorse advertising of its draft 2019-20 Annual Budget for public comment ending 17 June 2019, highlighting the significant elements including:**

- a) A 0.94% rate increase
- b) Net Operating Surplus \$3,649,474
- c) Infrastructure Capital Works \$2,890,113
- d) McKenzie Pavilion Upgrade \$2,500,000
- e) Other Capital Projects \$645,700
- f) Funding of capital through mix of operational surplus, reserve funds and debt.

**CARRIED(58/19)**

For the Motion: Mayor Barker and Crs Browne, Edwards, Goetze, Kelly, Mews and Tulloch.

Against the Motion: Cr Haynes.

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## 13.2 PLANNING AND DEVELOPMENT

### 13.2.1 LOT 10 (1B) WARWICK STREET, CLAREMONT – NEW TWO STOREY DWELLING

<b>File No:</b>	<b>A-4407</b>
<b>Attachments Public:</b>	<a href="#">Location and Submission Plan (Attachment 1)</a> <a href="#">Photograph (Attachment 2)</a>
<b>Attachments Restricted:</b>	<a href="#">Plans (R Attachment 1)</a> <a href="#">Submission (R Attachment 2)</a>
<b>Responsible Officer:</b>	<b>David Vinicombe</b> <b>Director Planning and Development</b>
<b>Author:</b>	<b>John Williamson</b> <b>Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>4 June 2019</b>
<b>Date Prepared:</b>	<b>24 May 2019</b>
<b>DA No.:</b>	<b>DA2018.00151</b>
<b>Property Owner:</b>	<b>Deborah Tana</b>
<b>Submitted By:</b>	<b>Urbanista Town Planning</b>
<b>Lot No.:</b>	<b>10</b>
<b>Area of Lot:</b>	<b>360m<sup>2</sup></b>
<b>Zoning:</b>	<b>Residential</b>
<b>Financial Implications:</b>	<b>N/A</b>
<b>Enabling Legislation:</b>	<b><i>Planning and Development Act 2005 (PDA)</i></b> <b><i>Local Planning Scheme No.3 (LPS3)</i></b> <b><i>Residential Design Codes (RDC)</i></b> <b><i>Local Planning Policy 129 –Residential</i></b> <b><i>Amenity (LPP129)</i></b>

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#### Summary

- Application for Development Approval received for the construction of a new two storey dwelling (with under croft garage).
- Proposal does not meet the 'Deemed to Comply' (DTC) requirements of the Residential Design Codes (RDC) relating to front, side and rear boundaries.
- Five neighbours were consulted and one objection was received, raising concerns regarding side and rear setbacks.
- The plans have been amended to address the majority of neighbour's and administration's concerns. Although the applicant amended the plans to eliminate three of the four non-compliance issues relating to the objecting neighbour's property, the Town's Officers have not been able to resolve the objection with regard to the reduced rear setback of 1.293m for the ground floor.
- The application is therefore referred to Council for determination.
- Application is recommended for approval, subject to relevant conditions.

## Purpose

The application proposes a two storey dwelling (with undercroft garage) on the subject site.

The application requires the Council's determination due to a neighbour's objection to the proposed rear ground floor set back of 1.293m.

## Background

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
30 October 2018	Development Application received by Council.
7 November 2018	Application undergoes internal DCU assessment.
7 November 2018	Additional information requested from applicant.
27 November 2018	Additional information received from applicant.
7 December 2018	Further information required from applicant.
4 February 2019	Additional information received from applicant.
12 March 2019	Advertising commenced.
27 March 2019	Advertising closed.
21 May 2019	Report prepared for Council.

## Past Resolutions

There are no past Council resolutions relevant to this application.

## Consultation

The application was advertised in accordance with Council Policy LG525.

Five neighbours were consulted, with two submissions were initially received. The property owner to the north raised a concern regarding the resultant streetscape, however the comment was withdrawn after the applicant provide additional detail. One objection received was received from the landowner to the south, and a summary of the submission is provided as follows:

Submissions Received		
<b>Address:</b>	35B Victoria Avenue Claremont	
Submission	Applicant Comment	Officer Comment
"The portion of wall, living room to scullery, is proposed with a 1.5m setback from the southern boundary in lieu of the 1.8m setback required under Table 2 of the R Codes". Whilst the overall recognition for the setback is over a 9m length on the ground floor, there is in fact one section of 4m where the setback is only 1m. Any setback less than the recognised RDC (namely 1.8m) will create more overshadowing onto my property, as the house is otherwise closer to the fence. I am already	The applicant amended the plans to fully comply with the RDC.	It is noted that this section of wall located on the ground floor is separately assessed relative to the first floor slightly setback further and above (bedroom, ensuite and dressing) and both walls fully comply with the DTC setback and overshadowing requirements of the RDC.

<p>struggling to grow grass in my back lawn (through lack of sunlight) and greater overshadowing will only add to this difficult task.</p> <p>The portion of wall, dressing room to WIR, is proposed with a 1.5m setback from the southern boundary in lieu of the 1.7m setback required under Table 2 of the R Codes. As for point 1 above, if the house footprint were compliant, this would effectively reduce the winter sun overshadowing by an equivalent distance to the north. That is, the over shadowing would be much less in the usable part of my relatively small backyard. The current proposal will cast a winter sun shadow of approximately 46m<sup>2</sup> in a total backyard of 102m<sup>2</sup>, including gardens and paving - that is, 45% of my back yard will be in peak shadow. This problem is further exacerbated by the fact that my alfresco area is in the south eastern corner of my block (see attachment). The shadow penetration here is 5.85m from the fence and has a width of 4.11m. It covers my Jarrah table by 2.02m, leaving approximately one metre of the table outside the shadow line, and inside the alfresco recess. The cast shadow at its deepest finishes at a point directly below the line of the roof gutters, or 600mm from the wall of the house. This two-foot strip will be my only sunshine in this part of the garden.</p> <p>The ground floor rear setback of 1.3 m does not comply with the minimum setback requirement of 6m within the R15 zone. This part of the proposed development closes off most of the vista from my garden looking to the north west. Whilst we cannot comment</p>	<p>The applicant amended the plans to fully comply with the RDC.</p> <p>The proposal is considered to meet the design elements of the RDC in the following ways:          - The lesser setback does not result in a perception of adverse building bulk when viewed from the adjoining property.</p>	<p>As indicated above, it is noted that the setback for the first floor fully complies with the side setback and overshadowing DTC requirements of the RDC.</p> <p>The portion of the dwelling that projects to within 1.3m is the ground floor living space, with the first floor initially proposed with a setback between 5.8-6.3m (see below) due to the irregular angle of the rear boundary. The height of the ground floor at the lot boundary is no greater than 3.5m, therefore there is minimal impact in terms of building bulk. It is noted that the existing dwelling has</p>
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<p>on the removal of trees on the block, the drawings show that these will be removed, and this vista will be adversely affected. Most of the obstruction however for filtered sunlight, will be obscured by the walls and roof of that part of the building on the ground floor. If the building footprint were to be pulled back from the western boundary, to be compliant with the zoning, this would be a much better resolve for me by enhancing my outlook with better sunlight penetration to my yard. In fact, there would be no overshadowing in this small corner of my block. The building size would also therefore, be not as imposing as is proposed in this application.</p>	<ul style="list-style-type: none"> <li>- The reduced setback is not visible from the primary street and is behind the primary street setback line.</li> <li>- The lesser setback does not contribute adversely to loss of direct sun, light or ventilation to major openings.</li> <li>- The wall contains no major openings.</li> <li>- The existing built form in the immediate area has been developed to the standards of a higher density code.</li> </ul>	<p>a rear setback of 4.9m and a pergola outdoor living area projecting further to within 3m of the rear boundary. In addition, the applicant has agreed to the southern neighbour's request below to retain the trees on the south western corner of the lot to screen the ground floor of the dwelling. Accordingly, the vegetation will provide greater overshadowing of the southern lot than proposed by the ground floor rear setback variation, which is addressed below. It is also noted that despite the proposed rear setback variation, the resultant overshadowing complies with the requirements of the RDC.</p>
<p>The proposed building height of 6.8 m exceeds the maximum height of 6.6 m permitted under Clause 40 of the Local Planning Scheme No.3.</p> <p>It is true that a reduction in height will create less overshadowing. For a 200mm reduction in height, and to conform with the Planning Scheme, there is approximately a 45% increase (291 mm) in the reduction of the associated horizontal line of the overshadowing component. The total overshadowing component can also be reduced by a truncation of the building corner, where the vertical &amp; horizontal components meet. The eastern, or front elevation, could maintain the "squareness" of the parapet, but truncate behind in order to lessen the shadow effect. I think there are many other ways that the building could be reduced in stature, which may include changing the RL's for the basement &amp; other floors, lessening ceiling heights and FFLs etc.</p>	<p>The applicant amended the plans to fully comply with LPS3 cl.40.</p>	<p>It is noted the submitted upper floor master bedroom plans included a rear setback of 5.8m for a small portion of the corner of the building. Revised plans have been submitted indicating a compliant 6m rear setback for the first floor to reduce the impacts of the dwelling to the south.</p> <p>It is noted that the application fully complies with the height requirements of LPS3 cl.40, and also the DTC overshadowing requirements of the RDC.</p>

<p>Again, I wish to emphasise that I do not want to be seen to be changing the building design or integrity, but I want for a satisfactory compromise for all parties.</p>		
<p>In line with normal good building practices, I would expect that the Builder will carry out dilapidation reports on ALL adjoining properties and undertake to rectify any damage caused by compaction and other building works.</p>	<p>Applicant has agreed to undertake dilapidation reports.</p>	<p>Dilapidation reports can be included as a condition on any approval as the applicant has agreed.</p>
<p>There are several trees on my north boundary, and in particular a large one toward the eastern end, and I insist that adequate care be undertaken so as to not jeopardise their growth and health prospects. This will be particularly important during the installation of the in situ concrete piles.</p>	<p>Retention of the two trees located within the south-western corner is illustrated on the plans 'retain existing trees'.</p>	<p>The applicant has amended the plans to address the neighbours' concerns by proposing to retain two trees adjacent the side the boundary. The retention of the trees will provide a degree of screening to the proposed dwelling, and the rear setback variation, reducing the impact on the neighbouring property. A condition may be applied to ensure the trees are retained.</p>
<p>There is to be no encroachment of any kind, including footings, piles and retaining walls.</p>	<p>No encroachments will occur.</p>	<p>Noted.</p>
<p>My brushwood boundary fence is considered most adequate for its purpose and is in no need of replacement.</p>	<p>Fencing will be negotiated with the adjoining landowner.</p>	<p>Noted. Boundary fencing is governed by the <i>Dividing Fences Act 1961</i> and is dealt with separately to the Development Application.</p>
<p>The window on the first floor in the Master Suite faces south and directly onto my bedroom window, also on the first floor. I think it is appropriate that this be screened, have obscure glazing or be deleted, as this is a real privacy issue.</p>	<p>Setback of the window is compliant.</p>	<p>It is noted the window was fully compliant with the DTC provisions of the RDC, however discussions with the applicant have resulted in the window being deleted to reduce the impacts on the neighbour.</p>

A full copy of the submission is attached to this report.

**Discussion**

Description

The application proposes the construction of a new two storey dwelling on the subject site. The dwelling also includes an under croft garage, fully contained underground. The application requires Council's determination due to a neighbouring objection outlined above.

Compliance

The development proposes variations to the provisions of the Residential Design Codes (RDC). The RDC provides for two pathways to approval of residential development. If a Design Element of a development does not meet the 'Deemed to Comply' (DTC) requirements of the RDC, the Design Element may be legitimately considered under the discretion provided for in the specified 'Design Principles' (DP) of the RDC. It is noted that any decision of Council taking into account discretionary matters may be subject to an application for review by the State Administrative Tribunal (SAT).

The development complies with the LPS3, RDC and LPP provisions other than the following:

1. RDC 5.1.3 – Lot boundary setback – 1.6m in lieu of 2.5m to the north (towards rear of site)
2. RDC 5.1.3 – Lot boundary setback – nil in lieu of 1.2m to the north (in middle of site)
3. RDC 5.1.3 – Rear lot boundary setback – 1.3m in lieu of 6m to the west (rear of site)
4. RDC 5.1.2 – Street setback - nil in lieu of 3m to the east (gatehouse).

#### RDC 5.1.3 – Lot Boundary Setback to the North (rear of site)

The application proposed a lot boundary setback to the north of 1.6m in lieu of 2.5m as per the DTC provisions of the RDC. The DP aims to ensure that development is set back to:

*“Reduce impacts of building bulk on adjoining properties; provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

In this instance, almost the entirety of the neighbouring dwelling to the north is built up to the boundary and share a party wall. The proposed setback of 1.6m (located behind the proposed boundary wall detailed below) will therefore have a limited impact on the adjoining property in terms of building bulk as there are no openings to the southern side of their dwelling, and does not impact on any habitable space. The subject site is to the south of the adjoining lot, therefore the adjoining property will not have its access to sunlight impeded by the lot boundary setback variation. There are no major openings to this length of wall or windows on the northern property which ensures that privacy to the north is maintained.

#### RDC 5.1.3 Buildings Built up to Lot Boundary to the North (Middle of Lot)

The application proposes a boundary wall to the northern lot in lieu of 1.2m as per the DTC provisions of the RDC. As previously indicated, the proposal meets the DPs of cl.5.1.3 with respect to the amenity of the adjoining property due to the existing boundary wall. The proposed boundary wall has been designed to abut the existing boundary wall for the entirety of the ground floor elevation, and to abut approximately 50% of the existing boundary wall for the first floor. The proposal therefore makes effective use of the space on a narrow lot by attempting to maximise the existing boundary wall, with the first floor extending above the existing level on the adjoining neighbour's side by between 1m and 2.5m. Given that the adjoining lot is to the north of the subject lot, the section of first floor wall will have no impact on the

northern adjoining property in terms of access to sunlight. It is also noted that the length of wall built up to the boundary is approximately 7.8m, whereas the length of the boundary wall to the neighbouring dwelling is approximately 21m, thus the minor projection above the existing level is insignificant comparative to the total bulk of the existing boundary wall to the north.

#### RDC 5.1.3 Rear Lot Boundary Setback

The application proposes a rear lot boundary setback for the ground floor of 1.293m in lieu of 6m as per the DTC provisions of the RDC. It is noted that the existing dwelling on the site is set back less than the required 6m, with the bulk of the dwelling approximately 4.9m from the rear boundary and a pergola outdoor living area projecting further to within 3m. The proposal is therefore unlikely to have any additional significant impact on the surrounding dwellings, noting however that the owner to the south objected to the setback variation, raising concerns relative to overshadowing. Given the southern neighbour also requested the retention of trees to the rear of the side boundary to ameliorate the impacts of the proposed building bulk, it is noted that in doing so, the trees will overshadow the southern property to a greater degree than the dwelling itself.

The proposal reduces building bulk on the other rear neighbouring dwellings by ensuring that the wall face to the rear is no greater than 6.1m in length and 3.5m in height, with a fireplace setback between 1.293m and 1.522m, and remainder of wall setback approximately 1.7-2.3m. Privacy is also compliant, thus it is considered that the proposed rear setback appropriately addresses the DP requirements.

#### RDC 5.1.3 Front Lot Setback

The application proposes a gatehouse with nil front setback in lieu of 3m minimum front setback DTC requirement of the RDC.

In this instance it is considered that the flat roof gatehouse structure will complement the proposed fencing and will not have a detrimental impact on the streetscape, being an open structure allowing views through to the house. The structure is to a height of no greater than 2.4m and a length of 1.8m, with the remainder of the proposed front fencing being fully compliant with the Town's Local Planning Policy 117– Front Fences (LPP117).

### **Financial and Staff Implications**

Nil.

### **Policy and Statutory Implications**

Nil.

### **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.*

Balance the Town's historical character with complementary, well designed development.

**Urgency**

Nil.

**Conclusion**

Based on the above, it is recommended that approval be granted subject to the conditions in the officer's recommendation.

**Voting Requirements**

Simple majority decision of Council required.

**Moved Cr Kelly, seconded Cr Franklyn**

**THAT Council grant Development Approval for a proposed Two Storey Dwelling at Lot 10 (1b) Warwick Street, Claremont, subject to the following conditions and advice notes:**

- 1. All development shall occur in accordance with the approved drawings (Development Application DA2018.00151), as amended by these conditions.**
- 2. Prior to the issue of a Building Permit, the applicant is to liaise with their adjoining neighbour to obtain a written agreement on the construction finish and colour of the boundary wall. This written agreement is to be provided to the Town of Claremont with their application for a Building Permit.**
- 3. Trees located adjacent to the southern boundary to the rear of the site are to be retained to the satisfaction of the Town of Claremont in accordance with the approved plans. Should any of the vegetation die it is to be replaced with mature specimens, to the satisfaction of the Town of Claremont within 30 days.**
- 4. The applicant / owner shall undertake dilapidation reports for adjoining properties prior to commencement of works on site to the satisfaction of the Town of Claremont.**
- 5. Prior to the issue of a Building Permit the upper floor east (rear) setback is to be modified to a minimum of 6m to the satisfaction of the Town of Claremont.**
- 6. The infill panels on the front fence are to be visually permeable as defined by the Residential Design Codes to the satisfaction of the Town of Claremont.**
- 7. No building, wall, fence or landscaping greater than 0.75 metres in height, relative to the verge or footpath, is to be constructed within 1.5 metres of a vehicular access way unless such wall or fence is constructed with a 1.5 metre truncation where the driveway intersects a footpath to the satisfaction of the Town of Claremont.**
- 8. A Construction and Site Management Plan detailing access to the site, the delivery and storage of materials and the parking of tradespersons is to be approved by the Town of Claremont prior to the issue of a Building Permit and implemented for the duration of construction.**
- 9. Street tree removal is not approved as part of this Development Application.**

10. The existing crossover is to be removed and the verge reinstated prior to occupation of the development.
11. Vehicle access is to be designed in such a manner as to prevent storm water entering the property from the road and footpath.
12. The external materials and colour finishes of the development are to be to a standard such that it complies with the requirements of Clauses 76 and 77 of the Town of Claremont Local Planning Scheme No. 3, to the satisfaction of the Town of Claremont.
13. All storm water is to be retained on the site. Details are to be provided on the application for Building Permit.

**Advice Notes:**

**Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

**Note 2:** Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

**Note 3:** If an applicant or owner is aggrieved by this determination there is right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 Days of the determination.

**Note 4:** This is a Development Approval only and a Building Permit must be obtained from the Local Government prior to the commencement of any building works. Permits for non-residential development must be certified prior to submission.

**Note 5:** A Demolition Permit will be required from the Town's Building Services prior to commencement of any demolition works. The Town accepts certified and uncertified Demolition Permits.

**Note 6:** All developments are required to submit a cross-over application form with or prior to application for a Building Permit. Refer to the Town of Claremont website (Infrastructure) for standards, specifications, and to download the Crossover Application Form.

**Note 7:** The boundary wall condition applies to all boundary walls (i.e. constructed within 600m of the boundary) for both deemed to comply and design principle variation walls.

**Note 8:** The applicant/owner is advised to liaise with the adjoining landowners where trees, vegetation, dividing fences or other structures may be affected due to work on, or near the property boundaries.

**Note 9:** The applicant/owner is advised of the following requirements from the Town's Health Services. Should any advice be unclear, please contact the Town's Health Services on 9285 4300:

- a. All plant and machinery (such as air conditioners and pool pumps) must be suitably located and/or sound proofed to comply with the

requirements of the *Environmental Protection (Noise) Regulations 1997*.

- b. Under the *Environmental Protection (Noise) Regulations 1997*, no construction work is to be permitted or suffered to be carried out:
  - i. Before 7.00am or after 7.00pm Monday to Saturday inclusive; or
  - ii. On a Sunday or on a public holiday.
- c. 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(2005)]* 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*.

CARRIED(56/19)

For the Motion: Mayor Barker and Crs Browne, Edwards, Goetze, Haynes, Kelly and Tulloch.

Against the Motion: Cr Mews.

*The meeting returned to Item 13.1.1. on page 4.*

**14 56/19ANNOUNCEMENTS BY THE PRESIDING PERSON**

Cr Goetze reported on her attendance at a meeting with the Claremont Station Project Community Advisory Group earlier in the day.

Cr Tulloch reported on his recent trip to Scotland where he observed a six bin waste system.

**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 TO CLOSE DOORS**

**Moved Cr Haynes, seconded Cr Edwards**

**That the doors be closed in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to members of the public with the following aspect of the Act being applicable to these matters:**

**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(59/19)  
(NO DISSENT)**

*Mayor Barker adjourned the meeting at 7:33pm.*

*All members of the public and press left the meeting at 7:33pm.*

*Mayor Barker reconvened the meeting at 7:33pm.*

**17.1 INFRASTRUCTURE****17.1.1 METROPOLITAN CEMETERIES BOARD AND REMOVAL OF LOCH STREET SUMP**

**File No:** RDS/00312  
**Attachment:** [Loch St Sump Catchment – Drainage Installations](#)  
**Responsible Officer:** Andrew Smith  
Director Infrastructure  
**Author:** Andrew Smith  
Director Infrastructure  
**Proposed Meeting Date:** 4 June 2019

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**Purpose**

The following item was considered in a closed session.

**PUBLIC RECOMMENDATION**

**Moved Cr Franklyn, seconded Cr Goetze**

That this report and the resolution of Council remain confidential in accordance with Section 5.23(2)(c) and Section 5.23(2)(d) of the Local Government Act 1995.

**CARRIED(60/19)  
(NO DISSENT)**

**MOTION TO OPEN DOORS**

**Moved Cr Haynes, seconded Cr Edwards**

That the doors be opened.

**CARRIED(61/19)  
(NO DISSENT)**

*The doors opened at 7:37pm.*

**THE MAYOR READ ALOUD THE MOTION MADE BEHIND CLOSED DOORS.**

**18 FUTURE MEETINGS OF COUNCIL**

Ordinary Council Meeting 18 June 2019, at 7:00PM.

**19 DECLARATION OF CLOSURE OF MEETING**

There being no further business, the presiding member declared the meeting closed at 7:38PM.

Confirmed this ... .. day of ... .. 2019.

**PRESIDING MEMBER**

