



# **TOWN OF CLAREMONT**

## **ORDINARY COUNCIL MEETING**

### **MINUTES**

**TUESDAY 6 JUNE, 2017**

**Stephen Goode**

**CHIEF EXECUTIVE OFFICER**

**Date:**

**DISCLAIMER**

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

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**TOWN OF CLAREMONT**  
**ORDINARY COUNCIL MEETING**  
**6 JUNE, 2017**  
**MINUTES**

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**1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

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

**2 RECORD OF ATTENDANCE/APOLOGIES**

**ATTENDANCE**

**Mayor Barker**

**Cr Chris Mews**

**South Ward**

**Cr Jill Goetze**

**South Ward**

**Cr Paul Kelly**

**South Ward**

**Cr Karen Wood**

**West Ward**

**Cr Peter Edwards**

**West Ward**

**Cr Bruce Haynes**

**East Ward**

**Cr Kate Main**

**East Ward**

**Mr Stephen Goode (Chief Executive Officer)**

**Mr Les Crichton (Executive Manager Corporate and Governance)**

**Mr Saba Kirupanather (Executive Manager Infrastructure)**

**Mr David Vinicombe (Executive Manager Planning and Development)**

**Mr John Humphreys (Manager Planning)**

**Ms Katie Bovell (Governance Officer)**

**Fifteen members of the public**

**One member of the press**

**APOLOGIES**

Cr Peter Browne – Leave of Absence

Cr Alastair Tulloch – Leave of Absence

Ms Liz Ledger – Annual Leave

**3 DISCLOSURE OF INTERESTS**

**An interest was declared by Mr David Vinicombe, Executive Manager Planning and Development, for Item No 13.2.2**

*Nature of Interest: Impartiality.*

*Extent of Interest: By virtue of having a close association with the applicant.*

**4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Ordinary Council Meeting, 16 May 2017****Ms Sonia Yates, 29a Stirling Road, Claremont.****Re: Woodchips On Verge.***Question:*

Mrs Yates requested her verge be tidied and supplied with woodchips or grass at the Council's expense?

*Answer:*

The Council staff met with Mrs Yates on site to agree on a workable solution. With both parties in agreement, the verge is being improved. The tree branches overhanging the path will be lifted above 2.5m.

**5 PUBLIC QUESTION TIME****Ms Adeline Haywood, 17a Lapsley Road, Claremont.****Re: Golf Course Car Park.***Question one:*

With reference to the 2 February 2016 Ordinary Council Minutes, why was the discussion on the Claremont Golf Course conducted in closed session, for what reason was the report and recommendations pertaining to the Golf Course designated as confidential, and can this information now be made publically available (with any financially sensitive information redacted)?

*Answer:* The report was confidential because it would have commercial value to anybody considering tendering for the design and supervision contract and for the operating lease. It also dealt with staff matters. It may be appropriate to release the report – possibly with some redactions – a decision of Council is required. A report will be presented for consideration.

*Question two:*

When and how was the new Lapsley Road Car Park originally considered and approved by Council, and within which Council meeting minutes or other documentation was this decision recorded?

*Answer:* The car park was not initially included. As the project was being implemented the parking was included after other budget savings were made. Only after works commenced was it realised Council had not approved the parking, therefore it was first reported and approved by Council 16 May 2017.

*Question three:*

Prior to commencement of construction of the new Lapsley Road Car Park, why were the community and local residents not informed, or consulted with, regarding the Council's intention to install the new car park?

*Answer:* This was an oversight which was corrected when concerns were raised.

*Question four:*

Prior to commencement of construction of the new Lapsley Road Car Park, why were no plans/diagrams illustrating the size and location of the new car park made available to the community and local residents?

*Answer:* See answer to question two.

*Question five:*

Given that the large pre-existing car park off Lapsley Road (1C) is rarely full and relatively empty the majority of the time, have any traffic management studies been done to justify the installation of the new car park?

*Answer:* There has been extensive assessment of the Town's parking needs. The car park is needed in anticipation of future parking needs.

*Question six:*

Have any traffic management studies been done to consider congestion and safety on Lapsley Road with specific reference to the new car park and entry/exit points?

*Answer:* Normal engineering design considerations consider these aspects of design in a contextual sense.

*Question seven:*

Why were the community and local residents not informed or consulted when Aspire Gym was relocated to the club rooms of Lake Claremont Golf Club, then subsequently built and opened Lake Espresso Cafe?

*Answer:* The approval for the gymnasium dates back to 2012. The cafe opened initially without approvals and subsequently received retrospective approval by Council.

*Question eight:*

In the interests of disclosure and conflict of interest, are any Town of Claremont Councillors, or Council Officers, members of Aspire Gym, or have any financial affiliation with Aspire Gym?

*Answer:* No financial interest in Aspire Gym is recorded in Annual Financial Returns submitted by the Town's Elected Members or employees. Membership details of Aspire are unknown.

*Question nine:*

With respect to the options considered for access to the new car park, why was Option 2, a low-cost compromise between Option 1 and Option 3, not chosen or at least further consultation sought with local residents?

*Answer:* Council considered options and having discussed the issues raised in public comments chose option 1 being satisfied it was the proper option.

*Question ten:*

Given the area of the new Lapsley Road Car Park development has previously been green space used by local residents, when was this area originally designated as a car park, and within which Council meeting minutes or other documentation was this decision recorded?

*Answer:* The area has been an informal car park previously. See answer to question two for further clarification.

## **6 PUBLIC STATEMENT TIME**

**Ms Maria de Silva, 16 Saunders Street, Swanbourne.**

**Re: Item 17.1.1, Anzac Cottage Rental Valuation.**

Ms De Silva requested Council consider appointing her custodian of Anzac cottage.

**Mr Alessandro Stagno, Planning Solutions, Level 1, 251 St George Tce, Perth.**

**Re: Item 13.2.1, Lot 102 (256) Stirling Highway Claremont - Proposed Change of Use to Consulting Room.**

Mr Stagno spoke in favour of the officer recommendation.

**Mr Patrick Johnston, 4/6 John Street, Claremont.**

**Re: Item 13.2.1, Lot 102 (256) Stirling Highway Claremont - Proposed Change of Use to Consulting Room.**

Mr Johnston spoke against the officer recommendation.

**Mr Marc Re, Planning Solutions, Level 1, 251 St George Tce, Perth.**

**Re: Item 13.2.2, Lot 13 (13/50) Bay View Terrace, Claremont - Proposed Change of Use from 'Shop' to 'Consulting Room' and 'Educational Establishment' for Personal Trainer (Intense Health).**

Mr Re spoke in favour of the proposed change of use.

**Mr Steven Marcuson, Trowbridge Gallery, 52F Old Theatre Lane, Claremont.**

**Re: Item 13.2.2, Lot 13 (13/50) Bay View Terrace, Claremont - Proposed Change of Use from 'Shop' to 'Consulting Room' and 'Educational Establishment' for Personal Trainer (Intense Health).**

Mr Marcuson spoke against the officer recommendation.

**Ms Lyn Murphy, Claremont Cruise & Travel Centre, Old Theatre Lane, Claremont.**

**Re: Item 13.2.2, Lot 13 (13/50) Bay View Terrace, Claremont - Proposed Change of Use from 'Shop' to 'Consulting Room' and 'Educational Establishment' for Personal Trainer (Intense Health).**

Ms Murphy spoke against the officer recommendation.

**Mr John Gibbons, 8 Langsford Street, Claremont.**

**Re: Item 13.2.3, Mike Balfe Heritage Grant – 8 Langsford Street.**

Mr Gibbons spoke in favour of the officer recommendation.

**7 APPLICATIONS FOR LEAVE OF ABSENCE**

NIL

**8 PETITIONS/DEPUTATIONS/PRESENTATIONS**

NIL

**9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**Moved Cr Wood, seconded Cr Mews**

**That the minutes of the Ordinary Meeting of Council held on 16 May 2017 be confirmed.**

**CARRIED(77/17)  
(NO DISSENT)**

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

17.1.1, Anzac Cottage Rental Valuation Assessment.

17.2.1, Annual Performance Review of Chief Executive Officer.

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

NIL

**12 REPORTS OF COMMITTEES**

NIL

## 13 REPORTS OF THE CEO

### 13.1 CHIEF EXECUTIVE OFFICER

#### 13.1.1 PROPOSAL FOR JOINT VENTURE WITH FORM FOR NEW CHILDREN'S ARTS AND LITERATURE FESTIVAL

<b>File Ref:</b>	<b>REC/00033</b>
<b>Attachment Public:</b>	<a href="#">FORM Proposal for Festival</a>
<b>Attachment Confidential:</b>	<a href="#">Confidential Financial Note</a>
<b>Responsible Officer:</b>	<b>Stephen Goode Chief Executive Officer</b>
<b>Author:</b>	<b>Stephen Goode Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>6 June 2017</b>

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#### **Purpose**

For Council to consider a partnership with FORM to create and manage a Children's Art and Literature Festival in Claremont.

#### **Background**

After returning to Number One Claremont the process to seek interest for the future use of the SMH was underway from 2014 and resulted in FORM taking up a lease in 2016. FORM was also granted a lease by Landcorp for the Goods Shed which has been transformed from a derelict building to a thriving hub for art and community initiatives.

The Council is effectively a sponsor or partner with FORM through the lease arrangement at the SMH and officers work with FORM to support its activities, while FORM in turn provides expertise and support for the Town's community activation programs.

FORM has presented an opportunity to introduce a new festival into Claremont; a Children's Art and Literature Festival.

#### **Discussion**

FORM is proposing a partnership with Town of Claremont for a festival which has a focus on families. FORM already has a program involving schools and teachers which this festival will build on. The festival will create a community of interest with a series of conversations, presentations, performances, art and workshops to discover and explore the world of children's literature. This will feed into the wider educational focus already emanating from the Goods Shed.

The festival will be a platform for international, national and local educators, authors and illustrators with a series of events designed to celebrate creativity and storytelling. The timing for the festival is suggested as during May which was chosen because it could be before or after the Sydney Writers Festival, allowing for

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opportunities to capture international writers and illustrators with the chance to offset some of the costs to bring them to Australia.

The festival spread over four days will be the focus of this program but the partnership will extend beyond the one off event. Beyond the four day festival will be a week of activities into schools as well a year round program aimed at teachers, parents and children. While the Goods Shed is the key focal point for FORM the intention is to spill out into the community with ideas including utilisation of the CCH, Claremont Football clubrooms and oval and, assuming the interest and cooperation of property owners, activation of one or more empty shops on Bay View Terrace.

A direct commercial opportunity will exist for a bookshop in the Town to be involved and leverage off the festival.

Programs for teachers, children and parents will bring people together and encourage them to spill out into the town, exploring both reading and creativity and the Claremont community.

More details of this opportunity are in the attached proposal prepared by FORM which explains the concept much better than this report can (Attachment 1).

It is proposed that an initial commitment of three years is agreed between Town of Claremont and FORM. With Council support and approval the initial festival can be planned for May 2018. To achieve this Council decision is required in June 2017. This will ensure funding can be secured and the staff recruited to allow the initial planning work and for approaches to begin to writers and illustrators, as well as the myriad of other preparations that sit behind a successful event.

The FORM proposal is for a full partnership, that is, Town of Claremont and FORM work in a joint venture to present this festival. FORM is proposing that the Town employs a senior staff member as Festival Director on a 3 day/ week (i.e. .6 FTE). The employment cost is estimated as \$65,000 in a full year which includes superannuation and workers compensation insurance. FORM will employ a full time programmer to support the Director and to raise sponsorship. The Festival staff would work from the SMH (what was during the Town's occupancy the CEO's office) with FORM providing the required furniture and equipment, IT etc. FORM estimates its investment as equivalent to \$180,000 while the Town's would be about \$90,000 taking into account supervision, management and other indirect costs.

### **Past Resolutions**

No directly related resolutions although Council has supported FORM coming to Claremont and does initiate and support its own community activation initiatives. The proposed festival is a good fit with Council's community building activities.

### **Financial and Staff Implications**

Council approval is required to employ a Festival Director on the basis of .6 Full Time Equivalent. This is a relatively senior and specialist position. The Festival Director would report directly to the CEO, with the festival being under the overall direction of the CEOs of FORM and Town of Claremont.

The budget required is \$65,000 in a full year. For 2017-18 it is estimated \$60,000 is needed (assuming the Festival Director can be employed during August).

This report recommends some adjustments to the Draft 2017-18 Budget to allow the festival to be progressed without impacting on the proposed rate strategy (Confidential Attachment 2).

## **Strategic Community Plan**

### **Governance and Leadership**

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

- Identify strategic partnerships that align with the Town's vision

### **People**

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

- Create opportunities for and access to social participation and inclusion in support of community health and wellbeing.

### **Urgency**

If supported by Council to allow the Council decision to be considered in the context of adopting the 2017-18 Budget and to ensure the festival could be programmed for May 2018.

### **Voting Requirements**

Simple majority decision of Council required.

### **Moved Cr Goetze, seconded Cr Wood**

#### **That Council**

- 1. Support the creation of the Claremont Children's Art and Literature Festival as a partnership between FORM and Town of Claremont as presented in this report and the FORM proposal (attached);**
- 2. Approves the employment of a senior employee as Festival Director (.6 FTE) for a term of three years as outlined in this report;**
- 3. Includes \$60,000 in the 2017-18 budget to fund the Town of Claremont's contribution to the first year of the festival;**
- 4. Receives a report on the festival activities and outcomes at least annually and no later than December 2019 receive a proposal to consider if the festival is to be funded by the Town beyond the three year initial period; and**
- 5. Amends the Draft Budget to utilise the Claremont Now Reserve Funds as proposed in the confidential attachment and reallocate the required funds to finance this festival.**

**CARRIED(78/17)  
(NO DISSENT)**

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## 13.2 PLANNING AND DEVELOPMENT

### 13.2.1 LOT 102 (256) STIRLING HIGHWAY CLAREMONT - PROPOSED CHANGE OF USE TO CONSULTING ROOM

<b>File Ref:</b>	<b>A-3660 01SAT/17/3660</b>
<b>Attachments Public:</b>	<a href="#">Location and Submission Map</a> <a href="#">Photograph</a>
<b>Attachments Restricted:</b>	<a href="#">Plans</a> <a href="#">Submissions</a>
<b>Responsible Officer:</b>	<b>David Vinicombe</b> <b>Executive Manager Planning and Development</b>
<b>Author:</b>	<b>David Vinicombe</b> <b>Executive Manager Planning and Development</b>
<b>Proposed Meeting Date:</b>	<b>6 June 2017</b>
<b>Date Prepared:</b>	<b>20 May 2017</b>
<b>Planning Application No.:</b>	<b>DA 2016.00125</b>
<b>Due Date:</b>	<b>6 June 2017</b>
<b>Property Owner:</b>	<b>Zena Nominees Pty Ltd</b>
<b>Submitted By:</b>	<b>Planning Solutions</b>
<b>Lot No.:</b>	<b>102</b>
<b>Area of Lot:</b>	<b>2308m<sup>2</sup></b>
<b>Zoning:</b>	<b>Highway and Metropolitan Region Scheme Reservation for Primary Regional Road</b>
<b>Financial Implications:</b>	<b>Nil</b>
<b>Enabling Legislation:</b>	<b><i>Planning and Development Act 2005 (PDA)</i></b> <b><i>Town Planning Scheme No. 3 (TPS3)</i></b> <b><i>State Administrative Tribunal Act 2004 (WA) (SAT Act)</i></b>

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#### Summary

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

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

- On 15 February 2017 the former proposal was approved under delegated authority subject to conditions inclusive of the following relative to parking and access:
    - “2. *All customer parking is restricted to the car park adjoining Stirling Highway.*
    3. *The Right of Way from John Street is to be sign posted to indicate that the rear car park is restricted to staff only.*
    4. *The existing line marking on the rear Right of Way is to be removed and the new parking bays to be line marked as per the approved parking plan.*
    5. *Prior to the issue of a Building Permit the owner/s must register on the Certificate of Title to the land an easement in gross, which provides for rights of carriageway over the area indicated on the approved plan, in accordance with the requirements of the Town of Claremont. The easement in gross must be prepared and registered by the Town of Claremont's solicitors at the cost of the owner/applicant.”*
  - The owner of the property lodged an application for review of the approval to the State Administrative Tribunal (SAT) requesting removal of a number of the conditions – specifically those relating to parking and access requirements contained in conditions 2, 3 and 5 above, plus two other conditions (8 & 9) relating to drainage and appearance of the building.
  - It is noted that the initial applicant and tenant are no longer involved with the application and new planning consultants are now representing the owner with no specific consulting room tenant in mind.
  - Mediation took place on 20 February 2017 before SAT Member Rebecca Moore. Ms Moore was of the view that these conditions (2, 3, 5, 8 & 9) could not be substantiated and directed that Council should review the approval by 18 April, 2017 pursuant to s. 31(1) of the *State Administrative Tribunal Act 2004 (WA)* (SAT Act).
  - Consultation with neighbours resulted in the reinstatement of the former objections together with the raising of additional concerns over the nature of the consulting rooms now being contemplated – instead of a low traffic generating radiology clinic, the consulting rooms could be occupied by a higher traffic generating Doctor's surgery which is likely to further impact the operation of the ROW and impact on the neighbour's amenity.
  - A recommendation of refusal due the restricted access through the rear ROW and the non-specific nature of the consulting room, resulting in traffic and parking concerns, was considered by Council on 18 April 2017.
  - Council did not vote either for or against the recommendation and the matter was left in abeyance. The reasons for the lack of determination were unclear, however following the Council meeting a number of Elected Members expressed a desire for further discussions to be held with the applicant in an attempt to negotiate an alternative solution.
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- Discussions were held with the applicant on 27 April 2017 where a limit on the type of, and hours of operation of the consulting room, together with options to improve traffic flow in the ROW and on John Street were discussed.
- At a Directions Hearing of the SAT held on 28 April, both the Town and applicant expressed a view that a number of options to reduce the impact of the proposal on traffic flow and the adjoining residents were possible and that a further report to Council may address the matter without the need to progress the review to a full SAT hearing.
- Based on the matters discussed with the applicant, being the restrictions on the on the type and operating hours of the consulting room and access/parking arrangements in the ROW and John Street as detailed in the report, it is considered that the amenity impacts on neighbours and traffic movement on the ROW and John Street are suitably addressed and the application now warrants approval.
- Recommended that Council grant conditional approval for the consulting room.

### Purpose

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

### Background

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

### Past Resolutions

There are no past Council resolutions relevant to this application.

### Consultation

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

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

Submission Number	Submission	Officer Comment
1	When I viewed the plans in your office the area in red did not include any parking, however the outline of the property cut through the parking on the south side. I am told that there is an agreement with the owners of 6 John St concerning this parking but there is no mention of this on my title, I have passed your letter on to the strata manager who seems to be unaware any agreement but is searching his records. If you have	No parking agreement presently exists for the bays currently marked out and straddling the ROW. The revised plans address this matter by relocating the bays well within the property and freeing up the use of the ROW for access purposes only.

	<p>a copy of any such agreement I would appreciate seeing a copy.</p> <p>If parking is permitted on this laneway it would not be suitable for customers visiting consulting rooms. There are some 30 parking bays in this area, assuming the average consultation to be 15 minutes there would be 240 car movements up and down 40 metres of single track road (4 per minute!).</p> <p>This is of course the extreme case but there remains a 40m stretch were cars going in opposite directions cannot pass and one or other would have to back out. From neither end it is possible to see if there is a car already in the lane, backing out into John St would be extremely hazardous.</p> <p>While I have no reason to object to the change of use of 256 Stirling Highway I do object to any use that would affect access to my property from the laneway.</p>	<p>Revised proposals to restrict the nature of consulting use to lower patient turn-over specialist practitioners will reduce traffic movement in the rear parking area and on the ROW.</p> <p>Conditions may be imposed to address these matters – see further comments below.</p> <p>Noted – Access to the rear yard areas from the ROW may be improved through the application of conditions – see further comments below.</p>
<p>2</p>	<p>In response to your letter dated 14th September regarding the change of use to the above address, while I have no objection to the premises being used as consulting rooms, I do have great concern regarding parking off the rear right of way. The access is one way, narrow and unless restricted could seriously compromise the amenity and safety of the residents of 6 John Street.</p> <p>Another consideration would be to have a restriction in place to limit the consulting hours to normal business hours. While Imaging Central may have reasonable consulting times, unless a formal restriction is in place the consulting hours may change with a different tenancy.</p>	<p>Conditions may be imposed to address these matters – see further comments below.</p> <p>Conditions may be imposed to address these matters – see further comments below.</p>

<p>3</p>	<p>John Street Claremont permits a limit of 4 hours parking on the western side of the street Monday to Friday until 5pm. Parking is not permitted on the eastern side or the verges at any time apart from a small section near Stirling Highway.</p> <p>There are limited parking spaces available to visitors to the area each day. This is the reason the owners of properties requested restrictions on daily parking requirements which resulted in the 4 hour daily time limit being introduced. This unfortunately is not always observed.</p> <p>Consulting rooms of Image Central will increase the number of people and vehicles to the area and can only create more congestion and inconvenience to the local residents. The question of 1-2 bays only causing a minor shortfall of parking is not realistic. The consulting envisaged will have many clients seeking the services of this type of business. It is clear the access to the rear of the premises will not work - 40 metres of a single track road is not workable.</p> <p>We do not have any objection to the change of use of 256 Stirling Highway, however, the proposal to conduct the business without major disruption in the laneway is not feasible.</p>	<p>A condition may be imposed to address hours of operation – see further comments below.</p> <p>Parking complies with TPS3 parking requirements.</p> <p>Parking complies with TPS3 parking requirements.</p> <p>Conditions may be imposed to address access – see further comments below.</p> <p>Conditions may be imposed to address access – see further comments below.</p>
<p>4</p>	<p>The signage only relates to the façade facing out on to Stirling Highway. This was the phone advice given by the Planning Officer, Town of Claremont.</p> <p>These are the issues of concern below:</p> <ul style="list-style-type: none"> <li>a) The shortfall of parking bays (1-2 bays less than requirement under Town Planning Scheme No. 3). Concern that there is this</li> </ul>	<p>Parking complies with TPS3 parking requirements.</p>

	<p>requirement within the scheme, for a reason. Consulting rooms as opposed to offices, can vary greatly in 'traffic' and hence, parking requirements.</p> <p>b) The shortfall being a 40m single lane road, being used as the thoroughfare for additional traffic. A consultancy would bring additional traffic. This is dangerous as one entry and exit point. Cars would be backing out onto blind corners. Blind corners with traffic entering, immediately, on to it from Stirling Highway. This would be dangerous and reckless.</p> <p>The wall at the entrance and same exit, of this laneway, has been hit. Resulting in it demolishing two-thirds of the laneway wall on two occasions thus far, from vehicles backing out.</p> <p>Our experience is that other councils, have adopted change of use proposals and this has not been fully considered, and resulted in a massive shortfall in parking for residents, visitors and trades people. This led to disgruntled clients, plus residents and some very antisocial behavior. Resulting in damages.</p> <p>c) The proposed consultancy opening days and hours has not been outlined. Even operating within normal operating hours it would create a parking issue as outlined in point a) and b). If opening hours are also, outside normal</p>	<p>Conditions may be imposed to address access – see further comments below.</p> <p>This is private matter between the owners and users of the ROW. All lots adjoining the ROW have a legal right to use the ROW.</p> <p>Parking complies with TPS3 parking requirements.</p> <p>A condition may be imposed to address hours of operation – see further comments below.</p> <p>A condition may be imposed to address hours of operation – see further comments below.</p>
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	<p>operating hours it creates additional noise and disruption in a shared laneway. This laneway is utilised as part of the Title, to the units of 6 John Street, Claremont and is our access.</p> <p>d) If the proposed premises is rezoned to enable it to function as consulting rooms in the future, beyond this tenancy, this could be more diverse. For example, if the consultants offices became psychiatric consultancy or a dependency rehabilitation consultancy.</p> <p>What provision is made for the type of consultancy within this change of use proposal? [I note as an example, an East Fremantle premises which became a methadone clinic].</p> <p>For my reasons outlined above, I therefore object to the change of use of premises pertaining to 256 Stirling Highway, Claremont.</p> <p>Unless I can be satisfied that my concerns have been acknowledged and terms, agreeable by all parties, are met in writing, my objection remains.</p>	<p>Rezoning and alteration to the approved use on site will be subject to a new application and approval considerations.</p> <p>A condition may be imposed to restrict the type of consulting room on site – see further comments below.</p> <p>Noted</p> <p>Noted</p>
<p>5</p>	<p>1. No bin location noted on the plan.</p> <p>2. Parking, there is a right of way on the northern</p>	<p>A condition may be imposed to require the provision of a bin storage area. It is noted that rubbish bins for businesses in the locality are stored on the verge north of the ROW entrance to John Street, obstructing vision of the ROW entrance from the north. Council's Senior Ranger has indicated that these bins are stored incorrectly and alternative arrangements will be required.</p> <p>Noted – Access to the rear yard areas from the ROW may be</p>

	<p>boundary of my property and I do not want my access obstructed. I am also concerned about visitor bays increasing traffic through the right of way and potentially blocking access to the right of way.</p>	<p>improved through the application of conditions – see further comments below.</p>
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Full copies of the submissions are attached to this report.

Metropolitan Region Scheme Metropolitan Region Scheme (Main Roads WA Referral)

The subject site is located partially within a Metropolitan Region Scheme (MRS) reserve for ‘Primary Regional Road’ (PRR). Under the *Planning and Development Act 2005* (PDA) MRS Instrument of Delegation (Del 2011/02), the Council has delegated authority to approve development within or adjacent to the Stirling Highway MRS reservation subject to any decision being consistent with the comment and recommendation of Main Roads WA (MRWA).

The subject application has been referred to MRWA for comment. MRWA advised that they have no objection to the proposed additions and alterations subject to the following conditions:

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

If Council supports this application, it is recommended that any approval be conditioned to comply with the above requirements.

**Discussion**

Description

The original proposal approved under delegation of Council was for a consulting room to secure the lease on one of the four vacant tenancies at Lot 102 (256) Stirling Highway. The original applicant and tenant are no longer involved in the application and the owner’s (new planning consultants) have lodged the application for SAT review of conditions previously negotiated with the former applicant to address neighbours’ concerns.

The proposed use will consist of five formal consulting rooms (for two consultants at any one time) along with associated waiting rooms and reporting rooms, The

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

### Compliance

Under the provisions of TPS3, the subject site is partially zoned 'Highway' but is also subject to a 'Primary Regional Roads' reservation under the MRS.

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

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

The former delegated approval for the consulting rooms did not specify the type of consulting rooms proposed to occupy the tenancy; however the assessment at that time did give a favourable consideration to parking concessions in cognisance of the parking impacts envisaged with the operation of a radiology clinic. Discussions with the applicant prior to the last SAT Directions Hearing on this matter indicated support for a condition being placed on any approval to ensure the consulting room is not used for a high patient turn-over general practitioner surgery and be restricted to lower patient turn-over specialist practitioners. Accordingly, parking concessions may now apply to the use - see detailed comments on parking below.

### Compliance - Parking

The current approved development consists of office (1542m<sup>2</sup>) and showrooms (281m<sup>2</sup>) – TPS3 requires 51.4 bays for the office and 7.025 bays for the showroom – total 58.425 (58.42). The existing development does not provide this number of bays – 49 are marked on the site plan, however 10 of these do not comply with current parking standards. Therefore the status quo provision of 39 bays may apply to the whole site for the existing uses under cl. 30 of TPS3.

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

The initial application favourably considered parking concessions under cl. 31A of TPS3, which provides for Council to (at its absolute discretion) consider parking concessions of up to 35% where appropriate and justified. The initial application warranted concessions of 5% for proximity to a bus stop, 5% for proximity to public parking and 5% for bicycle parking (15% .- 7 bays), which exceeds the additional parking requirement of six bays.

While the 18 April 2017 report to Council did not support the application of parking concessions due to concerns over the intensification of use associated with general practitioner use, restriction of the use to two lower patient turn-over specialist practitioners suitably addressed these concerns and it is now considered appropriate to apply the former parking concessions calculated for the original radiology practice, and subject to provision of bicycle parking in accordance with Council's Local Planning Policy on Bicycle Parking and Facilities LV127.

### Access

The site contains two parking areas. Thirteen bays are provided at the front of the property with direct access from Stirling Highway. Twenty six bays are provided at the rear of the property (in a tandem arrangement) with access being made available from John Street through a 3.0m wide ROW. The width of the ROW limits access and egress to the rear parking area to one way traffic.

Concerns over one-way traffic movement in the ROW may be ameliorated by provision of signage in the ROW to prioritise use of the ROW for vehicles entering off John Street, but also the construction of a waiting hardstand area in John Street to the immediate north of the ROW entrance to allow for vehicles about to exit to pass through without having to reverse back to the car park. Council's Executive Manager Infrastructure is in support of this proposal, and this can be readily implemented by Council at minimal cost.

Attempts to retain the condition concerning supplementing the ROW with a Right of Carriageway (ROCW) easement to allow for residents to the south of the ROW to legally turn and exit the ROW in a forward direction have not been successful. The applicant (and SAT mediator) believe this condition cannot be substantiated, despite the likelihood that this will be a long term requirement for the site should it be redeveloped for higher density residential use in accordance with proposals contained in the Stirling Highway Local Development Plan, and as the residents are legally required to reverse out onto John Street as no formal opportunity is available for the vehicles to turn and drive out in a forward direction. Although this situation has the potential to further inhibit the free flow of traffic in the ROW and safety of vehicle movements, these matters have been discussed in detail with the applicant, and given that the number of traffic movements being generated from specialist type consulting rooms (as opposed to general practitioners) are unlikely to be significantly more than the current approved uses for the property, it is reasonable in this instance to withdraw this requirement.

Concerns over potential traffic congestion in John Street opposite the ROW may be addressed by Council as a separate matter by restricting parking immediately across the road to provide for the free flow of traffic. Council's Senior Ranger is in support of this proposal, and this can be readily implemented by Council at minimal cost.

### Response to Neighbours' Concerns

The original proposal was advertised in accordance with TPS3 and Council Policy, and five objections were received. All of the respondents reside within the strata complex at 6 John Street located on the south side of the ROW behind the subject site. Four of the five submissions were primarily concerned with the parking proposed to the rear of the existing development which can only be accessed via the

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ROW from John Street. The original plans submitted with the application showed a number of the existing parking bays located along the southern boundary of 256 Stirling Highway and straddling the ROW directly abutting the northern boundary of the neighbouring strata properties. This appears to have been informally organised following a previous planning approval and is not formally approved or secured by a ROCW easement.

To address this matter, the former applicant amended the plans to show all parking bays being removed from the ROW and relocated the bays to sit wholly within the subject site next to the building. To further address parking concerns and use of the ROW, an agreement was also made with the former applicant that no customer parking would occur at the rear of the property. The Town received written confirmation from all impacted strata owners stating they were satisfied with the new parking arrangements and formally withdrew their objections to the development. Accordingly, the delegated approval was conditioned to ensure all visitor access for Imaging Central is from Stirling Highway and that the ROW from John Street be sign posted to indicate restricted access to the rear car park for staff only.

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

It is considered that concerns over access and type of the consulting room may now be addressed by the application of suitable conditions detailed above. Concerns over the amenity impact of parking in the rear parking area may also be addressed by a condition which limits the hours of operation to 8.00am-5.30pm (Monday – Friday) and 8.30am-11.30 am (Saturday) as per the original application.

### **Summary**

Based on the above discussions with the applicant and proposed conditions to address parking and access, and to address the amenity impacts of the development on the adjoining residents, it is recommended that the application now be conditionally approved. It is noted that the applicant has verbally indicated support for the modified conditions for the development and will favourably present the modified requirements to the owner with the view of withdrawing the present SAT review proceedings.

### **Voting Requirements**

Simple majority decision of Council required.

### **Moved Cr Edwards, seconded Cr Kelly**

- A) THAT Council, pursuant to Section 31(1) *State Administrative Tribunal Act 2004 (WA)* grant Development Approval for the proposed Consulting Room at Lot 102 (256) Stirling Highway, Claremont, subject to the following conditions:**
- 1. All development shall occur in accordance with the approved drawings (Development Application DA2016.00125), as amended by these conditions.**
  - 2. The consulting room is not used for a high patient turn-over general practitioner surgery and be restricted to a maximum of**
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- two lower patient turn-over specialist practitioners at any one time.
3. Hours of operation of the consulting room is to be restricted to 8.00am to 5.30pm (Monday-Friday) and 8.30am-11.30am (Saturday).
  4. Provision of signage on the Right of Way and at its eastern entrance on the western boundary of 256 Stirling Highway to prioritise use of the Right of Way for vehicles entering off John Street to the satisfaction of the Town of Claremont.
  5. The existing line marking on the rear Right of Way is to be removed and the new parking bays to be line marked as per the approved parking plan.
  6. To qualify for the maximum available parking concessions under Town Planning Scheme No. 3 and satisfy parking requirements for the site, the applicant is to provide bicycle parking in accordance with Council's Local Planning Policy on Bicycle Parking and Facilities LV127 to the satisfaction of the Town of Claremont.
  7. All signage is to comply with the Town's Local Law Relating to Signs and subject to a separate Sign Licence being submitted for approval.
  8. Provision of a bin storage area on site to the satisfaction of the Town of Claremont.
  9. Approval is subject to the following conditions imposed by Main Roads Western Australia:
    - i. The type of sign, size, content and location must comply with all relevant by-laws and planning schemes made by Council.
    - ii. The sign and sign structure is to be placed on private property and shall not over hang or encroach upon the road reserve.
    - iii. If the sign is illuminated, it must be of a low-level not exceeding 300cd/m<sup>2</sup>, not flash, pulsate or chase.
    - iv. The device shall not contain fluorescent, reflective or retro reflective colours or materials.
    - v. No other unauthorized signing is to be displayed.
    - vi. Main Roads agreement is to be obtained prior to any future modifications.

**Notes:**

- 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.

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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.
  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.
  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.
  5. 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*.
- B) Adjoining residents at 6 John Street be advised that to address potential conflict of vehicles already exiting the Right of Way, the existing street parking in John Street is to be modified by Council to create a waiting hardstand area in John Street to the immediate north of the Right of Way.
- C) Adjoining residents at 6 John Street also be advised that to address potential for traffic congestion in John Street adjacent to the entrance of the Right of Way, the existing parking bays located directly opposite the Right of Way are to be removed by Council.

**CARRIED(79/17)**

For the Motion: Mayor Barker, and Cr Haynes, Cr Mews, Cr Goetze, Cr Main, Cr Wood, and Cr Edwards.

Against the Motion: Cr Kelly.

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*Mr David Vinicombe, Executive Manager Planning and Development declared an impartiality interest in Item 13.2.2, due to having a close association with the applicant and left the meeting at 7:49pm.*

**13.2.2 LOT 13 (13/50) BAY VIEW TERRACE, CLAREMONT - PROPOSED CHANGE OF USE FROM 'SHOP' TO 'CONSULTING ROOM' AND 'EDUCATIONAL ESTABLISHMENT' FOR PERSONAL TRAINER (INTENSE HEALTH)**

<b>File Ref:</b>	<b>A451</b>
<b>Attachments - public:</b>	<a href="#">Location and Advertising Map</a> <a href="#">Photograph</a> <a href="#">Applicant's Report</a> <a href="#">Submission Table</a>
<b>Attachments - restricted:</b>	<a href="#">Plans</a> <a href="#">Submissions</a> <a href="#">Applicant's Response to Submissions</a>
<b>Responsible Officer:</b>	<b>John Humphreys</b> <b>Manager Planning</b>
<b>Author:</b>	<b>Josh Wilson</b> <b>Urban Planner</b>
<b>Proposed Meeting Date:</b>	<b>06 June 2017</b>
<b>Date Prepared:</b>	<b>19 May 2017</b>
<b>Planning Application No.:</b>	<b>DA 2017.00038</b>
<b>60 Days Due Date:</b>	<b>21 May2017</b>
<b>Property Owner:</b>	<b>Carolyn Ching-Lin Choy and Victor Bon-Een Cheng</b>
<b>Submitted By:</b>	<b>Planning Solutions</b>
<b>Lot No.:</b>	<b>13</b>
<b>Area of Lot:</b>	<b>42m<sup>2</sup></b>
<b>Zoning:</b>	<b>Town Centre</b>
<b>Financial Implications:</b>	<b>Nil</b>
<b>Enabling Legislation:</b>	<b>Planning and Development Act 2005 (PDA)</b> <b>Town Planning Scheme 3 (TPS3)</b>

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### Summary

- Application for planning approval received for a change of use for a fitness training and nutrition business (Intense Health).
- Proposal is considered to fall under two uses as defined in TPS3: 'consulting room' and 'educational establishment'. Both uses are 'AA' or discretionary uses in the Town Centre Zone.
- 38 Neighbours were consulted and eight submissions were received.
- Application is recommended for approval, subject to appropriate conditions.

## Purpose

For Council to consider an application for Development Approval being a change of use of commercial premises.

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

## Background

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
22 March 2017	Planning Application received by Council.
29 March 2017	Application undergoes internal DCU assessment.
27 April 2017	Advertising commenced.
12 May 2017	Advertising closed.
19 May 2017	Report prepared for Council.

## Past Resolutions

There are no past Council resolutions relevant to this application.

## Heritage

The property is listed in the Town's Local Government Inventory and Heritage List as part of the Bay View Terrace Heritage Precinct. As such the application was referred to the Town's Heritage Officer who advises that the proposal will not impact on the heritage fabric of the building and has no objections.

## Consultation

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

38 neighbours were consulted and eight objections were received. The issues raised include:

1. Uses not compatible with other shop/retail uses and will result in less passing trade for other businesses in the lane.
2. Preference for location on upper floor of Old Theatre Lane
3. Obscured glazing is strongly objected to.

These are discussed later in the report.

Full copies of the submissions are attached to this report.

## Metropolitan Region Scheme Metropolitan Region Scheme (Main Roads WA Referral)

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

The subject application has been referred to MRWA for comment which has advised that it has no objections to the proposal.

## Discussion

### Description

The subject site is a tenancy in Old Theatre Lane and has a floor area of 42m<sup>2</sup>. The proposal is to divide the tenancy into two rooms with a small hallway and reception area to allow use by Intense Health for a personal training room and a nutritionist's consulting room. The personal trainer will occupy 16m<sup>2</sup> and the nutritionist 8m<sup>2</sup>. No changes to the external facade of the tenancy are proposed.

### Nature of Use

Intense Health provides personalised fitness training and nutritional advice as a combined service. Their business model relies on regular, short, training sessions with one client at a time.

Under TPS3, a nutritionist falls under the use-class of a 'Consulting Room' which is defined as follows:

*"Consulting Room" means a building or part of a building (other than a hospital) used in the practice of his or her profession by:*

- (a) A registered medical practitioner*
- (b) A registered dentist or dental therapist*
- (c) A registered occupational therapist or physiotherapist*
- (d) A registered psychologist*
- (e) A registered chiropractor*
- (f) A registered psychiatrist*
- (g) A registered chiropodist*
- (h) A qualified welfare counsellor including a marriage guidance counsellor*
- (i) A qualified masseur; or*
- (j) A person ordinarily associated with a registered medical practitioner in the investigation or treatment for physical or mental injuries or ailments.*

Personal Training falls under the use-class of 'Educational Establishment' which is defined as follows:

*"Educational Establishment" means a school, college, university, technical institute, kindergarten, academy or other educational centre;*

This categorisation is based on precedents set over the last several years where the key consideration has been the manner in which the activity is undertaken. Fitness training operates in a similar manner to typical educational activities in that it involves one-on-one instruction or small groups led by an instructor. Uses such as yoga and Pilates have also been classified this way.

### Permissibility of Uses

Both uses are 'AA' under Table One of TPS3. Under cl.14 (1)c(c):

*"AA" means that the land shall not be used for the purpose indicated but the Council may approve of the use of land for that purpose if that use:*

- (i) will provide a local service to other land in the locality; or*
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- (ii) *is consistent with the general use of land in that locality and the Council is satisfied that the use, and the activities to be carried on which are connected with, or incidental to that use; and any building to be erected on the land will not have any adverse or detrimental effect on the residents or amenity of or the properties in the locality;*

The proposed uses are considered to meet these criteria for the following reasons:

- Customers are likely to live in or around Claremont.
- There are numerous other fitness and consulting businesses in the Town Centre (including a yoga studio at the end of Old Theatre Lane and a dental practice on the upper level).
- While fitness training has the potential to create noise through loud music, heavy equipment and voice the proposal before council does not include any of these, as detailed in the applicant’s report. Notwithstanding, should the application be approved, it is recommended that a condition be imposed to ensure noise does not adversely affect adjacent tenancies.

Car Parking

Car parking requirements for the development have been assessed as follows:

Existing Use	Gross Leasable Area	Parking Ratio	Bays Required	Discounts Available under TPS3 Table 4	Final Requirement
'shop'	42m <sup>2</sup>	1/16.67m <sup>2</sup>	2.52	5% - Within 400m rail 5% - Within 100m bus 5% - Within 400m public parking 5% - provides public benefit* 5% - heritage listed	1.89 (rounded up to 2)

\* Public benefit discount applied due to enclosed pedestrian walkway through the development

Proposed Use	Gross Leasable Area	Parking Ratio	Bays Required	Discounts Available under TPS3 Table 4	Final Requirement
'consulting room'	17m <sup>2</sup>	1/20m <sup>2</sup>	0.85	5% - Within 400m rail 5% - Within 100m bus 5% - Within 400m public parking	2.14 (rounded down to 2)
'educational establishment'	25m <sup>2</sup> *	1/staff + ½ customers**	1.5	5% - provides public benefit 5% - heritage listed***	

\* Includes 50% share of common areas within the tenancy  
 \*\* Parking requirements under TPS3 Table 2 states: One for each full-time employee plus spaces for students, as determined by Council. Council has previously determined a requirement of 1 bay per 2 customers in numerous previous approvals for personal training uses and similar.  
 \*\*\* Parking discounts do not apply to 'educational establishment' uses under TPS3 cl.31A(2).

TPS3 cl.30 states as follows:

*Where:*

- (1) land is developed by any substantial reconstruction, alteration or any addition to a building on that land, or*
- (2) the nature of the use made of the land is changed and the alteration results in additional useable area and/or creates an additional demand for car parking, only the additional bays shall be required to be provided, constructed and maintained in accordance with the Scheme.*

Having regard to cl.30, car parking for the proposal is sufficient as the proposed uses do not require any more parking than the existing use. If approved, a condition is recommended limiting the number of staff and customers for the educational establishment (personal trainer) to ensure parking remains compliant.

### Objections

Eight submissions objecting to the application have been received and are summarised with officer comments as follows:

1. *Use is not compatible with other shop/retail uses and will result in less passing trade for other businesses in the lane.*

Whilst adjacent owners and tenants within Old Theatre Lane are concerned that the proposed uses are not appropriate and will have a detrimental impact on their businesses, there is no evidence that this would occur. It is noted that all 16 ground floor uses within Old Theatre Lane are mostly 'shops' including the existing cafe (lunchbar), travel agency and hairdresser, and it would be difficult to determine if a change in the retail-dominated mix of businesses might affect the character and customer traffic of the laneway.

Nevertheless, there is no specific restriction in TPS3 that excludes the proposed uses from being able to be considered. Clause 60 of TPS3 lists the objectives of the Town Centre Zone and whilst most of these relate to building work, the first two are relevant to this application:

#### **60. OBJECTIVES:**

*In considering an application for planning approval for development in the Town Centre Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:*

- (1) that Bay View Terrace be maintained as the centre of the specialised shopping area of the District;*
- (2) the need for the Zone to provide a varied and integrated centre incorporating a wide range of retail outlets, Offices, Entertainment, Social and Community Facilities;*

The proposed uses are not so significant as to affect the first objective as the majority of the tenancies in Old Theatre Lane (which forms part of the Bay View Terrace shopping strip) are retail shops. The proposal is supported under the second objective as it will increase the range of business offerings within the Zone.

2. *Preference for the business to be located on upper floor of Old Theatre Lane.*

Although the proposed uses are not as reliant on passing foot traffic to generate business and could successfully operate from an upper floor tenancy in Old Theatre Lane, this not a considered a relevant planning matter as Council can only determine the application before it and whether the proposed uses are acceptable as proposed.

3. *Obscured glazing at the shop front is strongly objected to.*

The applicant advises that obscuring of windows is not proposed as part of this application. Under the Town's Local Law Relating to Signs, covering of windows is limited to 25% of the total window area. As the area inside the window is just a waiting area it would be difficult for the applicant to justify a need to vary this requirement of the Local Law.

A table of individual submissions, applicant's response and officer comments is an attachment to this report.

### **Conclusion**

In view of the above, the proposed uses are considered as being appropriate for a ground floor tenancy within the Old Theatre Lane. The proposal is unlikely to have a detrimental impact on the adjoining tenancies and will provide a new service within the town centre that supports the objectives of the zone.

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 Goetze, seconded Cr Kelly**

**THAT Council grant development approval for a change of use from 'shop' to 'consulting room' and 'educational establishment' at Lot 13 (13/50) Bay View Terrace, Claremont, subject to the following conditions and advice notes:**

- 1. All development shall occur in accordance with the approved drawings (Development Application DA2017.00038), as amended by these conditions.**
- 2. The use of 'Educational Establishment' is to be restricted to personal training with a maximum of one instructor and one customer at any time.**
- 3. Any noise generated from the premises such as music or use of fitness equipment is not to adversely impact the amenity of the adjacent tenancies.**

### **Advice Notes:**

- 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.**
- 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.**
- 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**

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Planning and Development Act 2005 Part 14. An application must be made within 28 Days of the determination.

4. Signage for the premises may require Development Approval and/or a Sign Licence. Please contact Planning and Building Services for further information.
5. This property is listed on the Town of Claremont's Heritage Schedule and/or the Heritage Council of Western Australia's Register of Heritage Places. Any future alteration to the building or development on the land requires Development Approval and the application may be referred to the Heritage Council.
6. 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.
7. Main Roads WA advises the following:

The above property is affected by land reserved for Primary Regional Road in the "current" Metropolitan Region Scheme (MRS).

The Department of Planning had undertaken a review of Stirling Highway - MRS Major Amendment 1210/41 – Rationalisation of Stirling Highway Reservation. This proposed amendment has not been finalised at this stage. Further information on this amendment is at the following link;

<http://www.planning.wa.gov.au/publications/8318.asp>

Under proposed amendment 1210/41 the road reservation affecting this property is proposed to be reduce as shown on plan 1.7226

The project for widening/upgrading Stirling Highway is not in Main Roads current 4 year estimated construction program. Projects not listed on this program are considered long term. However, Please be aware project timing is subject to change and Main Roads assumes no liability for any change to the timing information provided.

Reason: The proposed change does not conform with the requirements of TPS Division 3 Town Centre Zone 60(1).

**LOST  
(TOTAL DISSENT)**

*Mr David Vinicombe returned to the Chambers at 8:02pm.*

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**13.2.3 MIKE BALFE HERITAGE GRANT – 8 LANGSFORD STREET**

<b>File Ref:</b>	<b>A-2329</b>
<b>Attachments Public:</b>	<a href="#">Heritage Maintenance Grant Application Form</a> <a href="#">Heritage Maintenance Grant Claim Form</a> <a href="#">Council Policy LV130 – Mike Balfe Heritage Maintenance Grants</a>
<b>Attachments Restricted:</b>	<a href="#">Information from contractors for cost of works</a> <a href="#">Quotation for gutters and improved roof drainage</a>
<b>Responsible Officer:</b>	<b>David Vinicombe</b> <b>Executive Manager Planning and Development</b>
<b>Author:</b>	<b>Eddie Marcus</b> <b>Heritage Officer</b>
<b>Proposed Meeting Date:</b>	<b>6 June 2017</b>
<b>Date Prepared:</b>	<b>16 May 2017</b>
<b>Property Owner:</b>	<b>John &amp; Lynette Gibbons</b>
<b>Address:</b>	<b>8 Langsford Street, Claremont</b>
<b>Financial Implications:</b>	<b>\$1,075.00 (if recommendation adopted)</b>
<b>Relevant Policies:</b>	<b>Council Policy LV130 – Mike Balfe Heritage Maintenance Grants</b> <b>Council Policy LV124 &amp; Local Planning Policy 2/2015 – Retention of Heritage Places, Heritage Areas and Heritage Precincts</b>

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**Summary**

An application for Mike Balfe Heritage Maintenance Grant has been received requesting \$2,640 for works by the owner of 8 Langsford Street, Claremont.

- Before application, the Heritage Officer had advised the owner that some of the works may be eligible for a heritage grant.
- In the meantime, some of the works were completed prior to a grant application being submitted.

As a consequence, some aspects of the application do not meet the eligibility requirements of Council Policy LV130 - Mike Balfe Heritage Maintenance Grants (Policy LV130).

For those aspects which are compliant with Policy LV130, it is recommended that a maintenance grant be offered to the value of \$1,075.

**Purpose**

The applicant requests \$2,640 for the purposes of maintaining their heritage-listed property such that significant heritage fabric is conserved.

The application requires the Council's determination.

**Background**

The following table outlines key dates regarding this proposal:

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Date	Item/Outcome
13 February 2017	Initial contact from owners and site visit by Heritage Officer.
11 April 2017	Owners notify Council that work has been completed, and second site visit undertaken by Heritage Officer.
2 May 2017	Grant Application received by Council.
16 May 2017	Report prepared for Council.

John and Lynette Gibbons contacted the Town on 13 February 2017 to enquire about the Heritage Grants Scheme. The Heritage Officer made a site visit to their property (8 Langsford Street, Claremont) and Mr Gibbons showed evidence of cracks in the property which he said had widened in the recent past.

The Heritage Officer advised the owner to contact a structural engineer or a suitably qualified contractor, to determine what works were necessary to prevent further damage to the property. Mr Gibbons was further advised that once the necessary scope of work had been determined, he should fill out an Application for Development Approval and then the proposed work's eligibility under the Town's Heritage Grant Scheme could be discussed.

On 11 April 2017, Mr Gibbons again contacted the Town to advise that the work had been completed and he wished to know how he could claim under the Heritage Grants Scheme. The owners had not contacted the Town since the previous advice had been given (other than to establish suitable contacts with structural engineers to determine the cause of the damage). It became clear that the Gibbons had not clearly understood the necessity of applying for a grant prior to lodging an application.

The Heritage Officer made a further visit to the property and was advised by Mr Gibbons that the contractor had suggested that changes to the water table had caused the cracks in the walls. The repairs consisted of filling in the cracks with no work being necessary to the foundations. The Gibbons had also repainted the entire exterior of the property from 'heritage green' to a light blue colour. As far as can be determined from a visual inspection, all of this work was carried out to a high standard.

Further work to the guttering is proposed to be carried out in order to assist with the maintenance of this heritage property.

### Details

The applicant described the project as:

- *Repairs to internal cracks in walls, exterior painting and replacement gutters.*

The applicant requested 50% grant funding for each of the following items:

Item	Total cost	Officer Comments
1. Exterior paint	\$4,500	Not eligible for grant. The application is for retrospective funding of a completed project with an insufficient receipt provided.
2. Infill of internal cracks	\$600	Not eligible for grant. The internal works are excluded from Policy LV130, and application is for retrospective funding of a completed project with an insufficient receipt provided.

Item	Total cost	Officer Comments
3. Further internal works to finish crack repairs	\$180	Not eligible for grant. The internal works are excluded from Policy LV130, and application is for retrospective funding of a completed project with an insufficient receipt provided.
4. Gutter replacement	\$2,150	Eligible for grant. The replacement of exterior heritage features will prevent water damage to the property and the project has not yet commenced.
<b>Requested Grant Amount</b>	\$2,640	50% of total works.
<b>Recommended Grant</b>	\$1,075	50% of gutter replacement only.

Relevant Sections of Policy LV130

Matched funding between \$1,000 and \$5,000 is available for maintenance works associated with the conservation of significant heritage fabric of dwellings listed on the Town of Claremont’s Heritage List.

The applicant for the grant must (as a minimum) match the grant dollar for dollar. In-kind support will not be considered.

Grant funding is to be capped in perpetuity to a maximum of \$10,000 for each place on the Heritage List.

Applications will be considered eligible if:

- the property is a privately owned, rateable dwelling on the Town’s Heritage List
- the applicant is the property owner (or legally acting on behalf of the owner).

Applications will be considered ineligible if:

- the application is for retrospective funding of a commenced or completed project.

In addition to the eligible application requirements above, the following works may be considered eligible for the Heritage Grant where they contribute to the conservation of the heritage significance of a place:

- works to external fabric (including roof structures and foundations)
- repairing or replacing deteriorated structural elements and major heritage features such as walls, columns, beams, floors, roofs and roof features and structures (e.g. chimneys) and verandah or balcony structures
- painting - where it will assist with the conservation of fabric – e.g. where paint has deteriorated (funding will not be provided to merely change colour)
- reinstatement of missing or damaged heritage fabric where it will assist with preventing ingress of water – e.g. replacing broken window panes, tiles, roof plumbing
- works to assist in preventing damage due to dampness.

In addition to the ineligible application requirements above, the following works are not considered eligible for the Heritage Grant:

- works to interiors
- painting where it is not required for conservation purposes.

Applications will be assessed against the following essential criteria:

- compliance with the objectives of Council Policy LV124 and Local Planning Policy 2/2015 - Retention of Heritage Places, Heritage Areas and Heritage Precincts
- compliance with the purpose of the Heritage Maintenance Grant Policy
- compliance with a Conservation Management Plan (where applicable)
- project design and achievability, budget rigour and value-for-money
- demonstrated need for assistance
- significance of the place
- demonstrated need for work
- other funding received or sought
- overall benefit to the place or streetscape.

Grant money will be provided as reimbursement for spending following approval of a Heritage Maintenance Grant application by the Town of Claremont (not in advance).

In order to receive the Grant, all successful applicants must sign a Letter of Agreement that clearly details the approved expenditure items that are covered by the Grant and agree to the following conditions:

- provide proof that the Grant money was spent on approved items
- provide proof through invoices and receipts that the Grant money was spent after the Grant application was approved (not before).

#### Schedule of Heritage Places

The 1904 Federation Bungalow is listed on the Town's Heritage List. Within the Town's Local Government Inventory (LGI), the property is recorded as having 'Some Contribution' within the Langsford Street Heritage Area, which has a Management Category of 'B': Considerable Significance.

The Statement of Significance for the Heritage Area is:

*Langsford Street Heritage Area demonstrates an identifiable aesthetic of substantial examples of the Federation architectural style demonstrating a consistency of form and fabric and variety of details through to the Inter-War period. The residences in Langsford Street Heritage Area form a substantial Federation style streetscape environment.*

As such the subject property is important to maintain in order to conserve its heritage values and long-term viability as a heritage place, as is consistent with the objectives of Council Policy LV124 and Local Planning Policy 2/2015.

#### **Discussion**

Council Policy LV130 notes that commenced or completed projects are ineligible for grant funding. Items 1 & 2 on the application (exterior paint and infill of internal cracks) were completed before the application was submitted to the Town of Claremont.

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The Policy notes that works to interiors are also ineligible for grant funding. Item 3 on the application (further internal works to cracks) is covered by this clause.

The Policy notes that works may be considered eligible where they prevent ingress of water, and specifically notes roof plumbing as an example of these works. It is, therefore, considered that Item 4 on the application (replacement guttering) is consistent with the aims and objectives of LV130.

The Policy notes that the recipient must, as a minimum, match the grant dollar for dollar, and that in-kind support will not be considered. Consequently, the maximum grant is 50% of the eligible items noted in the application.

The Policy requires invoices and receipts be provided for the works proposed in order for the grant to be paid. These should be to the usual standard required by a government organisation, e.g. a fully compliant tax invoice and receipt. In this instance, no invoices and compliant receipts have been provided (see confidential attachment) for the works that have already been undertaken. Payment of the grant where insufficient evidence is provided to satisfy governance and financial reporting procedure is considered inappropriate.

### **Summary**

Based on the above, it is recommended that approval be given for a Maintenance Grant for 50% of part of the grant application (Item 4) to be offered to the owners of 8 Langsford Street, Claremont.

### **Voting Requirements**

Simple majority decision of Council required.

### **Moved Cr Haynes, seconded Cr Edwards**

**THAT Council grant approval for a Mike Balfe Heritage Maintenance Grant to the owners of 8 Langsford Street, Claremont, for \$1,075.00 for the repair of gutters consistent with the requirements of Council Policy LV130 - Mike Balfe Heritage Maintenance Grants.**

**CARRIED(80/17)  
(NO DISSENT)**

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**13.2.4 LOT 2 (3) PENNELL ROAD – DEVELOPMENT APPLICATION FOR PROPOSED DEMOLITION OF HERITAGE DWELLING**

<b>File Ref:</b>	<b>A-2823</b>
<b>Attachments Public:</b>	<a href="#">Heritage Report, Ron Bodycoat</a> <a href="#">Archival Record, Ron Bodycoat</a> <a href="#">Council Policy LV124 &amp; Local Planning Policy 2/2015 – Retention of Heritage Places, Heritage Areas and Heritage Precincts</a>
<b>Responsible Officer:</b>	<b>David Vinicombe</b> <b>Executive Manager Planning and Development</b>
<b>Author:</b>	<b>Eddie Marcus</b> <b>Heritage Officer</b>
<b>Proposed Meeting Date:</b>	<b>6 June 2017</b>
<b>Date Prepared:</b>	<b>16 May 2017</b>
<b>Property Owner:</b>	<b>Exalron Pty Ltd</b>
<b>Address:</b>	<b>3 Pennell Road, Claremont</b>
<b>Financial Implications:</b>	<b>Nil</b>
<b>Relevant Policies:</b>	<b>Town Planning Scheme No. 3 (TPS3)</b> <b>Council Policy LV124 &amp; Local Planning Policy 2/2015 – Retention of Heritage Places, Heritage Areas and Heritage Precincts</b>

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**Summary**

Application received for demolition of 3 Pennell Road and removal of the property from the Town's Heritage List under Town Planning Scheme No. 3 (TPS3) and Local Government Inventory (LGI).

The Town's Peer Review Panel considered the listing of the property on 14 November 2014 and recommended that the Management Category be changed to a 'lower order C' with a note that further investigation of the heritage values should be undertaken.

In response to a request from the Town, the applicant submitted a heritage report from conservation and heritage architect Ron Bodycoat, which recommended that the place be removed from the LGI and Heritage List, and an Archival Record has been provided as required under Council Policy LV124.

As the application satisfies the relevant requirements of Council Policy LV124, it is recommended that 3 Pennell Road, Claremont, be granted development approval for demolition and be removed from the Town's LGI and Heritage List.

**Purpose**

For Council to consider the heritage status of 3 Pennell Road, Claremont.

The application requires the Council's determination in accordance with Delegation DA22.

## Background

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
14 November 2014	Peer Review Panel review convened
9 December 2014	Council adopts Peer Review Panel recommendations
August 2016	Heritage Report and Archival Record submitted to Council

The Town of Claremont has been at the forefront of cultural heritage management since the enactment of the *Heritage of Western Australia Act 1990* (Heritage Act). In 1991 the Town undertook its first Built Environment Survey, which was adopted in 1992 as the Municipal Inventory (MI) and in 2014 changed to the Local Government Inventory (LGI).

A review of the LGI is required by the Heritage Act every four years, which the Town has undertaken. Following the 2007 review, the LGI contained 657 listings, including two Heritage Areas and the Bay View Terrace Heritage Precinct. Each of the properties within these Heritage Areas was individually listed during the 2014 review.

The current Heritage List is the result of a series of strategic heritage reports, which reorganised Claremont's heritage places into areas and standalone listings and ascribed each place a Management Category reflecting current heritage legislation and policy. The 2014 review has now been completed with the most recent report to Council on 21 March 2017. If the current proposal is supported by Council, the Heritage List will contain 652 places, as established by a recent internal reconciliation of LGI and Heritage List. These 652 places represent 13.3% of the Town's 4,985 rateable properties. Changes implemented over the last five years have been undertaken in line with the 2005 Heritage Management Plan and are intended to more effectively manage, protect and enhance heritage elements within the Town of Claremont.

### Details of application

The application seeks approval to demolish 3 Pennell Road, which is listed on the LGI and Heritage List as a Category C property (with a lower order status previously acknowledged as detailed below).

*Peer Review Recommendation:* A Peer Review Panel session was convened on 14 November 2014 and heritage-expert members reviewed the heritage status of 3 Pennell Road. The Panel concluded that 3 Pennell Road had undergone extensive change, which substantially undermined its streetscape. It further noted the aesthetic value had been diminished by poorly-designed alterations. The Panel recommended 3 Pennell Road be retained on the LGI as a lower-order Category C standalone place and a detailed investigation of the heritage value be undertaken. Council subsequently adopted the Panel's recommendation on 9 December 2014 and the property has been retained on the LGI and Heritage List as a lower order C property for detailed review. This was due to concerns that a review of Council's Retention of Residential Policy (LV124) was required to adequately control removal processes.

The proposal to remove the dwelling from the LGI and Heritage List has been assessed in accordance with the requirements of LV124. A Heritage Report has been submitted by local conservation and heritage architect Ronald Bodycoat, which has thoroughly reviewed the heritage listing of 3 Pennell Road and its surrounding

streetscape. The report provides extensive detail of the internal and external modifications. It also outlines that federation bungalows are not a rare style of architecture in the Town and that the significance of 3 Pennell Road has been substantially reduced by changes to the street and alterations to the place. Major intrusions include air conditioning units on the front and western side of the building. The brick work has been painted, and crudely rendered in certain sections. The front verandah, entryway and front-setback area have been unsympathetically altered. A large glass-brick window has also been constructed at the front-end of the building and there have been numerous alterations to the interior. The report recommends the residence should not be subject to heritage protection and a contemporary development, designed with consideration for the current streetscape characteristics, would make an improved contribution to the streetscape.

An Archival Record for the place, created by conservation and heritage architect Ron Bodycoat, was submitted to Council and is compliant with the requirements of the relevant clause in Council Policy LV124.

#### Relevant Sections of Council Policy LV124

Demolition of any individually listed heritage place or heritage place within a heritage area or precinct requires agreement from Council for removal from the LGI and the Heritage List and a Development Approval.

Generally, Council will not approve demolition of all or part of a heritage building. Demolition will not be determined solely on the basis that it provides a more attractive economic proposition.

Council encourages retention of heritage buildings over demolition and replacement with new buildings in all cases. Alterations and additions to existing dwellings should be designed such that the significant areas of the building and the significant heritage fabric are retained. In all cases the onus rests with the applicant to provide a clear justification for demolition.

Approval for complete demolition of an individually listed heritage place or heritage place within a heritage area or precinct on the Heritage List will only occur in the rarest of circumstances. Council should in the first instance agree to the delisting of the place for one or more of the following reasons:

The Council believes the demolition of a place is required to deliver exceptional benefits to the community.

It has been proven that it is not feasible to restore or adapt the place.

Structural failure is proven and the building is beyond reasonable conservation.

A place is found to no longer meet the threshold for inclusion based upon the findings of a detailed Heritage Assessment and Council consideration of a recommendation from the Peer Review Panel.

Any other reason the Council finds to warrant the delisting.

Where redevelopment of an individually listed heritage place is made, the agreement for removal of the place from the LGI and the Heritage List will be subject to the lodgement of a Development Application which proposes demolition.

As a condition of Development Approval for the demolition and redevelopment of an individually listed heritage place on the Heritage List, the Town will require an Archival Record/Interpretation Plan to be submitted and/or an element of interpretation to be included within the new development, i.e. an engraved plaque, or other element to the satisfaction of Council. Following satisfaction of these requirements, the property may be removed from the LGI and the Heritage List.

### Schedule of Heritage Places

The Statement of Significance for the place, as given in the LGI is:

Single-storey Federation brick and iron house dating from 1905. It is an intact example of the Federation Bungalow style of architecture. The place has aesthetic value for its contribution to the streetscape and the surrounding area. It is historically significant as a representation of a typical Federation Bungalow in the Claremont area.

### Discussion

The property is listed in 2014 in the Town of Claremont LGI as a Category C, and is subsequently entered in the Heritage List under TPS3.

The owner's report argues that this home now appears as an irregular element in the streetscape of Pennell Road and is a compromised example of the Federation Bungalow style. In Pennell Road, the substantial housing stock is new development of varying 20th and 21st century styles. There are only two other houses in Pennell Road from the same period as 3 Pennell Road. These include 11 Pennell Road, a much-altered Federation style timber-framed house clad in lapped boarding (entered in the LGI and Heritage List) and a brick house at 17 Pennell Road, which was also altered and removed from the LGI and Heritage List during an earlier review.

Pennell Road is an almost totally redeveloped residential street. Earlier style Claremont houses survive at the extremities of Pennell Road, but these are remote from the subject property and have no relevant impact on Pennell Road in 2016.

The adjacent house at 5 Pennell Road is a recent two-storey house. The adjacent house at 1 Pennell Road is a relatively recent 20th century house set well back from the street boundary.

### Summary

Based on the above, the owner has demonstrated that the place no longer meets the threshold for inclusion in the LGI and Heritage List, which has been confirmed by the Peer Review Panel and the Heritage Report submitted by the owner (written by heritage architect Ron Bodycoat) in August 2016.

Further, the owner has fulfilled the requirements of Policy LV124 by submitting an Archival Record to the satisfaction of the Heritage Officer. The only remaining element of compliance under Council Policy LV124, is the provision of an element of

interpretation (e.g. an engraved plaque). This may be required as a condition of Development Approval for the demolition.

It is, therefore, recommended that 3 Pennell Road be approved for demolition and removed from the Local Government Inventory and the Heritage List.

### **Voting Requirements**

Simple majority decision of Council required.

### **Moved Cr Goetze, seconded Cr Kelly**

#### **That Council**

- 1. Remove 3 Pennell Street from the Town of Claremont Local Government Inventory and Heritage List under Town Planning Scheme No. 3 and**
- 2. Approve demolition of 3 Pennell Road subject to the provision of an interpretative element (e.g. an engraved plaque) at the property to acknowledge the history of the place to the satisfaction of the Town of Claremont.**

**CARRIED(81/17)**

For the Motion: Mayor Barker, and Cr Haynes, Cr Mews, Cr Goetze, Cr Edwards, Cr Kelly.

Against the Motion: Cr Main and Cr Wood.

### 13.3 CORPORATE AND GOVERNANCE

#### 13.3.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 APRIL 2017

<b>File Ref:</b>	<b>FIM/0062-02</b>
<b>Attachments:</b>	<a href="#">Statement of Financial Activity for period ending 30 April 2017</a> <a href="#">Infrastructure Assets – 2016-17 Schedule of Works</a>
<b>Responsible Officer:</b>	<b>Les Crichton</b> <b>Executive Manager Corporate and Governance</b>
<b>Author:</b>	<b>Hitesh Hans</b> <b>Finance Manager</b>
<b>Proposed Meeting Date:</b>	<b>06 June 2017</b>

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#### **Purpose**

For Council to note the Statement of Financial Activity for the month ending 30 April 2017.

#### **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 2017 represent the ten months of operation within the 2016-17 financial year and compares year-to-date expenditure and revenue against the corresponding budget. The budget figures incorporate all 2015-16 carry-forwards approved as part of the June 2016 end of year report and mid-year budget review adopted by council on 21 February 2017. Overall the financial position is sound and the Town is operating in accordance with the approved budget.

The closing surplus of \$4,864,287 compares favourably against the budgeted surplus of \$3,645,754. The surplus is the product of revenue received less expenditure and includes both operating and capital items. The budgeted surplus is estimated based on when income is expected to be received and expenditure to occur. Often the variations in timing account for much of the difference between budgeted surplus and actual reported.

Detailed below, the \$1,218,533 variance is comprised of operating revenue and operating expenditure (excluding non cash items) \$61,543 & \$789,238 under budget respectively; capital revenue and capital expenditure \$259,353 and \$750,191 under the budget respectively. This variance is due to a combination of timing differences and savings of which \$271,320 has been identified part of the 30 June 17 surplus forecasting.

Table 1: Operating revenue - \$61,543 under budget.

	<b>Revenue Budget</b>	<b>Revenue Actual</b>	<b>Variance</b>
Other Revenue	55,185	39,652	(15,533)
Rates	13,916,445	13,885,019	(31,426)

The major contributors to the operating revenue variations are:

- (\$15,533) decrease in other revenue is mainly due to LGIS insurance dividend being less than budget forecast.
- (\$31,426) decrease in rates income is due to timing of interim rates invoicing.

Important revenue indicators are:

Rates (including Arrears, ESL & other charges) totals \$16.724M with collection of \$16.479M representing a 98.5% collection rate.

Debtors show +90 days outstanding of \$8K which relate primarily to health fees and charges. Most of these accounts are now being sent to debt collection agency for further follow up.

Table 2: Operating expenditure - \$789,238 under budget

	<b>Expenditure Budget</b>	<b>Expenditure Actual</b>	<b>Variance</b>
Employee Cost	5,828,057	5,604,195	223,862
Material & Contracts	5,605,106	5,030,791	574,315

The major contributors to the operating expenditure variations are:

- \$223,862 is due to the savings of \$65K and timing of expenditure on staff recruitment, OHS, training and superannuation along with staff vacancies and timing of EBA salary changes and annual bonus payments.
- \$574,315 due to timing difference (\$418K) and savings (\$156K) across materials and contracts services, consultancy and office expenses.

Some of the more significant variances are:

IT expenses – budgeted \$359K with expenditure to date being \$266K which is under budget. The \$50K is identified as savings while remaining \$43K is due to timing of the expenditure.

Waste Management Services - budgeted \$1,413K with expenditure to date being \$1,315. The \$50K is identified as savings while the remaining \$48K is due to timing of expenditure.

Strategic Plans – Consultancy budgets for Swanbourne activity centre plan (\$46K), Recycle Water study (\$39K), drainage strategy (\$25K) and Bike Plan (\$5K) are yet to be implemented/progressed with savings of \$20K identified in the overall consultancy budgets.

Capital revenue – \$259,353 below budget

Variance is mainly due to timing of grant from MRWA (\$109K) and contribution from Landcorp (\$197K – Davies Rd car park).

Capital expenditure – \$750,191 under budget

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

- \$564K below budget in infrastructure works due to timing (\$421K) and savings (\$143K). Attachment 2 provides further detail on the projects and variance explanation.
- \$154K variance in building, plant and equipment mainly relates to timing. Note 10 provides breakdown of variance projects.
- \$32K under budget on transfers to reserves due to timing of interest income on reserve investment.

### **Past Resolutions**

Ordinary Council Meeting 16 May 2017, Resolution 66/17:

*That Council notes the Financial Statement of Activity for the period 1 July 2016 to 31 March 2017.*

*CARRIED*

### **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**

N/A

### **Strategic Community Plan**

#### **Governance and Leadership**

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

- Provide and maintain a high standard of governance, accountability, management and strategic planning.

- Maintain long term financial stability and growth.

**Voting Requirements**

Simple majority decision of Council required.

**Moved Cr Haynes, seconded Cr Mews**

**That Council notes the Financial Statement of Activity for the period 1 July 2016 to 30 April 2017.**

**CARRIED(82/17)  
(NO DISSENT)**

**14 ANNOUNCEMENTS BY THE PRESIDING PERSON**

Mayor Barker reported on his attendance at the Blackburne Essence opening.

Cr Haynes reported on distributing an underground power flyer encouraging ratepayers to respond.

Cr Goetze reported on FORM's Lynda Dorrington being recently announced as a 2017 Western Australian of the Year finalist in Arts and Culture.

Cr Main reported on her attendance at WALGA on planning essentials.

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**15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****15.1 NOTICE OF MOTION - CR HAYNES****15.1.1 REVIEW OF TOWN PLANNING SCHEME 3**

**File Ref:** LND/00095  
**Author:** Bruce Haynes  
Councillor  
**Proposed Meeting Date:** 06 June 2017

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**Moved Cr Haynes, seconded Cr Edwards**

**That the Chief Executive Officer instigate a review of TPS 3 as it relates to the Claremont Town Centre to clarify and properly define the use class of shop in the Land Use Table.**

Reasons:

1. ToC needs a systematic review of its TPS and related documents as they relate to the Town Centre so as to address what I see as serious failings of the current process
2. The TPS restriction on 'small shop' on the ground floor of most of the Town Centre is no longer operational because the legal advice as acted upon by ToC officers has so rendered the definition of 'shop' that it is functionally useless and includes, as a shop, such things as the Claremont train station, public toilets, and paid parking stations as these and almost everything else in the Town Centre rely on continuing contact with the public.
3. I am not sure that it would take much administrative time and nor should it take much legal time to find an existing and tested definition of shop that will serve the ToC's purpose in the TPS.

*Cr Mews left the meeting at 8:23 PM.*

*Cr Mews returned to the meeting at 8:25 PM.*

**CARRIED(83/17)  
(NO DISSENT)**

**CEO COMMENT:**

A review of the scheme may be appropriate to ensure that the approved uses for Bay View Terrace are what is intended by the Council.

The view expressed by Councillor Haynes is understandable in that at first glance some of the uses now deemed appropriate (on the basis of legal interpretation) are more than likely quite different than what was intended when the scheme was drafted.

It should be anticipated that Council will more likely than not, be faced with more decisions in the future which will change the uses in BVT, as owners seek to stretch the meaning of the latest interpretation to suit other possible tenancies. Unless

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Council wants to accept a potentially extremely broad change of uses as the price of having full shops, a review as proposed is worthwhile. Once the change has been allowed and the street is full of uses other than the more accepted ideal of a retail shop there will be no going back. That might not matter, or that might be an important issue for the village feel of Claremont and the intentions of Council.

A review of the Scheme will allow Council to consider what it wants for BVT in the context of the possible implications of the nature of the street potentially changing significantly from a shopping strip to a more mixed use commercial area.

The main cost for this review will be in officer time but the need for legal advice should also be recognised.

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

**16.1 MOTION OF CONDOLENCE – MS ANNE LEACH**

**Moved Mayor Barker, seconded Cr Haynes**

**That Council convey its condolences to the family of Ms Anne Leach on her recent passing.**

**CARRIED(84/17)  
(NO DISSENT)**

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

**Moved Cr Haynes, seconded Cr Goetze**

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

- (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.
- (a) A matter affecting an employee or employees.

**CARRIED(85/17)  
(NO DISSENT)**

*Mayor Barker adjourned the meeting at 8:27PM.*

*Mayor Barker reconvened the meeting at 8:28PM.*

**ATTENDANCE**

**Mayor Barker**

**Cr Chris Mews**

**South Ward**

**Cr Jill Goetze**

**South Ward**

**Cr Paul Kelly**

**South Ward**

**Cr Karen Wood**

**West Ward**

**Cr Peter Edwards**

**West Ward**

**Cr Bruce Haynes**

**East Ward**

**Cr Kate Main**

**East Ward**

**Mr Stephen Goode (Chief Executive Officer)**

**Mr Les Crichton (Executive Manager Corporate and Governance)**

**Ms Katie Bovell (Governance Officer)**

**17.1 CORPORATE AND GOVERNANCE****17.1.1 ANZAC COTTAGE RENTAL VALUATION ASSESSMENT**

**File Ref:** COP/000145  
**Responsible Officer:** Les Crichton  
Executive Manager Corporate and Governance  
**Author:** Peter Scasserra  
Coordinator Property and Leasing  
**Proposed Meeting Date:** 6 June 2017

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**Purpose**

It is proposed that the following item be considered in closed session.

**OFFICER RECOMMENDATION**

**Moved Cr Wood, seconded Cr Main**

**That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) 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.

**MOTION TO DEFER**

**Moved Cr Wood, seconded Cr Kelly**

**That the item be deferred.**

Reason: For further information to consider a concession.

**CARRIED(86/17)**

For the Motion to Defer: Cr Edwards, Cr Goetze, Cr Wood, Cr Main, and Cr Kelly.  
Against the Motion to Defer: Mayor Barker, Cr Haynes and Cr Mews.

*Mr Stephen Goode left the meeting at 8:31pm.*

**17.2 CHIEF EXECUTIVE OFFICER****17.2.1 ANNUAL PERFORMANCE REVIEW OF CHIEF EXECUTIVE OFFICER**

**File Ref:** PER/0751  
**Attachments:** [Summary and Questionnaire Results](#)  
**Responsible Officer:** Jock Barker  
Mayor  
**Author:** Jock Barker  
Mayor  
Liz Ledger  
Deputy Chief Executive Officer  
**Proposed Meeting Date:** 5 July 2016

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**Purpose**

It is proposed that the following item be considered in closed session.

**OFFICER RECOMMENDATION**

**Moved Cr Goetze, seconded Cr Mews**

**That**

- 1. The CEO is congratulated on meeting or exceeding Council expectations for all 2016-17 Personal Objectives and that the annual performance bonus is approved for payment by Council.**
- 2. This report and attachment remains confidential in accordance with statutory requirements.**

**CARRIED BY AN ABSOLUTE MAJORITY(87/17)  
(NO DISSENT)**

**MOTION TO OPEN DOORS**

**Moved Cr Haynes, seconded Cr Edwards**

**That the doors be opened.**

**CARRIED(88/17)  
(NO DISSENT)**

*The doors opened at 8:44PM.*

**ATTENDANCE**

**Mayor Barker**

**Cr Chris Mews**

**South Ward**

**Cr Jill Goetze**

**South Ward**

**Cr Paul Kelly**

**South Ward**

**Cr Karen Wood**

**West Ward**

**Cr Peter Edwards**

**West Ward**

**Cr Bruce Haynes**

**East Ward**

**Cr Kate Main**

**East Ward**

**Mr Stephen Goode (Chief Executive Officer)**

**Mr Les Crichton (Executive Manager Corporate and Governance)**

**Mr David Vinicombe (Executive Manager Planning and Development)**

**Ms Katie Bovell (Governance Officer)**

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

**18 FUTURE MEETINGS OF COUNCIL**

Ordinary Council Meeting, 27 June 2017, at 7:00PM.

**19 DECLARATION OF CLOSURE OF MEETING**

There being no further business, the presiding member declared the meeting closed at 8:46PM.

Confirmed this ... .. day of ... .. 2017.

**PRESIDING MEMBER**