

CITY OF ARMADALE

AGENDA

OF DEVELOPMENT SERVICES COMMITTEE TO BE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 15 DECEMBER 2015 AT 7:00 PM.

A meal will be served at 6:15 p.m.

PRESENT:

APOLOGIES:

OBSERVERS:

IN ATTENDANCE:

PUBLIC:

“For details of Councillor Membership on this Committee, please refer to the City’s website – [www.armadale.wa.gov.au/your council/councillors](http://www.armadale.wa.gov.au/your_council/councillors).”

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read.

DECLARATION OF MEMBERS' INTERESTS

QUESTION TIME

DEPUTATION

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Development Services Committee Meeting held on 17 November 2015 be confirmed.

ITEMS REFERRED FROM INFORMATION BULLETIN - ISSUE 21 / 2015

- **Outstanding Matters & Information Items**
Report on Outstanding Matters - Development Services Committee
Review before the State Administrative Tribunal (SAT)
- **Health**
Health Services Manager's Report - November 2015
- **Planning**
Planning Applications Report - November 2015
Town Planning Scheme No.4 - Amendment Action Table
Subdivision Applications - WAPC Approvals/Refusals - November 2015
Subdivision Applications - Report on Lots Registered for 2015/2016
PAW Closure Report - Significant Actions during November 2015
Compliance Officer's Report - November 2015
- **Building**
Building Services Manager's Report - November 2015
Building Health/Compliance Officer's Report - November 2015
Building Applications Monthly Statistics - November 2015

If any of the items listed above require clarification or a report for a decision of Council, this item to be raised for discussion at this juncture.

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15 DECEMBER 2015

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***1.1 - COUNCIL POLICY REVIEW - HLTH 1 - SMOKE FREE OUTDOOR AREAS,
HLTH 5 SMOKE FREE WORKPLACE***

WARD : ALL
FILE No. : M/1114/15
DATE : 7 December 2015
REF : GD
RESPONSIBLE : Executive Director
MANAGER : Development Services

In Brief:

- The report presents the findings of the review of Council Policy – HLTH 1 - Smoke Free Outdoor areas and HLTH 5 - Smoke Free Workplace.
- Recommend that the following policies be reaffirmed with amendments for a further period of three years:
 - HLTH 1 - Smoke Free Outdoor Areas
 - HLTH 5 - Smoke Free Workplace

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

- 1.1 Services that support community growth and development.
 - 1.4.3 Ensure effective management of risks to health in accordance with relevant legislation and community needs.
- 4.1 Good governance and leadership
 - 4.1.2 Ensure governance and policies, procedures and activities align with legislative requirements and best practice.
- 4.5 Effective and efficient administrative services
 - 4.5.1 Ensure compliance of relevant Council policies and procedures with legislative and organisational requirements.

Legislation Implications

1. *Tobacco Products Control Act 2006*
2. *Occupational Safety and Health Regulations 1996.*
3. Section 2.7 of the *Local Government Act 1995* – “Role of Council” which states:
 - “(1) *The Council* —
 - (a) *directs and controls the local government’s affairs; and*
 - (b) *is responsible for the performance of the local government’s functions.*
 - (2) *Without limiting subsection (1), the council is to* —
 - (b) *determine the local government’s policies.”*

Council Policy/Local Law Implications

City of Armadale Policy Manual (Adopted 2003).

Budget/Financial Implications

Nil.

Consultation

- Development Services
- Community Services
- Human Resource
- MANEX

BACKGROUND

At its meeting of 4 March 2003 Council formally adopted the Policy Manual, endorsed the associated Management Practices and the procedure for developing, amending and reviewing the policies and Management Practices (C6/2/03).

Part 3.1 of the procedures for Policy Review states:

“A review of every policy is to be made every 3 years by the relevant Executive Director, with a third of the policies being reviewed every year”.

DETAIL OF PROPOSAL

Council Policy HLTH 1 – Smoke Free Outdoor Areas was last reviewed and formally adopted by Council on 27 February 2012 and is now due for review. This Policy has been in use for the past three (3) years to establish a clear aim of limiting exposure to smoking in outdoor public places under the jurisdiction of the City of Armadale.

Council Policy HLTH 5 – Smoke Free Workplace was last reviewed and formally adopted by Council on 27 February 2012 and is now due for review. This Policy has been in use for the past three (3) years to establish a clear aim of limiting exposure to smoking in outdoor public places under the jurisdiction of the City of Armadale.

COMMENT

Council Policies are reviewed in accordance with the City’s “Policy Manual Procedures and Practices”, having regard for whether the policy:

- Satisfies current organisational/operational requirements.
- Complies with current legislative requirements.
- Is consistent with other Council Policies.

ANALYSIS

The following summarises the Policies reviewed on this occasion, together with findings and recommendations on each.

1. HLTH 1 – Smoke Free Outdoor Areas

Officers have reviewed the current policy and provided relevant modifications to bring the policy in line with the new smoking restrictions effected 22 September 2010 under the *Tobacco Products Control Act 2006* and states:

“A person must not smoke within 10 metres of children’s playground equipment that is:

- *in a public place or a part of a public place; and*
- *not in an enclosed public place.”*

This new law affects Local Government parks and gardens, state owned facilities such as Kings Park and children’s playground equipment in hotels, fast food outlets, eateries and sporting venues.

To make the Policy consistent with the Act, modifications have been made to include the use of oral tobacco products, “chewing” tobacco and e-cigarettes.

2. HLTH 5 – Smoke Free Workplace

HLTH 5 – Smoke Free Workplace has been reviewed in consultation with relevant departments. The Policy has been aligned with the requirements of the *Tobacco Products Control Act 2006* and the *Occupational Safety and Health Regulations 1996*. It has also been reviewed in line with the “Supporting smoking-free workplaces – a policy implementation guide” produced by the Tobacco Control Branch, Department of Health WA.

In Western Australia, the *Tobacco Products Control Act 2006* and associated regulations regulate smoking in enclosed public places, and the *Occupational Safety and Health Regulations 1996* prohibit employers, employees and self-employed persons smoking in enclosed workplaces.

Section 19 of the *Occupational Safety and Health Act 1984* requires an employer, so far as practicable, to provide and maintain a working environment in which the employees are not exposed to hazards. Under regulation 3.44B of the *Occupational Safety and Health Regulations 1996*, employers, employees and self-employed persons are prohibited from smoking in enclosed workplaces.

Under the *Occupational Safety and Health Act 1984* a ‘workplace’ means:

“a place, whether or not in an aircraft, ship, vehicle, building, or other structure, where employees or self-employed people work or are likely to be in the course of their work.”

A workplace is an ‘enclosed workplace’ if it has a ceiling or roof and is greater than 50% enclosed by walls, or other vertical structures or coverings.

Smoking in enclosed Vehicles

A vehicle meets the definition of an enclosed workplace; therefore it is an offence for employers, self-employed people and employees to smoke in a work vehicle. The only circumstance under which smoking is not an offence is if the vehicle is supplied by the person smoking, and no person is present who is their employee or an employee of the same employer. The current Policy provisions prohibit smoking in City vehicles at all times.

To make the Policy consistent with the Act, modifications have been made to include the use of oral tobacco products, “chewing” tobacco and e-cigarettes.

OPTIONS

1. Council adopt the changes as detailed above and reaffirm HLTH 1 - Smoke Free Outdoors Areas and HLTH 5 - Smoke Free Workplace for a further three (3) years.
2. Council reaffirm the relevance of the policies without amendment.
3. Council revoke the policies.

CONCLUSION

Council Policies HLTH 1 and HLTH 5 have been used for the past three years to establish clear guidelines to protect the health of Council employees, contractors, visitors and the general public by eliminating exposure to environmental tobacco smoke in and around all Council controlled buildings and recreational facilities both indoor and outdoor. It is recommended that Council adopt Option 1 and continue to apply and operate the two Council Policies for a further three (3) years.

RECOMMEND

That Council pursuant to Section 2.7(2)(b) of the *Local Government Act 1995* reaffirm the continued application and operation of the following current Council Policies as amended in the attachments for a further three (3) years or such earlier date as Council may determine from time to time.

- **HLTH 1 - Smoke Free Outdoor Areas**
- **HLTH 5 - Smoke Free Workplace**

ATTACHMENTS

1. HLTH 1 - Smoke Free Outdoor Areas
2. HLTH 5 - Smoke Free Workplace

***2.1 - FINALISATION OF BUSINESS PLAN & SALE OF LOT 9 BANKEN COURT,
FORRESTDALE***

WARD : LAKE
FILE No. : M/1026/15
DATE : 7 December 2015
REF : SW
RESPONSIBLE : Executive Director
MANAGER : Development Services

In Brief:

- Council at its meeting on 29 September 2015 (371/9/15) resolved to advertise a Business Plan which proposed the sale of Lot 9 Banken Court, Forrestdale.
- The Business Plan was advertised for a period of 42 days (6 weeks), between 3 October 2015 and 14 November 2015. No submissions were received.
- Recommend that Council adopt the Business Plan and dispose of Lot 9 Banken Court, Forrestdale.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

4.2.1 Development, implement and report on Councils strategic and business plans.

Legislation Implications

Planning and Development Act, 2005

Former Town Planning and Development Act, 1928

Local Government Act, 1995 – Section 3.59 Commercial Enterprises by Local Governments

Local Government (Functions and General) Regulations, 1996

Council Policy/Local Law Implications

N/A

Budget/Financial Implications

The property is vacant at the moment, and as such incurs only minimal maintenance costs. It was acquired by the City from the Crown at 5% of the unimproved market value, in accordance with the State Government's Land Administration & Registration Practice Manual. The disposal will be at market value, which will generate funds for the improvement and development of Public Open Space areas. The purchase price for the land was drawn from the City's POS Land Acquisition Account.

The State Government has advised that funds generated must be used in the same precinct and used for upgrades to existing POS or for the purchase of alternate POS. The City was granted permission to spend 30% of the funds from the POS Strategy on Strategic Recreational Initiatives. Once funds generated through the sale of Public Open Space are obtained by the City, the exact allocation of funds to public open space improvement projects within Precinct N will be dealt with through a report to Council.



**LOT 9 BANKEN COURT
FORRESDALE**
Aerial Photograph



Based on information provided by and with the permission of the
Western Australian Land Information Authority trading as Landgate (2012).
Aerial photograph supplied by Landgate, Photosats by NearMap.



Consultation

- Relevant City Directorates

BACKGROUND

Site History

Lot 9 Banken Court originally comprised two Reserves for Public Recreation (37274 & 37275) located within Precinct 7 - Rural (N) of the POS Strategy. Council resolved to commence public consultation for Precinct 7 at its meeting of 20 February 2006 (31/2/2006). The report to Council, which recommended that the two reserves be cancelled and disposed of, noted the following:

- Both reserves abut each other. If the adjacent Lot 388 Leake Street was subdivided its 10% POS requirement could join with these reserves, but would create open space of only 2600m² which under policy ADM 11 is too small to be accepted (4000m² minimum);
- Uneconomic to maintain;
- Poor surveillance and access;
- No significant vegetation; and
- Other POS within 450m.

Following public consultation, Council considered the finalisation of Precinct 7 at its meeting of 18 September 2006 (243/9/2006) where it resolved to cancel and dispose of Reserves 37274 and 37275 as one parcel. The decision to amalgamate the two adjoining sites was a response to advice from the Department of Lands (State Land Services) that one of the parcels would otherwise become landlocked.

The next step in the process was to rezone the Reserves, to reflect the proposed change of use. Amendment No.16 to the City's Town Planning Scheme No.4 was advertised for public comment, closing on 27 July 2006, and Council resolved to adopt a modified form of the amendment at its meeting of 12 September 2006. On 17 October 2007 the Minister of Planning approved Amendment No.16, which rezoned the Reserves from "Parks and Recreation (Local)" to "Residential R12/25".

Following the POS Strategy and rezoning processes, the City had to resolve several encroachments and fencing issues. These matters took some time to resolve. The City wrote to the Department of Lands and requested the reserves be cancelled and acquired by the City. Lot 9 Banken Court has been owned by the City as a freehold property since 2015.

Property Description

The property is situated on the southern side of Banken Court and comprises a vacant residential site with an area of approximately 1763m².

The subject lot is zoned "Residential R12.5/25" under Town Planning Scheme No.4 (TPS No.4) and has a dual density code. Under Clause 5.2.4(c) an application for grouped dwellings at the higher density can be made to the City. It should be noted that the lot must be able to connect to sewerage services in order to be considered suitable for development at the higher density code and currently there is no sewer service in this area.

DETAILS OF PROPOSAL

The proposal is to dispose of Lot 9 Banken Court as a residential lot.

COMMENT

Business Plan

The Business Plan includes an overall assessment required to be made by local governments when undertaking a major land transaction. As per Section 3.59(4) of the *Local Government Act, 1995* the Business Plan was advertised for a period of 42 days, ending 14 November 2015.

The legislative requirements relating to the advertising require notice to be given in a State wide newspaper. The City advertised the Business Plan as follows:

- The West Australian state wide newspaper on 3 October 2015;
- The Comment News local newspaper on 6 October 2015;
- At the Kelmscott, Seville Grove and Armadale Libraries and at the City in the front counter; and
- On the City's website in the 'Out for Comment' section.

No submissions were received during the advertisement period.

The size and value of this property allows for disposal via public tender or private treaty. Council can either negotiate a sale price directly with a prospective purchaser or through an agent. Section 3.58(3) of the *Local Government Act, 1995* allows Local Governments to sell by private treaty after the details of the property and intention of disposal have been advertised for a period not less than two (2) weeks. Council is then required to consider all submissions and record its decision in the minutes of the meeting.

A copy of the proposed Land Transaction Business Plan is presented in the Attachments to this report.

Disposal/Sale

Section 3.58 of the Local Government Act, 1995 delineates requirements local authorities must abide by when undertaking the disposal of land. These methods of disposal include sale by way of public auction, public tender and private treaty. Section 3.58 of the Local Government Act, 1995 also stipulates the processes required to be engaged for each method of disposal.

In the event Council wishes to proceed with the proposed disposal and endorse the Business Plan, Council have the option of disposing of the property via public auction or the most acceptable tender under 3.58(2) of the Local Government Act, 1995, or by way of private treaty. Section 3.58(3) of the Local Government Act, 1995 allows Local Government to sell land by way of private treaty after the details of the property and consideration of the proposed disposition have been advertised for a period not less than two (2) weeks (referred to as local public notice). Council is then required to consider all submissions and record its decision in the minutes of a Council meeting in the event that the advertising attracts submissions.

ANALYSIS

As Lot 9 has now been transferred into the City's ownership the next step in the process is to formalize the Business Plan and offer the site for sale via private treaty.

OPTIONS

1. Council could resolve to proceed with the sale of Lot 9 Banken Court, Forrestdale.
2. Council could retain Lot 9 Banken Court, Forrestdale at the current time, for future consideration.

CONCLUSION

The land is surplus to requirements, being undeveloped as a recreation reserve for the reasons outlined in the Site History section of the report.

In the event that the Business Plan is adopted, 70% of the proceeds from the sale would be used to upgrade parks and recreation facilities in this precinct and 30% of the funds would be spent on Strategic Recreational Initiatives.

Given the above, Option 1 is recommended.

RECOMMEND

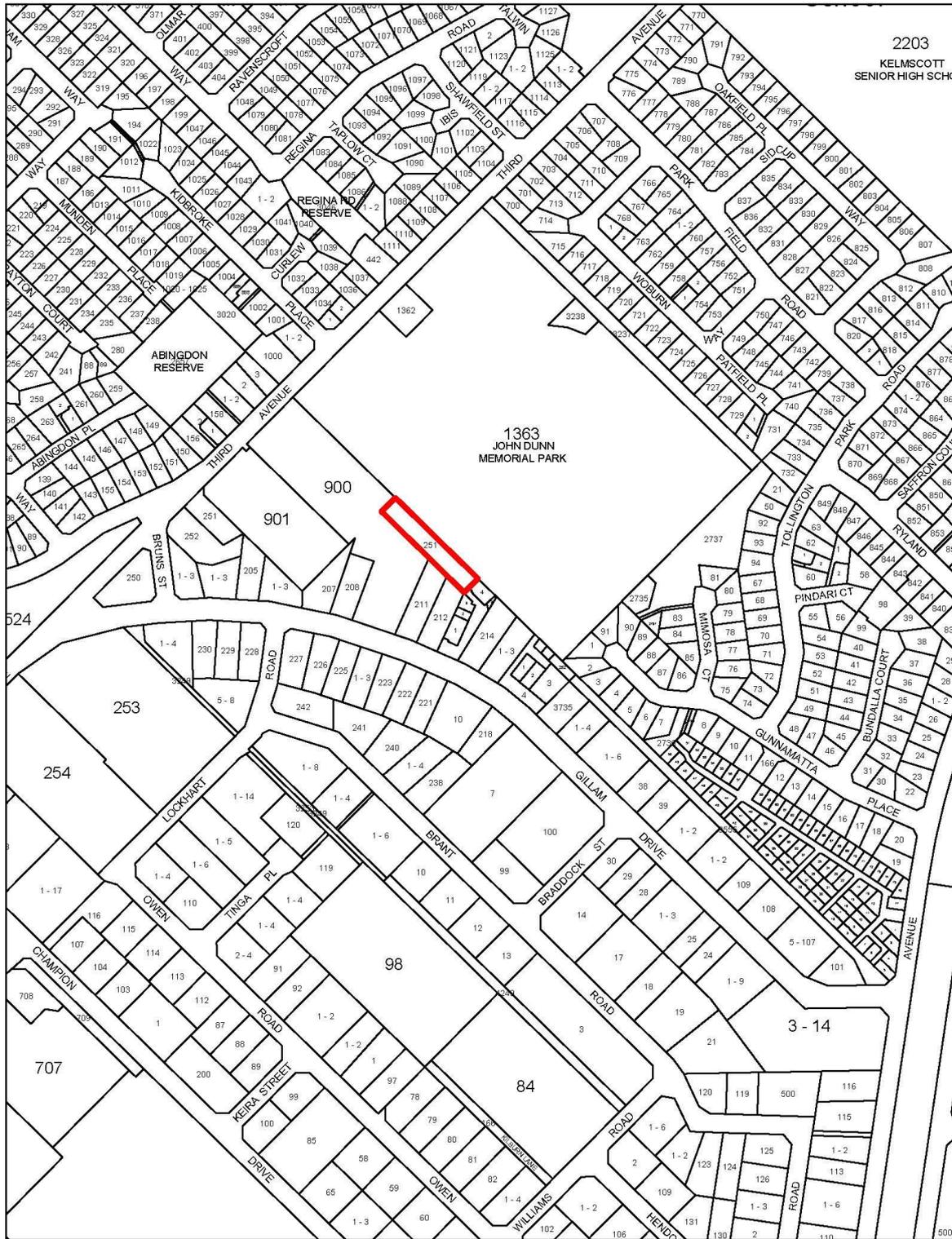
That Council:

- 1. Note that no submissions had been received by the closing date for receipt of public submissions in response to the advertised Business Plan (refer to Attachment) for the sale of Lot 9 Banken Court, Forrestdale.**
- 2. Adopt the advertised Business Plan (refer to Attachment) for the sale of Lot 9 Banken Court, Forrestdale.**
- 3. Pursuant to Section 3.59 (5) of the Local Government Act 1995, agrees to proceed with the sale of Lot 9 Banken Court, Forrestdale, by way of private treaty or public tender utilizing the services of a member of the City's Real Estate Agent Panel, and noting that this course of action is consistent with the terms of the advertised Business Plan for the sale of the lot.**

ATTACHMENTS

1. Land Transaction Business Plan - Lot 9 Banken Court, Forrestdale
2. Zoning Plan - TPS No.4 - Lot 9 Banken Crt, Forrestdale

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LOT 251 GILLAM DRIVE
KELMSCOTT
LOCATION PLAN



SCALE 1 : 5000

Based on information provided by and with the permission of the
Western Australian Land Information Authority (using as Landgate 2012).
Aerial photograph supplied by Landgate. Photographs by HeatMap.



***2.2 - DISPOSAL OF A PORTION OF LOT 251 GILLAM DRIVE, KELMSCOTT
(PORTION OF FORMER RESERVE 37213) BY WAY OF PRIVATE TREATY***

WARD : HERON
FILE No. : M/1048/15
DATE : 1 December 2015
REF : SW
RESPONSIBLE : Executive Director
MANAGER : Development Services

In Brief:

- Council at its meeting of 23 July 2012 (D42/7/12) revoked its 2011 decision to dispose of an approximate 565m² portion of Lot 251 Gillam Drive, Kelmscott to the owner of Lot 211 Gillam Drive, Kelmscott.
 - The revocation occurred due to an ownership dispute between the owner and business occupant of Lot 211 Gillam Drive, Kelmscott, which was subsequently resolved by the Supreme Court.
 - The City is now in position to dispose of Lot 251 Gillam Drive, Kelmscott to all three of the adjoining landowners at Lots 900, 211 and 212 Gillam Drive, Kelmscott as was originally endorsed by Council at its meeting of 26 September 2011 (D74/9/11).
 - A new subdivision approval has been obtained from the Western Australian Planning Commission (WAPC), which proposes to divide Lot 251 Gillam Drive, Kelmscott into three (3) portions then amalgamate relevant portions with adjoining Lots 900, 211 and 212 Gillam Drive, Kelmscott as originally proposed.
- Following receipt of formal Contracts for Sale, Local Public Notice was given of Council's intent to dispose of the subdivided portions of Lot 251 Gillam Drive, Kelmscott by way of private treaty, and one public submission was received.
 - Recommend that Council dispose of the subdivided portions of Lot 251 Gillam Drive, Kelmscott to the owners of Lots 900, 211 and 212 Gillam Drive, Kelmscott.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

2.4.2 Maintain and improve where required the quality, amenity and accessibility of open spaces.

4.6.2 Actively pursue alternative sources of revenue for Council's assets and operation.



**LOT 251 GILLAM DRIVE
KELMSCOTT**
AERIAL PHOTOGRAPH

DATE 23 June 2015 - REVISION 1501

Legislation Implications

Planning and Development Act, 2005

Crown Land Administration and Registration Practice Manual

Local Government Act, 1995 - Section 3.58 Disposing of Land

Local Government Act, 1995 - Section 3.59 - Commercial Enterprises by Local Government

Local Government (Functions and General) Regulations, 1996

Council Policy/Local Law Implications

ENG 13 - Asset Management Vision

ADM 11 - Vesting of Crown Reserves in Urban Areas

Public Open Space Strategy, 2000

Budget/Financial Implications

Lot 251 Gillam Drive, Kelmscott was not proposed to be sold as a part of the City's Public Open Space Strategy (POS Strategy) though the land was formerly a Section 20A (now referred to as a Section 152) "Public Recreation" Reserve known as Reserve 37213.

The City purchased Lot 251 Gillam Drive, Kelmscott in April 2009 at 5% of its market value as per the State Government's 'Crown Land Administration and Registration Practice Manual'. The State Government subsequently cancelled the reservation and transferred the property (now Lot 251 Gillam Drive, Kelmscott) to the City's ownership on 16th December 2013.

Council at its meeting of 26th September 2011 (D74/9/11) supported in-principle offers made by three landowners whose properties adjoin Lot 251 Gillam Drive, Kelmscott, being Lots 900 (formerly Lot 851), 211 and 212 Gillam Drive, Kelmscott. The offers were 15% below the market value at the time, as determined by a sworn valuation from Herron Todd White who are a member of the City's valuers panel.

A landowner dispute that previously prevented the City from progressing that original proposal to sell three subdivided portions of Lot 251 has now been resolved. Subsequently, the City has received a revised market valuation and reached an agreement with the owners of Lots 900 and 212 Gillam Drive and the new owner of Lot 211 Gillam Drive, Kelmscott.

The current offers that have been recommended are at the current market valuation. City officers are of the view that the sale should occur at market value and not below value as the City has incurred a number of costs associated with the proposed disposal. This includes officer time, obtaining multiple market valuations, subdivision applications, surveys and administrative costs.

If the proposal proceeds, 70% of funds are recommended to be allocated to a new Trust Category that relates specifically to upgrades for John Dunn Reserve. The balance of the funds (30%) will be transferred to the POS Regional Recreation Initiatives Trust Category 47, which is consistent with Council's resolution on 17 July 2006 (CS75/7/06) and Ministerial approval on 12 June 2008.

Consultation

1. Corporate Services Directorate.
2. Development Control Unit.

3. Amendment 37 was advertised for 42 days, which is consistent with the State Government '*Crown Land Administration and Registration Practice Manual*'.
4. Department of Regional Development and Lands – State Lands Services.
5. Western Australian Planning Commission.
6. Herron Todd White (member of the City's Valuers Panel).
7. Liaison and negotiations with the owners of Lots 900, 211 and 212 Gillam Drive, Kelmscott.
8. Sale by Private Treaty advertised to public in accordance with Section 3.58 (3) (iii) of the Local Government Act, 1995.

BACKGROUND

Property Description

The subject land previously formed part of Public Recreation Reserve 37213, which fell over three separate land parcels. It has an approximate area of 2576m² and is referred to as Lot 251 Gillam Drive, Kelmscott.

The northern boundary of Lot 251 Gillam Drive, Kelmscott is located adjacent to John Dunn Memorial Reserve 24748, which is a "Public Recreation" Reserve. The southern boundary of Lot 251 is adjacent to land zoned "Industrial Business" under the City's Town Planning Scheme No.4 (TPS No.4).

There are three industrial properties that adjoin the southern boundary of Lot 251, which includes Lots 900 (formerly referred to as Lot 851), 212 and 211 Gillam Drive, Kelmscott. These industrial properties currently utilise the portion of Lot 251 Gillam Drive, Kelmscott which adjoins their properties, for uses incidental to the operations at each lot.

Land Administration and Planning Processes and Land Assembly Processes (Summary)

A number of land administration and town planning processes have occurred to facilitate sale of Lot 251, which include the following:

- Council - 18 June 2007 (D66/6/07) - Initiation of Council's intent to dispose of Lot 251 to adjoining landowners at Lots 900, 212 and 211 Gillam Drive, Kelmscott. The businesses at these lots have used the corresponding portions of Lot 251 which adjoin their property.
- Council - 25 March 2008 (D36/3/08) - Resolution from Council to advertise the proposed rezoning, reserve cancellation and purchase of Lot 251 from the Crown.
- Minister of Planning - 14 October 2008- Amendment No.37 was granted final approval by the then Minister of Planning and Infrastructure and the amendment was gazetted on 14 November 2008. This resulted in Lot 251 being rezoned to "Industrial Business" under TPS No.4.
- City - 6 April 2009 - The City purchased Lot 251 Gillam Drive, Kelmscott from the Crown. The State Government previously advised that the reservation would not be cancelled until the City disposed of the subdivided portions of Lot 251 to the adjoining landowners at Lots 900, 211 and 212, to remedy the unauthorised use of Lot 251.

- Council - 28 April 2009 (D38/4/09) - Council resolved to authorize the CEO to sign and lodge a subdivision application (reference 141854). The application proposed to subdivide Lot 251 into three (3) portions to allow amalgamation of the land with Lots 900, 211 and 212 upon a contract for sale being entered into by each of the landowners simultaneously.
- Western Australian Planning Commission (WAPC) - 2 August 2010 - Subdivision approval granted (reference 141854).
- Council - 26 September 2011 (D74/9/11) - The owners of Lots 900, 211 & 212 made expressions of interest to purchase the subdivided portions of Lot 251 as per the WAPC Approval (Reference 141854). Council supported the offers in-principle subject to formal contracts being entered into and provisions of Section 3.58(3) of the *Local Government Act, 1995* being complied with.
- Former Business Owner of Lot 211 Gillam Drive, Kelmscott - 28 September 2011 - The City received advice from Frichot & Frichot Lawyers outlining a party were not the legal landowners of Lot 211 (No.41) Gillam Drive, Kelmscott. The plaintiff and the business owner at the property requested the City refrain from disposing the approximate 565m² portion of Lot 251 Gillam Drive, Kelmscott to the disputed party, who was the registered owner on the Certificate of Title of Lot 211.
- City - 6 October 2011 - The City sought legal advice from McLeods Barristers & Solicitors regarding the abovementioned ownership dispute. In particular the City sought advice on the potential impacts to the proposed sale of subdivided portions of Lot 251 Gillam Drive, Kelmscott.
- McLeods Barristers & Solicitors Legal Advice - 7 November 2011 - The City's sale of Lot 251 Gillam Drive (or subdivided portions of Lot 251) would not be prohibited by the ownership dispute over Lot 211 or prevent the sale to the disputed party as per Council's resolution 26 September 2011 (D74/9/11). However, the absolute caveats lodged on the Certificate of Title of Lot 211 Gillam Drive would prevent the approximate 565m² portion of Lot 251 being amalgamated with Lot 211 and prevent the application for new Certificates of Title.
- Council - 23 July 2012 (D42/7/12) – Noted that disposal of Lot 251 to the three adjoining landowners at Lots 900, 212 and 211 Gillam Drive, Kelmscott had always been the City's preferred option, however the ownership dispute relating to Lot 211 took some time to resolve. Subsequently, Council resolved to revoke its decision to dispose of an approximate 565m² portion of Lot 251 to the registered owner of Lot 211. In addition, it issued a Direction Notice under Section 214 of the *Planning and Development Act, 2005* to the business occupant at Lot 211, to remove all materials, storage, rubbish, equipment, fixtures and/or structures from the approximate 565m² portion of Lot 251.
- City & State Administrative Tribunal - Between 19 September 2012 to 24 July 2013 - A direction hearing and number of on-site mediations were held which required the business owner at Lot 211 to remove all encroachments from the approximate 565m² portion of Lot 251 as per the abovementioned Direction Notice. All encroachments were removed by 24 July 2013.

- Supreme Court of WA - 23 September 2013 - The Supreme Court of WA resolved the ownership dispute relating to Lot 211 and found that the business owner did not have a claim to the property.
- Department of Lands - 16 October 2013 - The City received advice the Department was willing to transfer Lot 251 Gillam Drive, Kelmscott to the City's ownership without the need for the land to be under contract for sale to adjoining landowners. Settlement of Lot 251 to the City's ownership took effect on the 16 December 2013.
- O'Neil Real Estate acting on behalf of the owner of Lot 211 - 20 February 2014 - advised that the property was on the market for sale and the prospective purchaser wished to acquire the approximate 565m² portion of Lot 251 adjoining Lot 211. The sale of this land could not be finalised until the former business occupant removed the caveats from the Certificate of Title, which required legal proceedings. The caveats were lifted and the Certificate of Title for Lot 211 was transferred on 16 June 2014.
- City - 2 October 2014 - The City lodged a new subdivision application to the WAPC (Reference 150758), which reflected the original proposal on 2 August 2010. The subdivision (Reference 150758) was unconditionally approved by the WAPC on 19th November 2014).
- City - 25th May 2015 - Negotiations with adjoining landowners were finalised. All adjoining landowners agreed to purchase the portions of Lot 251 adjoining their properties at Lots 900, 211 and 212 Gillam Drive, at market value.

DETAILS OF PROPOSAL

It is proposed that Council dispose of Lot 251 Gillam Drive, Kelmscott by way of private treaty in accordance with Section 3.58(3) of the *Local Government Act, 1995*. It is recommended that Council support the three offers received from the adjoining landowners at Lots 900, 211 and 212 Gillam Drive, Kelmscott to purchase subdivided portions of Lot 251.

Each offer reflects the current market valuation. These amounts are as follows:

- 1) Offer made by the owner of Lot 212 (No.39) Gillam Drive, Kelmscott to purchase an approximate 612m² portion of Lot 251 Gillam Drive, Kelmscott to an amount of \$70,950 (Inc. GST);
- 2) Offer made by the owner of Lot 211 (No.41) Gillam Drive, Kelmscott to purchase an approximate 565m² portion of Lot 251 Gillam Drive, Kelmscott to an amount of \$65,450 (Inc. GST);
- 3) Offer made by the owners of Lot 900 (No.43) Gillam Drive, Kelmscott to purchase an approximate 1,397m² (Inc. GST) to an amount of \$110,000 Inc. GST).

COMMENT

Legislative/Policy Requirements – Sale of Land

Business Plan

A major land transaction is defined by the *Local Government (Functions and General) Regulations, 1996* and relates to the requirement for a Business Plan where major land transactions are proposed. A major land transaction can generally be described as including any operating costs and expected revenues that are collectively worth more than \$1 million dollars.

In this instance, a Business Plan is not believed to be required as per the provisions of Section 3.59 of the *Local Government Act, 1995*. This is in consideration of the City's operation costs (acquisition and administrative costs) and revenues (disposal) do not constitute a major land transaction. Additionally, the property was not proposed to be sold as a part of the POS Strategy. Therefore, the collective value of revenue for park upgrades raised through the POS Strategy, do not trigger the need for a Business Plan.

Disposal/Sale

Section 3.58 of the *Local Government Act, 1995* delineates requirements that local authorities must abide by when undertaking disposal of land. These methods of disposal include sale by way of public auction, public tender and private treaty. Section 3.58 of the *Local Government Act, 1995* also stipulates the processes required to be engaged for each method of disposal. The disposal of Lot 251 is not exempt from Section 3.58 of the *Local Government Act, 1995*.

Public Advertising

Section 3.58(3) of the *Local Government Act, 1995* allows Local Governments to sell land by way of private treaty after the details of the property and consideration of the proposed disposition have been advertised for a period of not less than two (2) weeks (referred to as local public notice).

Local public notice was given in the Comment News newspaper of 27 October 2015. That advertising included the names of the three parties concerned (the prospective buyers and the seller), the consideration amount (expressions of interest in a monetary amount) and the market value of the property (or portions of property) concerned.

One submission was received during the advertisement period. As a submission has been received, Council is required to consider the submission and record its decision in the minutes of a Council meeting. The main issues raised in the submission, together with a comment on each issue, are outlined below.

Issue 1 - Can you please give us more details as it sounds so cheap for land in this area? It almost sounds like mates rates.

Comment

The submitter has been advised that the value of this land is affected by the fact that it is a 'land-locked' property which has no road frontage. The offers are consistent with market value: this has been confirmed by a sworn valuation from a licensed valuer on the City's Valuation Panel.

Recommendation

The issue is not supported.

Issue 2 - Why is it not offered to everyone and sold to the highest bidder as this would greatly benefit the tax payer.

Comment

The lack of road frontage means that, in this particular case, the land does not constitute a developable property and can only be used and developed in conjunction with existing lots held by the adjoining landowners. The Analysis section below discusses that issue in detail.

Recommendation

The issue is not supported.

Allocation of Land Sale Proceeds

At its meeting of 27 July 2015 (D38/7/15) Council noted that 70% of the revenue received from the disposal of Lot 251 Gillam Drive shall be transferred into a new Trust category called 'John Dunn Reserve Upgrades – Sale of Lot 251 Gillam Drive, Kelmscott', and the balance 30% of the revenue received to be transferred into the City's Trust Category 47 'Regional Recreation Initiatives'.

ANALYSIS

Previous reports to Council have considered various land disposal options. However, the City's original and currently preferred option has been to dispose of Lot 251 Gillam Drive, Kelmscott to the three adjoining landowners. This option would rectify the outstanding boundary encroachments with the industrial properties at Lots 900, 211 and 212 Gillam Drive, Kelmscott.

The prospective buyers have agreed to purchase the subdivided portions of Lot 251 at current market value. The City purchased Lot 251 from the Crown at 5% of its market value as per the 'Crown Land Administration & Registration Practice Manual'. Sale of Lot 251 at market value is anticipated to generate revenue of approximately \$246,400 (Inc. GST).

Whilst the previous report to Council in 2012 revoked its determination to dispose of a portion of the subject land to the owner of Lot 211 Gillam Drive, the ownership dispute has now been resolved and that property has also been on-sold. The new owner of Lot 211 did not cause the time delays to the City's disposition and it may not be considered fair to penalise the new owner who has cooperated with the City's requests.

Previous reports to Council have considered the merit in attempting to sell Lot 251 as a single lot on the open market. The conclusion was that this option would not be cost effective to the City or a potential purchaser. This is given the City would need to pursue legal action against the adjoining landowners at Lots 900, 211 and 212 Gillam Drive, Kelmscott to remove encroachments from Lot 251. Additionally the City would require the purchaser to create legal access to Lot 251 from Third Avenue, which would require the laneway in John Dunn Reserve to be upgraded and a legal agreement entered into between the City and prospective purchaser. The cost to connect to infrastructure services would also be likely to deter potential purchasers on the open market and on the whole this option was unviable.

The only other option, which has also been considered in previous reports to Council, is to amalgamate Lot 251 with John Dunn Reserve, which would see the land re-created as "Public

Recreation” Reserve. This option is also not considered cost effective, or beneficial for recreational purposes, given the extensive time and resources to clear the land of fixtures that would be required and that the City has invested into pursuing the sale to the three adjoining landowners. Additionally, this option would result in the loss of potentially \$246,000 revenue being invested into John Dunn Reserve for recreational upgrades that would benefit not only the local community, but also the wider community who use this reserve.

OPTIONS

1. Council may resolve to dispose of Lot 251 Gillam Drive, Kelmscott by way of private treaty as per Section 3.58(3) of the *Local Government Act, 1995* and provide in-principle support for the expressions of interest to purchase subdivided portions of Lot 251 Gillam Drive, Kelmscott (WAPC Reference 150758) made by the owners of Lot 900 Gillam Drive, Kelmscott to an amount of \$110,000 (Inc. GST), Lot 211 Gillam Drive, Kelmscott to an amount of \$65,450 (Inc. GST) and Lot 212 Gillam Drive, Kelmscott to an amount of \$70,950 (Inc. GST).
2. Council may resolve to dispose of Lot 251 Gillam Drive, Kelmscott by way of Private Treaty as per Section 3.58(3) of the *Local Government Act, 1995* based on an alternative arrangement such as sale as a singular lot on the open market or alternative subdivision layout and re-negotiated sale amounts.
3. Council could resolve to not dispose of Lot 251 Gillam Drive, Kelmscott at the current time with a view to further consideration.

CONCLUSION

Lot 251 Gillam Drive, Kelmscott is surplus to the City’s recreational requirements and the land does not serve an asset management or public purpose. The City has facilitated a number of land administration and town planning processes over a long period of time to enable the sale of the land for a rational use.

Should the land be sold, 70% of funds would provide revenue for expenditure on upgrades to John Dunn Memorial Reserve, which adjoins the northern boundary of Lot 251. John Dunn Memorial Reserve is proposed to have significant recreational upgrades in the future, in association with the City’s Master Planning. The balance of the funds (30%) will be reinvested to the City’s “POS Regional Recreational Initiatives in Trust Category 47” consistent with Council’s resolution dated 17 July 2006 (CS75/7/06) and previous Ministerial approval dated 12 June 2008.

Sale of the land to the adjoining landowners of Lots 900, 211 and 212 Gillam Drive, Kelmscott would be a win-win outcome for not only the owners of these properties, but also the City and the public in terms of additional revenue for major recreational upgrades to John Dunn Reserve.

In consideration of the above, Option 1 is recommended.

RECOMMEND

That Council:

- 1. Agrees that the disposal of Lot 251 Gillam Drive, Kelmscott by private treaty should be carried out in accordance with the following methodology:**
 - i. Mr H. Hamersley and Mr R. Hamersley on behalf of Temcove Holdings Pty Ltd to purchase approximately 1397m² of land (subject to survey by a licensed surveyor) adjoining Lot 900 Gillam Drive, Kelmscott, for \$110,000 (Inc. GST);**
 - ii. Mr B. Kanters and Mrs C. Canters on behalf of BCK Property Group Pty Ltd to purchase approximately 565m² of land (subject to survey by a licensed surveyor) adjoining Lot 211 Gillam Drive, Kelmscott, for \$65,450 (Inc. GST); and**
 - iii. Mrs V. Breen & Mr M. Breen to purchase approximately 612m² of land (subject to survey by a licensed surveyor) adjoining Lot 212 Gillam Drive, Kelmscott, for \$70,950 (Inc. GST).**
- 2. Agrees that in the event of formal Contracts for Sale being received in accordance with point (1) above, and having conditions of sale and settlement periods that are satisfactory to the Chief Executive Officer, the Chief Executive Officer is authorised to complete the disposal of Lot 251 Gillam Drive, Kelmscott.**
- 3. Notes that upon the disposal of Lot 251 Gillam Drive, Kelmscott by private treaty, 70% of the revenue received to be transferred into a new Trust category called ‘John Dunn Reserve Upgrades – Sale of Lot 251 Gillam Drive, Kelmscott’, and the balance of the revenue received to be transferred into the City’s Trust Category 47 ‘Regional Recreation Initiatives’.**
- 4. Authorises the Chief Executive Officer to complete the subdivision/ amalgamation and sale of Lot 251 Gillam Drive, Kelmscott.**

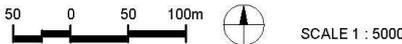
ATTACHMENTS

- 1. Approx Portions of Lot 251 Gillam Drive to be amalgamated with the adjoining properties**
- 2. TPS No. 4 - Lot 251 Gillam Dr, Kelmscott**

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**LOT 200 CHURCH STREET
 KELMSCOTT**
 Locality



SCALE 1 : 5000

Based on information provided by and with the permission of the
 Western Australian Land Information Authority (Landscope 2012).
 Aerial photograph supplied by Landscope, Photomaps by NearMap.



**3.1 - FINAL ADOPTION - AMENDMENT NO. 80 - TOWN PLANNING SCHEME NO.4
REZONING OF LOT 200 (4) CHURCH STREET, KELMSCOTT**

WARD	:	River
FILE No.	:	- M/1025/15
DATE	:	10 December 2015
REF	:	LH
RESPONSIBLE MANAGER	:	Executive Director Development Services
APPLICANT	:	Rowe Group
LANDOWNER	:	Daly & Shaw Pty Ltd
SUBJECT LAND	:	Lot 200 (4) Church Street Kelmescott
ZONING MRS / TPS No.4	:	Urban District Centre

In Brief:

- At its 18 August 2015 meeting, Council initiated an amendment to rezone Lot 200 (4) Church Street Kelmescott.
- The amendment was advertised for public comment for 42 days and attracted 90 submissions.
- Council is required to consider the submissions received during the advertising period and the amendment for final adoption.
- Recommend that Council adopt the amendment without modification and request that the Hon Minister for Planning grant final approval to the amendment.

Tabled Items

Nil.

Officer Interest Declaration

Nil

Strategic Implications

- 2.1 Long term planning and development that is guided by a balance between economic, social and environmental objectives.
 - 2.1.1 Review, update and implement the City's Town Planning Scheme, taking into account the Local Biodiversity Strategy and other environmental considerations.

Legislation Implications

Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015
Metropolitan Region Town Planning Scheme Act 1959
Metropolitan Region Scheme
Town Planning Scheme (TPS) No.4

Council Policy/Local Law Implications

Local Planning Strategy 2005

Budget/Financial Implications

Nil.



**LOT 200 CHURCH STREET
KELMSCOTT**
Aerial Photograph



SCALE 1 : 2000

Based on information provided by and with the permission of the
Western Australian Land Information Authority trading as Landgate (2012).
Aerial photograph supplied by Landgate, Photographs by NearMap.



Consultation

- ◆ Development Control Unit.
- ◆ The Environmental Protection Authority (EPA) advised that the amendment did not warrant an environmental assessment.
- ◆ The WAPC's consent to advertise the amendment was not required.
- ◆ Advertised for public comment for 42 days.

BACKGROUND

At its 18 August 2015 meeting, Council initiated an amendment to rezone Lot 200 (4) Church Street Kelmscott.

The scheme amendment request has been made in order to facilitate development of the site for commercial purposes, primarily a Service Station/ Convenience Store and Fast Food Outlet. The site is zoned District Centre with the additional zoning provisions detailed in Schedule 3 of the City's Town Planning Scheme 4 (TPS4) as Restricted Use No.1 (RU1).

The site is located on the corner of Church Street and Albany Highway. The current zoning is RU1 which restricts the permitted use and this zone runs from Fancote Street to the north, extending south to the corner of Brookton Highway and includes the lots on the western side of Albany Highway opposite Church Street.

The subject site is currently vacant, having been previously occupied by three dwellings, which were demolished in December 2007 and has remained undeveloped since that date. Development approval was granted in June 2008 for 'Offices and Showrooms' however this was not implemented.

DETAILS OF PROPOSAL

The proposed scheme amendment seeks to delete the current 'Restricted Use No.1' provisions of TPS4 and replace them with new 'Restricted Use' provisions to facilitate development of the site potentially as a Service Station / Convenience Store, Fast Food Outlet and / or Medical Centre with Pharmacy.

The following seventeen uses are currently not permitted within the Restricted Use No.1 zone for this portion of the Kelmscott Townsite:

Amusement Parlour; Auction Mart; Car Park; Cinema / Theatre; Commercial Vehicle Parking; Convenience Store; Fast Food Outlet; Lunch Bar; Market; Motor Vehicle Repair; Motor Vehicle Wash; Night Club; Restricted Premises; Service Station; Shop; Tavern; Small Bar.

The proposed amendment seeks to enable the following seven uses to be permitted by removing them from the list of not permitted uses:

- Convenience Store;
- Fast Food Outlet;
- Liquor Store – Small;
- Lunch Bar;
- Motor Vehicle Wash;

- Service Station;
- Shop (for the development of a Pharmacy associated with a Medical Centre).

Indicative development plans have been submitted with the application to illustrate how the site could be developed should the scheme amendment be supported (*Refer to the Draft Concept Plans presented in the Attachments to this report*).

The applicant's justification for the proposal is summarised as follows:

- (i) The inclusion of the uses is not considered to undermine the intent of the Restricted Use zoning, as the key activities of the Town Centre will remain prohibited on the subject site;
- (ii) The proposed amendment to the Restricted Use provisions is consistent with the City's intent to allow limited expansion of the range of uses to accommodate predominantly car based activities;
- (iii) The provision of a convenience store offering sale of fuel will provide the opportunity to purchase fuel on the eastern, south bound side of Albany Highway which is not currently available in Kelmscott;
- (iv) The provision of a fast food outlet will also provide an opportunity which is currently only available on the western, north bound side of Albany Highway; and
- (v) Other uses such as medical centre and pharmacy could also be considered as illustrated on the indicative development plans.

In addition, the applicant has submitted a Traffic Impact Assessment and has consulted with Main Roads WA. Following advice from MRWA and the City, a revised Traffic Impact Assessment has been submitted.

Public Advertising of the Amendment

The proposed amendment was advertised for 42 days, closing on 2 November 2015. This advertising was carried out by way of a sign on-site, notification to relevant Government agencies, advertisements in the "West Australian" newspaper, City's website and local community newspaper and letters to affected and nearby landowners.

Total No. of submissions received	:	82
No. of submissions of conditional support/no objection	:	55
No. of submissions of objection	:	23
One non compliant petition of 76 signatures	:	1
No. of submissions from government agencies –		
No objection	:	2
Objection (resolved post advertising)	:	1

Refer to Confidential Attachment of the Agenda for location plan of submitters.

The issues raised by the submissions have been summarised in the Attachment and responded to as described below.

The main issues raised in the submissions, together with a comment on each issue are outlined below.

Key Issues

Issue 1 – Traffic – concerns have been raised relating to the increase in volume causing problems with queuing on Church Street and Albany Highway, conflict when traversing Albany Highway to travel north, danger to pedestrians, impact on the local road network and Main Roads objection to the left in/left out on Albany Highway.

Comment

The proposed Scheme Amendment is intended to facilitate development of the subject site, which has been vacant since 2007 and the applicant has advised that the earlier approval for office and showrooms was not implemented due to a lack of market demand.

The application is accompanied by a Traffic Impact Assessment stating the proposed uses will result in an increase in the amount of traffic accessing Church Street. This can be attributed to the site being developed and also the requirement by Main Roads WA that all egress from the site must be via Church Street.

Some of the submissions have supported development of the site, but have suggested that other uses would be more suitable as they would create less additional traffic.

The Scheme Amendment seeks to determine whether there is a fatal flaw in the proposed uses and does not seek to address the level of detail which would be required at the development application stage of the process.

The Traffic Impact Assessment has been updated by the applicant to include reference to school peak hour times and concludes that the road network is capable of accommodating the increase in traffic volume and the intersection can also accommodate the increase without an unacceptable queuing time on either Albany Highway or Church Street. The City considers that in view of the additional traffic, there may be a requirement for an intersection upgrade to ensure that there is road width to accommodate vehicles entering the site from Church Street as well as those progressing east along Church Street. The same principle may apply on the southern side of Church Street, however this is also a matter which can be more accurately assessed at the detailed design stage. It is recommended therefore that this will be assessed when a development application is submitted and that it should be accompanied by a detailed intersection upgrade design.

It is acknowledged that the increase in traffic and queuing times may result in an increase in traffic utilizing the local road network such as River Road and Page Road to access Albany Highway. Some of the submissions have referred to this and raised concern that it is not an acceptable outcome, however it is considered that the local road network has sufficient capacity to accommodate the increase.

Issues relating to highway safety and potential accidents has been raised through the referral process and the Traffic Impact Assessment addresses this. The number of recorded accidents for the Church Street / Albany Highway intersection during 2010-2014 is 7, which the report considered to be a low figure in comparison with the overall traffic volumes. The City considers that in view of the increased traffic volumes there may be an increase in the possibility of

accidents in the future and that at the development application stage further information and assessment will be required to ensure appropriate access and intersection design upgrading. Concern has also been raised in relation to pedestrian safety at the crossover point of the subject site and Church Street which is frequented by numerous school children on their way to and from school. Whilst it is accepted that pedestrian safety is critical, it is considered that there are appropriate mechanisms at the development application stage to ensure that the access is designed safely in terms of both vehicular and pedestrian movement. Appropriate sight lines can be achieved for vehicles and pedestrians around the proposed crossover.

Main Roads WA had previously raised an objection to the proposal as it illustrated a left in/left out onto Albany Highway. The applicant has updated the Traffic Impact Assessment to reflect these concerns and has agreed to a left in only from Albany Highway. In addition, it has been acknowledged that a median will be required to be constructed to prevent access to the site by traffic travelling in a north bound direction along Albany Highway. Main Roads WA has advised that they no longer object to the scheme amendment subject to the conditions requiring a median to be constructed and all signage applications are to be referred to them for comment.

Recommendation

That the issue is not supported.

Issue 2 - All of the uses proposed already exist in Kelmscott including existing lunch bars, convenience stores, fast food outlets and liquor stores. The uses are not appropriate in a residential area and no evidence has been provided to ensure the proposal will not have a negative impact on the retail core of the Kelmscott District Centre.

Comment

It is noted that there are already two service stations, a number of fast food outlets, liquor store, a pharmacy and a medical centre in Kelmscott. The role of the planning system is not to determine the commercial viability of an enterprise which is largely addressed by commercial competition. The planning system controls and guides land use and development and manages land uses so as to minimise conflicts between otherwise incompatible uses.

The subject site is zoned 'District Centre' and forms part of the commercial precinct on Albany Highway and as such it is anticipated that the site will be developed. The scheme provisions permit both commercial and residential development and the scheme amendment does not seek to alter this, but rather to increase the range of uses to enable the site to be developed and contribute to the economic growth and viability of the District Centre.

The applicant has advised that a Retail Sustainability Analysis was not required, because the proposed uses do not constitute retail floor space as set out in the Department of Planning's Western Australian Standard Land Use Classification. The City has sought the advice of its retail consultant who has confirmed that the economic impact of a convenience store on food and grocery outlets in the Kelmscott retail core would be negligible. Comment was also provided in relation to a wider review of the restricted use zone, which it is understood is likely to be addressed by the City and the Metropolitan Redevelopment Authority as part of the boundary review of the Kelmscott Town Centre.

Recommendation

That the issue is not supported.

Issue 3 – Heritage, trees and environment. Submitters have raised concerns regarding the impact of the development on the Heritage Precinct, loss of trees which will impact on visual amenity and wildlife habitat and potential groundwater contamination.

Comment

The subject site is situated on the corner of Albany Highway and Church Street and visually relates to both locations. Church Street provides the entry point to the River Road Heritage Precinct; it is predominantly residential, with dwellings having significant setbacks and the street benefits from a significant number of trees on the northern and southern sides. The District Centre zoning of the subject site clearly anticipates future development; the objectives of the District Centre and provisions of the scheme amendment include controls relating to the built form outcome to ensure that it integrates appropriately into its surroundings. The design aspect is not an issue for the scheme amendment as it will be addressed through the submission and assessment of a development application. It is therefore considered that whilst the visual amenity of Church Street is a relevant consideration in the development application process it is not a deterrent for supporting the scheme amendment. It should also be noted the site is capable of commercial development under its current zoning.

The loss of trees has been raised by submitters and is acknowledged by the applicant. The proposed crossover will result in the removal of one box tree and one Marri tree. The applicant has confirmed that the box tree will be replaced with a suitably mature specimen to minimize the impact of the loss of the tree in question. The City's Environment officer has undertaken a review of the Marri tree which may be lost due to the width of the access; the advice concludes that the tree is in good health, contributes to the streetscape and would provide some habitat value. However, the tree is not significant in terms of the value it currently contributes to habitat for cockatoos.

Concerns regarding the possible contamination of water have been raised due to the proximity of the site to the Water Corporation drain to the east which leads into the Canning River system. It is acknowledged that the service station is likely to have surface contaminants which will need to be managed appropriately. However it is considered that the development application process will ensure that the necessary management plans and controls are assessed and required to be implemented to minimize the risk of damage to the drain and associated water courses.

The heritage, trees and environment issues are issues that are normally considered in detail as part of the development application process. The current location of the proposed access will result in the loss of trees which the City considers worthy of retention and it is suggested that an alternative will need to be explored at the relevant stage of the planning process, however it does not preclude support for the scheme amendment. Retention of existing street trees and the addition of new street trees is consistent with the objectives of the City's Urban Forest Strategy, however where this is not possible, the developer should be required to replace the trees adjoining the site and /or fund trees in alternative locations.

Recommendation

That the issue is not supported.

Issue 4 – Residential amenity. *Concerns have been expressed regarding the impact of the proposed uses on the residential amenity in terms of noise, antisocial behavior and odour.*

Comment

The site abuts residential development to the north and east, with the eastern properties being separated from the subject property by a Water Corporation drain approximately 15 metres in width.

The scheme amendment proposes uses which could potentially operate 24 hours a day and which are likely to operate outside office hours of 8.30am to 5pm. In addition, the proposed uses have the potential to generate noise and odour which may also impact on the amenity of adjoining residential properties; which will need to be managed appropriately.

Noise has the potential to impact on residential amenity and the Environmental Protection (Noise) Regulations (1997) are the primary legislative control. The submission of a development application will need to be accompanied by an acoustic assessment to determine the levels of noise to be generated by a particular use and determine whether they are acceptable or capable of being appropriately controlled or mitigated. Whilst it is acknowledged that noise is a relevant factor to be considered in assessing a development application, the proposed uses are not considered inappropriate in the District Centre location and do not prevent support for the scheme amendment.

Antisocial behavior has been raised as a potential issue in relation to ‘hooning’ and also in relation to a liquor store. ‘Hooning’ is something which can arise in any location and is a matter for the Police to resolve.

The development of a liquor store will require the approval of a development application and also requires a licence under the Liquor Control Act (1988). Whilst the planning system seeks to assess the land use aspect, the social aspect is primarily addressed through the Department of Racing, Gaming and Liquor’s licensing process.

Recommendation

That the issue is not supported.

COMMENT

Local Planning Strategy (2005)

The Local Commercial Strategy – Retail Hierarchy Review (2004) is one of the suites of documents comprising the Local Planning Strategy. In developing the Local Commercial Strategy, a detailed analysis of the Armadale City Centre and the Kelmscott Centre was undertaken with the assistance of the Department for Planning and Infrastructure in Enquiry by Design Workshops conducted in 1999 and 2002 respectively.

The Retail Hierarchy Review recognizes the need for some redevelopment of the Kelmscott Centre, specifically detailing that it should be undertaken in a manner which will retain the functionality of the Kelmscott District Centre and not jeopardize the development and growth of Armadale as a Strategic Regional Centre.

The Kelmscott Enquiry by Design, Clause 5.3 - Town Centre Outcomes advised '*Restricting car-oriented uses such as fast-food outlets, service stations and bulky goods retailing to the southern portion of Albany Highway (generally, south of Davis Road) rather than in the town centre.*'

The proposed scheme amendment is consistent with these findings in relation to the Fast Food outlet, Motor Vehicle Wash and Service Station component, however it also proposes a convenience store and the City has sought advice to determine whether this will have an impact on the District Centre. The advice of the City's consultant concluded that the convenience store use would not have any significant detrimental impact on the District Centre and is therefore capable of being supported.

Town Planning Scheme No.4

The subject site is zoned District Centre, the objectives of which are identified in Clause 4.2.6 of the City's TPS4:

- (a) To provide for an extended range of shopping, commercial and community services to meet the weekly needs of neighbourhood groupings, and contribute towards the employment needs of the local workforce.
- (b) To ensure the design and landscaping of development provides a high standard of safety and amenity and contributes towards a sense of place and community with the service area.

The provisions of the Restricted Use No.1 zone state:

'The District Centre Zone – Restricted Use Area (R) acknowledges that the location and accessibility characteristics of the Albany Highway frontages adjacent to the Kelmscott Town Centre allow discretionary consideration of applications for a range of mixed business uses, which are generally supportive of, however, which do not represent a dispersal of the major Kelmscott Town Centre functions as a District Retail Commercial Centre.

The intent of restricting permissible land uses is to maintain the central retail Town Centre functions located within the unrestricted central area of the District Centre Zone, preventing their diffusion into an adjacent linear restricted area.'

Overall, the provisions of the District Centre zone are to create a retail core with appropriate additional uses outside the core to support the District Centre.

Definitions of Proposed uses

The uses proposed to be included in the new Restricted Use zone are defined in TPS4 as follows:

Convenience Store means

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 square metres net lettable area.

Fast Food Outlet means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar.

Liquor Store - Small means any land or buildings the subject of a liquor store licence granted under the provisions of the Liquor Control Act 1988 (as amended) where the net leasable area does not exceed 300m².

Lunch Bar means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.

Motor Vehicle Wash means premises where the primary use is the washing of motor vehicles.

Service Station means premises used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

Shop means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet; liquor store - small or liquor store – large.

Permissibility of proposed uses

Clause 4.3.1 of TPS4 sets out that the permissibility of proposed uses can be determined by cross referencing a use with the respective zone in the zoning table. The symbols in the zoning table are as follows:

‘P’ means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

‘D’ means that the use is not permitted unless the City has exercised its discretion by granting planning approval;

‘A’ means that the use is not permitted unless the City has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4;

‘X’ means a use that is not permitted by the Scheme.

The proposed scheme amendment seeks to change the permissibility of ‘Convenience Store’ and ‘Service Station’; both these uses are listed as ‘A’ which requires a development application to be advertised in accordance with Clause 9.4 of TPS4. The applicant is requesting this is changed to a ‘D’ use meaning a development application will not need to be advertised.

The justification given by the applicant is that the scheme amendment will have been advertised, therefore the advertising of a development application is duplication of process. However, the purpose of the scheme amendment is to determine whether alternative uses can be considered on the subject site, it does not determine specific design or technical details which require a degree of assessment and discretion at the Development Application stage.

The scheme amendment is proposing to include seven uses which are currently not permitted to be considered and it is not certain which of these uses will ultimately be developed on the site. In addition, the specific configuration including (but not limited to) design, setbacks, parking and landscaping is not being determined at this stage in the statutory process and therefore the requirement to advertise these should be retained to maintain consistency with the provisions of the scheme.

This matter was considered by Council on 18 August 2015 at the initiation stage and there has been no change in circumstances. It is not therefore recommended that the permissibility is supported and the proposed uses should remain 'A' requiring them to be advertised.

Development Control Unit (DCU)

The City's Technical Services comments identified that the left in /left out crossover to access the site from Albany Highway would need the support of Main Roads WA and sought clarification on the impact of the crossover on the bus embayment situated on Albany Highway.

The applicant provided an updated Traffic Impact Assessment amending the access from Albany Highway to left in only; Main Roads have reviewed the document and advised of their support for this approach.

The City considers that the scheme amendment does not create any significant issues from an access or traffic volumes perspective. It will be necessary for additional data to be provided in support of a detailed design at the development application stage but this does not prevent support of the scheme amendment.

Advice has been received from Parks and Reserves and Environment Departments in respect of the box tree and Marri trees. The advice states the trees are in good health and provide some habitat value, however they are not significant in terms of their habitat contribution to red tailed cockatoos. The applicant has advised that they will provide a suitably sized replacement box tree, however the Marri tree is also considered of significance and further consideration will be required at the development application stage regarding its retention, the possible relocation of the access or replacement of the Marri tree by the developer.

ANALYSIS

The applicant has provided justification that *'inclusion of the above uses is not considered to undermine the intent of the Restricted Use Zoning, as the development of key activities within the Town Centre will still remain prohibited on the site, such as retail development, market, small bar, Tavern and Liquor Store – Large'*.

The assessment of the proposed uses is considered as follows:

Convenience Store

In view of the 'retail' component of this use, advice on the potential impact of a convenience store was sought from the City's retail consultant. The advice concluded that the impact of a convenience store on the subject land on food and grocery outlets in the district centre retail core would be negligible.

The City's retail consultant also advised that it may be appropriate to consider a wider review of the scheme provisions and it is understood that this is something which will be addressed by the City and the Metropolitan Redevelopment Authority when the review of boundaries of the Kelmscott Town Centre is undertaken.

Hours of operation may have the potential to impact on residential amenity, especially given the site is currently vacant; however this is considered to be capable of appropriate management at the development application stage of the process and does not preclude support for the scheme amendment.

Fast Food Outlet

The proposed inclusion of fast food outlet has been the source of concern amongst a number of submissions, on the grounds that there are already sufficient in the locality, the use results in antisocial behavior and encourages unhealthy lifestyles.

The volume of any particular service within a given location is something generally considered to be controlled by market forces and commercial competition. The provision of a diverse range of uses in a centre is considered important and is consistent with the objectives of the District Centre zone; the district centre services the population of the town but also the traffic en route to another destination and multiple outlets is not considered unreasonable. It is acknowledged that a proliferation of a single use at the expense of other uses would not be a good outcome, but there is a variety of other uses in the locality and therefore this is not considered to be a significant negative issue.

In terms of antisocial behavior the development application process can require the submission, assessment and implementation of management plans to manage such issues. From a health perspective the applicant has advised that a tenant has not yet been identified and fast food outlets can include healthy options.

Liquor Store – small

During the advertising period a number of submissions raised concerns relating to the suitability of a liquor store on the subject site. The main concerns highlighted the existence of a number of liquor stores in Kelmscott therefore indicating further provision is not required. The issue of antisocial behavior and health concerns was also raised.

The location of the site on Albany Highway and its District Centre zoning are considered to be the most suitable location for such premises. The City is generally not supportive of new applications for premises in residential areas; it would also not be advisable to be supportive of a concentration of liquor stores in close proximity.

The proposed liquor store will be limited to 300m² and is likely to primarily benefit vehicular traffic. The intent is not for alcohol to be consumed on site. On this basis it is not considered that it will have a significant detrimental impact on residential amenity and is unlikely to result in significant issues in relation to antisocial behavior. In addition the site is likely to be primarily developed as a service station and it is considered that the frequency and volume of service station customers will also be a deterrent in terms of onsite consumption of alcohol. The principle mechanism for dealing with such issues is the Liquor Licensing Act 1988, however it would be appropriate to request a management plan to accompany a development application for any liquor store to address matters including, but not limited to, a Public Interests Assessment, trading hours, queue management, noise management, public safety, security and complaint and reporting procedures.

Lunch Bar

In view of the existence of a number of small Lunch Bar enterprises within the District Centre, advice was sought to establish whether the development of a small Lunch Bar on the subject site would have an effect on the District Centre. The advice concluded that the development of a small Lunch Bar on the subject site would not have any perceptible economic impact on the viability of land uses in the retail core of the Kelmscott District Centre. It is considered preferable that the development of a lunch bar on the subject site is integrated with other supporting uses.

The proposed use is therefore supported in the scheme amendment.

Motor Vehicle Wash

In considering the inclusion of a Motor Vehicle Wash, the main issues raised by submitters relate to amenity impacts on adjoining residential properties in relation to noise. The location in the District Centre is considered to be appropriate and consistent with the statutory framework; the issue of noise would need to be assessed at the development application stage and subject to suitable location, operation type, operating hours and appropriate management and mitigation measures may be capable of support.

The proposed use is therefore supported in the scheme amendment.

Service Station

The provision of a service station in this location is consistent with the Retail Hierarchy Review which identified car based uses were appropriate in this location. The definition includes the provision of a retail component, but as with Convenience Store this is considered to have a negligible effect on the District Centre and is therefore capable of support.

Shop (Pharmacy)

The intent of the current restricted use provisions is to ensure the integrity of the retail core is maintained and development does not become fragmented. Whilst the proposed amendment includes the provision of a shop, its sole purpose is to facilitate the development of a pharmacy in connection with a future medical centre, with a floor space restriction of 200m². It is considered that combining the two uses is beneficial in a land use context as it prevents the need for additional travel to a pharmacy in another location.

The proposed use is therefore supported, with restrictions.

OPTIONS

1. Council may adopt the amendment with or without modifications and request that the Hon Minister for Planning grant final approval to the amendment.
2. Council may resolve to not adopt the amendment giving reasons and request that the Hon Minister for Planning refuse to approve the amendment.

CONCLUSION

It is considered that the main issues raised by submitters are capable of being managed through assessment of the development application process and do not preclude support for the scheme amendment.

It is recommended that Council resolve to adopt the amendment without modification in accordance with Option 1 above.

RECOMMEND

That Council:

1. Pursuant to Part 5 of the *Planning and Development Act 2005* to adopt, without modification, Amendment No.80 to Town Planning Scheme No.4 to:
 - a) Insert a new entry in Schedule 3 – Restricted Uses as follows:

No.	Description of Land	Restricted Use	Conditions
11	Lot 200 (4) Church Street, Kelmscott	<p>The following uses potentially permissible in the retail commercial core of the District Centre zone shall be uses that are Not Permitted (X) in the Restricted Use Area:</p> <ul style="list-style-type: none"> • Amusement Parlour • Auction Mart • Car Park • Cinema / Theatre • Commercial Vehicle Parking • Liquor Store Large • Market • Motor Vehicle Repair • Night Club • Restricted Premises • Small Bar • Tavern 	<p>11.1 In determining any planning application for development approval the City shall have regard to the compatibility of proposed uses with the existing and potential uses of the site.</p> <p>11.2 Where proposed development interfaces with existing or proposed residential development, special design consideration shall be required for the screening, separation or noise attenuation of adjacent premises.</p> <p>11.3 The City may impose conditions and require proposed developments to specifically address the following issues:</p>

			<ul style="list-style-type: none"> • a high quality unified architectural design and overall development of the site that reflects a level of integration and consistency with the surrounding built environment; • vehicular access to the site including access from Albany Highway which shall be to the satisfaction of Main Roads Western Australia; • the amalgamation of lots or provision of reciprocal rights of access where appropriate; • the screening and/or landscaping of car parking areas from adjacent residential uses; • the precluding of overnight accommodation of animals in respect to Veterinary Centres; <p>11.4 The development of 'shop' floorspace shall not exceed 200m² and be limited to use by a Pharmacy only in conjunction with the development of a Medical Centre on the site.</p>
--	--	--	--

- a) Delete former Lot 61 (4), and Lot 23 (6) (Lot 200 Church Street) from the Schedule 3 Restricted Use No.1 and Description of lands, and
 - b) Amend the Scheme maps accordingly.
2. Authorise the Mayor and Chief Executive Officer to execute the Amendment documents.
 3. Forward the amendment documentation to the Western Australian Planning Commission for its consideration and requests the Hon Minister for Planning grant final approval to the amendment.
 4. Endorse the comments made in this report regarding the submissions received on this scheme amendment for inclusion in the schedule of submissions to be forwarded to the Western Australian Planning Commission.
 5. Advise the submitters and the applicant of its decision.

ATTACHMENTS

1. TPS Amendment No 80
2. Lot 200 Church Draft Concept 1
3. Lot 200 Church Draft Concept 2
4. Confidential - Schedule of Submissions - Amendment No.80 - Church Street Kelmscott - *This matter is considered to be confidential under Section 5.23(2) (e iii) of the Local Government Act, as the matter, if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person*
5. DSC - 15/12/15 - CONFIDENTIAL - Schedule of submissions - Amendment No.80 - Church Street KELMSCOTT - *This matter is considered to be confidential under Section 5.23(2) (e iii) of the Local Government Act, as the matter, if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person*

4.1 - ANNUAL LEAVE - EXECUTIVE DIRECTOR DEVELOPMENT SERVICES

WARD : ALL
FILE No. : M/1110/15
DATE : 7 December 2015
REF : PS
RESPONSIBLE : Executive Director
MANAGER : Development Services

In Brief:

- Advice of proposed Annual Leave from Monday, 4th January to Tuesday, 2nd February 2016 for the Executive Director Development Services.
- Recommend that Council note the Executive Director Development Services (Paul Sanders) will take Annual Leave from Monday, 4th January to Tuesday, 2nd February 2016 inclusive and that the Acting Executive Manager Planning Services (Glen Windass) be appointed Acting Executive Director Development Services.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Nil.

Legislation Implications

General assessment of relevant legislation (e.g. Local Government Act) has not revealed any restrictions.

Council Policy/Local Law Implications

Council Policy and Management Practice ADM 12 “Acting Senior Positions”.

Budget/Financial Implications

The higher duties payment associated with this matter can be accommodated within the adopted 2015-16 Annual Budget.

Consultation

Chief Executive Officer

DETAILS OF PROPOSAL

The Executive Director Development Services will be taking Annual Leave from Monday, 4th January to Tuesday, 2nd February 2016, inclusive and during this time it is proposed that the Acting Executive Manager Planning Services (Glen Windass) be appointed Acting Executive Director Development Services.

RECOMMEND

That Council:

- 1. Note that the Executive Director Development Services (Paul Sanders) will take Annual Leave from Monday, 4th January to Tuesday, 2nd February 2016 inclusive and during this time it is proposed that the Acting Executive Manager Planning Services (Glen Windass) be appointed Acting Executive Director Development Services; and**
- 2. Pursuant to Management Practice ADM 12 and on the recommendation of the Chief Executive Officer, appoint the Acting Executive Manager Planning Services (Glen Windass) for the period Monday, 4th January to Tuesday, 2nd February 2016 inclusive as Acting Executive Director Development Services.**

ATTACHMENTS

There are no attachments for this report.

COUNCILLORS' ITEMS

Nil

EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORT

Nil

MEETING DECLARED CLOSED AT _____

DEVELOPMENT SERVICES COMMITTEE		
SUMMARY OF "A" ATTACHMENTS		
15 DECEMBER 2015		
ATT NO.	SUBJECT	PAGE
1.1 COUNCIL POLICY REVIEW - HLTH 1 - SMOKE FREE OUTDOOR AREAS, HLTH 5 SMOKE FREE WORKPLACE		
1.1.1	HLTH 1 - Smoke Free Outdoor Areas	49
1.1.2	HLTH 5 - Smoke Free Workplace	50
2.1 FINALISATION OF BUSINESS PLAN & SALE OF LOT 9 BANKEN COURT, FORRESTDALE		
2.1.1	Land Transaction Business Plan - Lot 9 Banken Court, Forrestdale	52
2.1.2	Zoning Plan - TPS No.4 - Lot 9 Banken Crt, Forrestdale	59
2.2 DISPOSAL OF A PORTION OF LOT 251 GILLAM DRIVE, KELMSCOTT (PORTION OF FORMER RESERVE 37213) BY WAY OF PRIVATE TREATY		
2.2.1	Approx Portions of Lot 251 Gillam Drive to be amalgamated with the adjoining properties	60
2.2.2	TPS No. 4 - Lot 251 Gillam Dr, Kelmscott	61
3.1 FINAL ADOPTION - AMENDMENT NO. 80 - TOWN PLANNING SCHEME NO.4 REZONING OF LOT 200 (4) CHURCH STREET, KELMSCOTT		
3.1.1	TPS Amendment No 80	62
3.1.2	Lot 200 Church Draft Concept 1	63
3.1.3	Lot 200 Church Draft Concept 2	64



POLICY

HLTH 1– Smoke Free Outdoor Areas

Procedure

N/A

Relevant Delegation

N/A

Rationale

The aim of limiting exposure to smoking in outdoor public places under the jurisdiction of the City of Armadale:

1. Reduce harm caused by exposure to tobacco smoke.
2. Raise community awareness of the issues associated with smoking.
3. Provide community leadership on the issue of protecting health and wellbeing.
4. Minimise cigarette butt pollution on and near to Council facilities.

Policy

This policy covers the smoking of any tobacco product and the use of oral tobacco products, “chewing” tobacco and e-cigarettes.

Smoking is not permitted:

1. Within 5 metres of doorways and 10 metres of air intake vents of Council owned or managed buildings.
2. Within the boundaries of the following designated outdoor congregation areas:
 - a. Youth Activity Area (~~Orehard Road~~).
 - b. Armadale Aquatic Centre.
3. At all Council run events on its reserves, parks, ovals and playing fields.
4. On active reserves (sportsgrounds) during sporting and community events.
5. Within ten (10) metres of all children’s playground equipment (as per the Tobacco Products Control Act 2006)

Appropriate signs and/or stickers will be used to inform the community that these areas are smoke-free.

Council buildings that are leased, licensed or hired by Council will have smoke-free clauses inserted into their agreements for use. Otherwise, the policy will primarily be self regulatory.

Related Local Law

N/A

Related Policies

HLTH 5-Smoke Free Outdoor Areas Policy

Related Budget Schedule

N/A

Last Reviewed

Council Meeting 27th February 2012

Next Review Date

2015

Authority

Council Meeting of 22nd June 2009



POLICY

HLTH 5– Smoke Free Workplace

Procedure

N/A

Relevant Delegation

N/A

Rationale

To protect the health of Council employees, contractors and visitors by eliminating exposure to environmental tobacco smoke in and around all Council controlled buildings, recreational facilities, both indoor and outdoor and work vehicles.

Policy Statement

This policy covers the smoking of any tobacco product and the use of oral tobacco products, "chewing" tobacco and e-cigarettes, and it applies to employees, councillors, contractors and visitors.

- Smoking is prohibited in all Council owned and controlled buildings, enclosed workplaces, enclosed recreational facilities and work vehicles at all times.
- To prevent drift of smoke into smoke free environments, no smoking will be permitted within 5 metres of doorways and 10 metres of air intake vents of Council premises.
- Smokers are expected to be considerate of the health and wellbeing of others. It is unacceptable to smoke where it is possible for others to inhale smoke e.g. along thoroughfares and footpaths and near access ways.
- Smokers are expected to be discreet. It is unacceptable to smoke where the activity is clearly visible to work colleagues and the general public e.g., outside offices in full view of other staff.
- Smokers are only permitted to smoke during officially endorsed work breaks in designated outdoor areas.

Programs to Assist in Quitting Smoking

- The City of Armadale will provide assistance to any member of staff who wishes to stop smoking by contributing towards the costs of an accredited stop smoking program.
- Consideration may be given to providing paid leave to attend an approved course during working hours.

Signage and Waste Disposal

- No smoking signs and butt bins will be installed at appropriate locations to discourage smoking near to City owned and controlled buildings.

Recruitment

- The City of Armadale will advertise in all recruitment material, including Council's website, of its smoke free workplace policy.
- All new employees will be informed of the smoke free workplace policy at commencement of employment and at induction training for new staff.

Environmental Waste Reduction

Staff are responsible for ensuring that any waste such as cigarette butts are properly disposed.

Related Local Law	N/A
Related Policies	HLTH 1-Smoke Free Workplace Policy
Related Budget Schedule	N/A
Last Reviewed	Council Meeting of 27 th February 2012
Next Review Date	2015
Authority	Council Meeting of 27 th April 2009



Land Transaction Business Plan

Covering the Land Parcel:



Lot 9 Banken Court, Forrestdale WA 6112

Proposal to Sell

Prepared pursuant to sections 3.58 and 3.59 of the Local Government Act 1995

Proposal

The City holds the freehold ownership of the following land parcel:

Lot No	Street Address	Approx. Land Area	Certificate of Title Details	Zoning/Code	Sewer Connection Capability
9	Banken Court, Forrestdale WA 6112	1763m ²	Volume: 3165 Folio: 431	“Residential R12.5/25”	No

The City has developed a Public Open Space Strategy (POS Strategy) designed to improve the quality and usefulness of recreation reserves within the district. The POS Strategy identifies key reserves that are important to be retained and managed by the City for high quality public recreation. A portion of reserves were identified as unsuitable because they are too small or not suitably located for recreation purposes and were proposed to be cancelled and sold on a Precinct by Precinct basis. Funds from the sale of cancelled reserves are invested into capital works/upgrades to recreation reserves within the locality where the sale of the cancelled reserve occurred.

Lot 9 Banken Court originally comprised two Reserves for Public Recreation (37274 & 37275) located within Precinct N of the POS Strategy. Council resolved to commence public consultation for Precinct N at its meeting of 20 February 2006 (31/2/2006). The report to Council, which recommended that the two reserves be cancelled and disposed of, noted the following:

- Both reserves abut each other. If the adjacent Lot 388 Leake Street subdivided its 10% POS requirement could join with these reserves, but would create open space of only 2600m² which under policy ADM 11 is too small to be accepted (4000m² minimum);
- Uneconomic to maintain;
- Poor surveillance and access;
- No significant vegetation; and
- Other POS within 450m.

Following public consultation Council considered the finalisation of Precinct N at its meeting of 18 September 2006 (243/9/2006) where it resolved to cancel and dispose of Reserves 37274 and 37275 as one parcel. The decision to amalgamate the two adjoining sites was a response to advice from the Department for Planning and Infrastructure (State Land Services) that one of the parcels would otherwise become landlocked. The amalgamation took effect in 2015, on the same Deposited Plan which cancelled the two reserves in order to create Lot 9.

The next step in the process was to rezone the Reserves, to reflect the proposed change of use. Amendment No. 16 to the City’s Town Planning Scheme No. 4 was advertised for public comment, closing on 27 July 2006, and Council resolved to adopt a modified form of the

amendment at its meeting of 12 September 2006. On 17th October 2007 the Minister of Planning approved Amendment No. 16, which rezoned the Reserves from “Parks and Recreation (Local)” to “Residential R12/25”.

Following the POS Strategy and rezoning processes, the City wrote to the Department of Lands and requested the reserves be cancelled and acquired by the City. Lot 9 Banken Court has been owned by the City as a Freehold property since 2015.

Seventy percent (70%) of funds generated from the land sale must be used to upgrade parks and recreation facilities within Precinct N of the City’s POS Strategy. In addition, the City has been granted approval by the Minister of Planning to use 30% of the funds on Regional Recreation Initiatives.

Property

Lot 9 Banken Court, Forrestdale

The property is located within Forrestdale, approximately 30km south east of the Perth CBD. More specifically the property is situated on the southern side of Banken Court. The subject property comprises a vacant residential site with an area of approximately 1763m².



Image of Lot 9 taken looking from Banken Court: Thursday 3rd September 2015

The subject lot is zoned “Residential R12.5/25” under Town Planning Scheme No. 4 (TPS No. 4) and has a dual density code. Under Clause 5.2.4(c) an application for grouped dwellings at the higher density can be made to the City. It should be noted that the lot must be able to connect to sewerage services in order to be considered suitable for development at the higher density code and currently there is no sewer service in this area.

Considerations

Expected effect on the provision of facilities and services by the City (Section 3.59(3)(a))

The subject land is owned in fee simple by the City of Armadale. Lot 9 Banken Court does not have an active or passive recreation function and the area is too small to utilise for functional open space. Additionally William Skeet Oval is located within 560m of the subject site, which provides recreation opportunities to the local community.

The sale of the land will provide funds for the improvement and enhancement of other “Public Recreation” Reserves within Precinct N of the City’s POS Strategy. As such disposal of the property will not negatively impact on the current provision of Council services and facilities. It will provide opportunities for the City to improve some of the assets and services it currently provides in the area.

Expected effect on other persons providing facilities and services in the district (Section 3.59(3)(b))

The subject site is vacant land owned by the City of Armadale. The land does not provide any services or facilities to the community. The net proceeds from the sale will generate income to be invested into improvements and enhancement of other "Public Recreation" Reserves within Precinct N of the City's POS Strategy and the Strategic Recreational Initiatives.

Expected financial effect on the City of Armadale (Section 3.59(3)(c))

A valuation will be obtained for the property and the sale will be executed by suitable qualified experts. Expenditure incurred as a part of the sale will be absorbed by the Planning Services budget.

Funds received from the sale of the land will be held in a trust/reserve account by the City pending future consideration for expenditure. Seventy percent (70%) of proceeds from the sale of the cancelled reserves are planned to be applied to the construction of recreation improvements to parks within the general locality where the sale occurs, in this case Precinct N of the City's POS Strategy. On 12 June 2008 the then Minister for Planning and Infrastructure granted approval to allocate 30% of the sale proceeds towards the City's 'Regional Recreation Initiatives Trust 47'.

There is a strong likelihood that the parcel of land will be developed for residential purposes and hence provide additional rate revenue for the City without creation of any new assets such as roads.

Expected effect on matters contained in the City's Strategic Community Plan 2013 - 2028 (Section 3.59 (3) (d))

The City's Strategic Community Plan 2013-2028 contains the following initiatives:

- 1.5.1 Provide and promote Council sport, recreation and leisure facilities.*
- 2.4.2 Maintain and improve where required the quality, amenity and accessibility of open spaces.*
- 4.2.1 Develop, implement and report on Council's strategic and business plans.*
- 4.6.2 Actively pursue alternative sources of revenue for Council's assets and operation.*

The ability of the City to manage the transaction (section 3.59(3) (e))

The City ordinarily administers large-scale financial undertakings in its day-to-day business as a Local Government entity. The City will also engage appropriately qualified consultants to provide goods and services such as Licensed Valuations, Real Estate and Settlement Services, to ensure the disposal is executed correctly and effectively.

Other matters (Section 3.59(3)(f))

Method of Disposal

The disposal/sale of the subject site comprising this transaction and the subject of the Business Plan will be accordance with Section 3.58 (2) and (3) of the Local Government Act 1995.

These sections 3.58 (2) and (3) provide the following options for disposal of property:

- 3.58 (2) a. to the highest bidder at public auction; or
 b. to the person who at public tender makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender; or
- 3.58 (3) a. by a private treaty giving local public notice of the proposed disposition:
 i) by describing the property concerned;
 ii) giving details of the proposed disposition; and
 iii) inviting submission to be made to the local government before the date specified.

Comments on this Business Plan

This Business Plan is being advertised for a period of 42 days from the date of notifications in The West Australian newspaper, with the advertising period closing on 16 November 2015. The Business Plan shall also be advertised in a local newspaper.

The Business Plan can be inspected:

- At the Administration Centre of the City of Armadale between the hours of 8:15am to 4:45pm Monday to Friday; and/or
- At the City's Public Libraries located in Armadale, Kelmscott and Seville Grove between the following hours.

Copies of the Business Plan can be obtained by:

- Contacting the City's Special Projects Officer, Stephen Walker on (08) 9399 0628; or
- By downloading the documents from the City's website at www.armadale.wa.gov.au

Submissions on the Business Plan are to be made in writing and to be received no later than 16 November 2015.

Submissions to be addressed to:

**Chief Executive Officer
City of Armadale
Locked Bag 2
ARMADALE WA 6992
Attention: Stephen Walker (Special Projects Officer)**

Process Following Public Advertising

Following the public advertising period the Council will consider all submissions and may decide (by absolute majority) to proceed with the Land Transaction as described in this plan in accordance with the provisions of the *Local Government Act 1995*.

Appendix A – Diagram / Location of Lot 9 Banken Court, Forrestdale



**LOT 9 BANKEN COURT
 FORRESTDALE**
 Location Plan

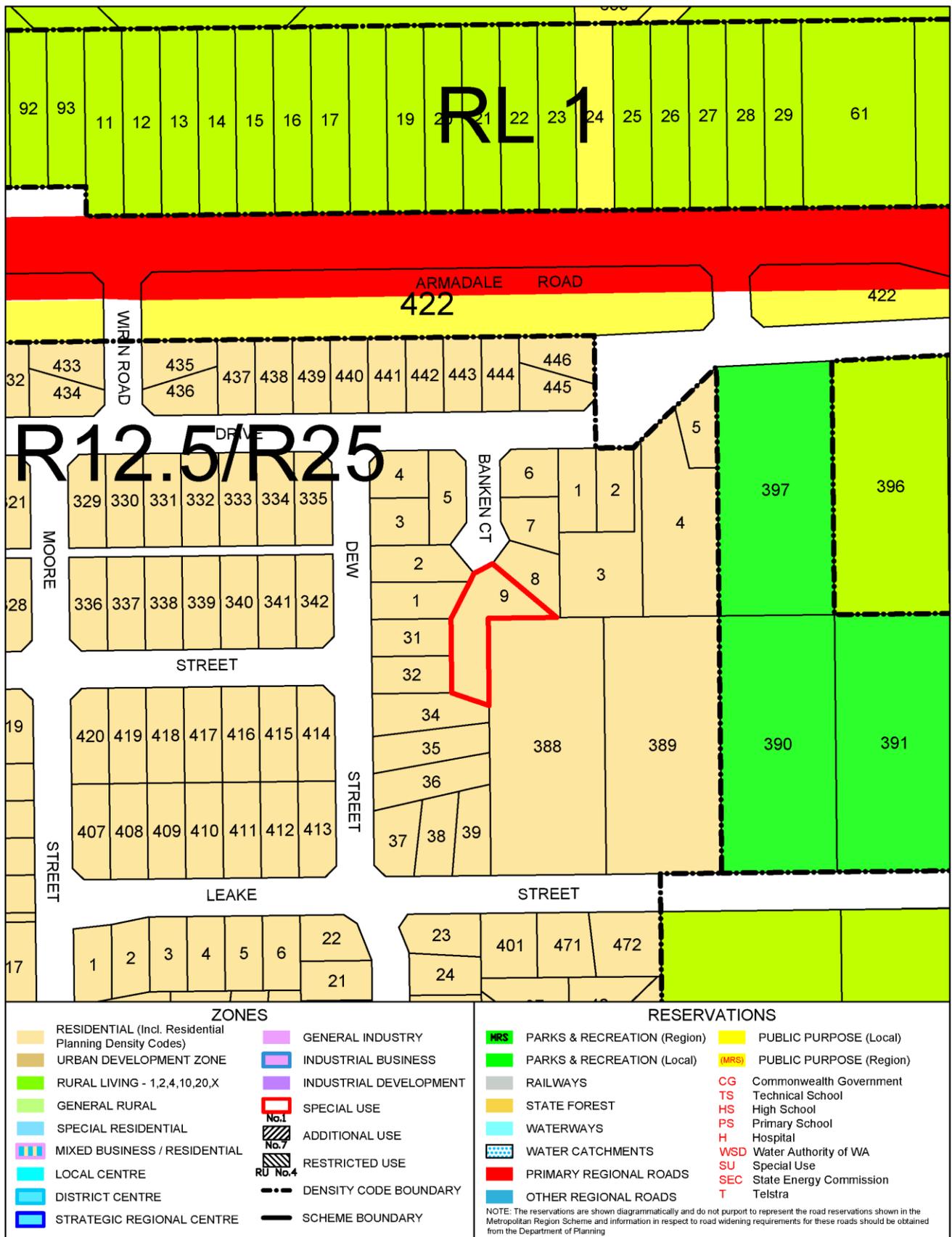


SCALE 1 : 5000

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DATE 4 September 2015 - REVISION 1591



**LOT 9 BANKEN COURT
FORRESTDAL**

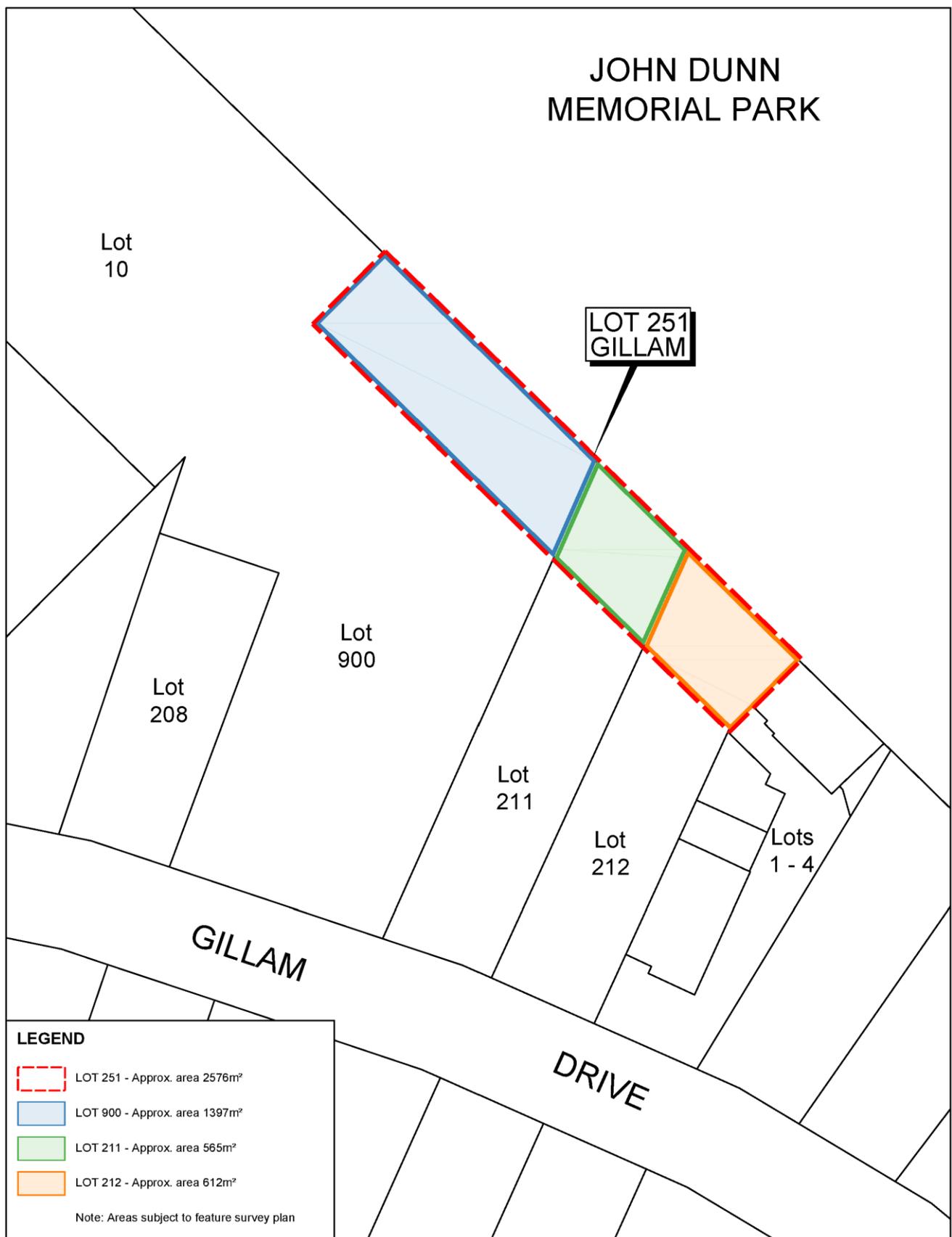
Town Planning Scheme No. 4



SCALE 1 : 2500

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**APPROXIMATE PORTIONS OF LOT 251
GILLAM DRIVE TO BE AMALGAMATED WITH
THE ADJOINING PROPERTIES**

Lot 251 (Former portion of Reserve 37213)
Gillam Drive, Kelmescott

DATE 22 June 2015 - REVISION 1501



SCALE 1 : 1000

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Western Australian Land Information Authority trading as Landgate (2012)
Aerial photograph supplied by Landgate, Photomaps by NearMap





ZONES

RESIDENTIAL Including Residential Planning Density Codes	MIXED BUSINESS / RESIDENTIAL	SPECIAL USE
URBAN DEVELOPMENT ZONE	DISTRICT CENTRE	ADDITIONAL USE
RURAL LIVING - 1, 2, 4, 10, 20, X	LOCAL CENTRE	RESTRICTED USE
GENERAL RURAL	GENERAL INDUSTRY	OUTER EDGE DENSITY CODE IN RESIDENTIAL AND RURAL LIVING
SPECIAL RESIDENTIAL	INDUSTRIAL BUSINESS	OUTER EDGE OF SCHEME

RESERVATIONS

PARKS & RECREATION (Region)	PRIMARY REGIONAL ROADS	PUBLIC PURPOSE MISCELLANEOUS SUB CATEGORIES CG Commonwealth Government TS Technical School HS High School PS Primary School H Hospital WSD Water Authority of WA SU Special Use SEC State Energy Commission T Telstra
PARKS & RECREATION (Local)	OTHER REGIONAL ROADS	
RAILWAYS	PUBLIC PURPOSE (Region)	
STATE FOREST	PUBLIC PURPOSE (Local)	
WATERWAYS		
WATER CATCHMENTS		

NOTE: The reservations are shown diagrammatically and do not purport to represent the road reservations shown in the Metropolitan Region Scheme and information in respect to road widening requirements for these roads should be obtained from the MFP.

**LOT 251 GILLAM DRIVE
KELMSCOTT**
TOWN PLANNING SCHEME No. 4

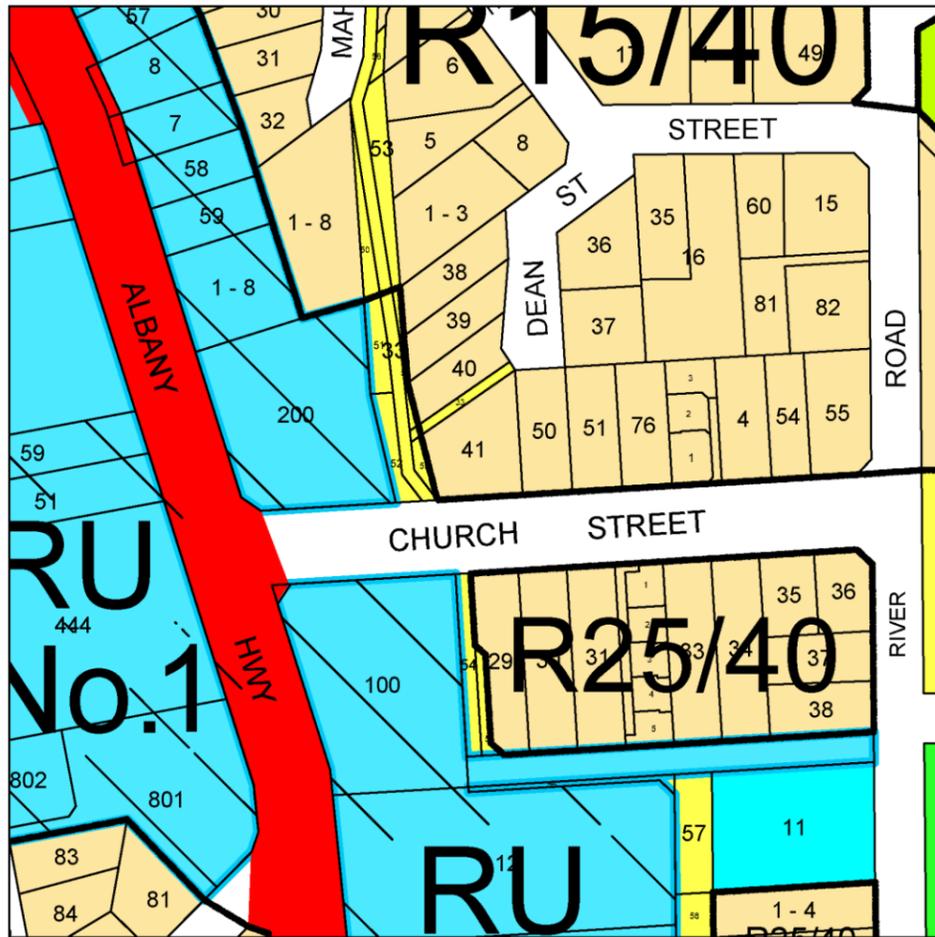


SCALE 1 : 4000

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CITY OF ARMADALE TOWN PLANNING SCHEME No. 4 AMENDMENT No. 80



EXISTING CODING



SCALE
1 : 2 500



PROPOSED CODING

ZONES			RESERVATIONS		
<ul style="list-style-type: none"> RESIDENTIAL Including Residential Planning Density Codes URBAN DEVELOPMENT ZONE RURAL LIVING - 1,2,4,10,20,,X GENERAL RURAL SPECIAL RESIDENTIAL 	<ul style="list-style-type: none"> MIXED BUSINESS / RESIDENTIAL DISTRICT CENTRE LOCAL CENTRE GENERAL INDUSTRY INDUSTRIAL BUSINESS 	<ul style="list-style-type: none"> No.1 SPECIAL USE No.7 ADDITIONAL USE RU No.2 RESTRICTED USE OUTER EDGE DENSITY CODE IN RESIDENTIAL AND RURAL LIVING OUTER EDGE OF SCHEME 	<ul style="list-style-type: none"> MRS PARKS & RECREATION (Region) PARKS & RECREATION (Local) RAILWAYS STATE FOREST WATERWAYS WATER CATCHMENTS 	<ul style="list-style-type: none"> PRIMARY REGIONAL ROADS OTHER REGIONAL ROADS (MRS) PUBLIC PURPOSE (Region) PUBLIC PURPOSE (Local) 	<p>PUBLIC PURPOSE MISCELLANEOUS SUB CATEGORIES</p> <ul style="list-style-type: none"> CG Commonwealth Government TS Technical School HS High School PS Primary School H Hospital WSD Water Authority of WA SU Special Use SEC State Energy Commission T Telstra

NOTE: The reservations are shown diagrammatically and do not purport to represent the road reservations shown in the Metropolitan Region Scheme and information in respect to road widening requirements for these roads should be obtained from DPI.



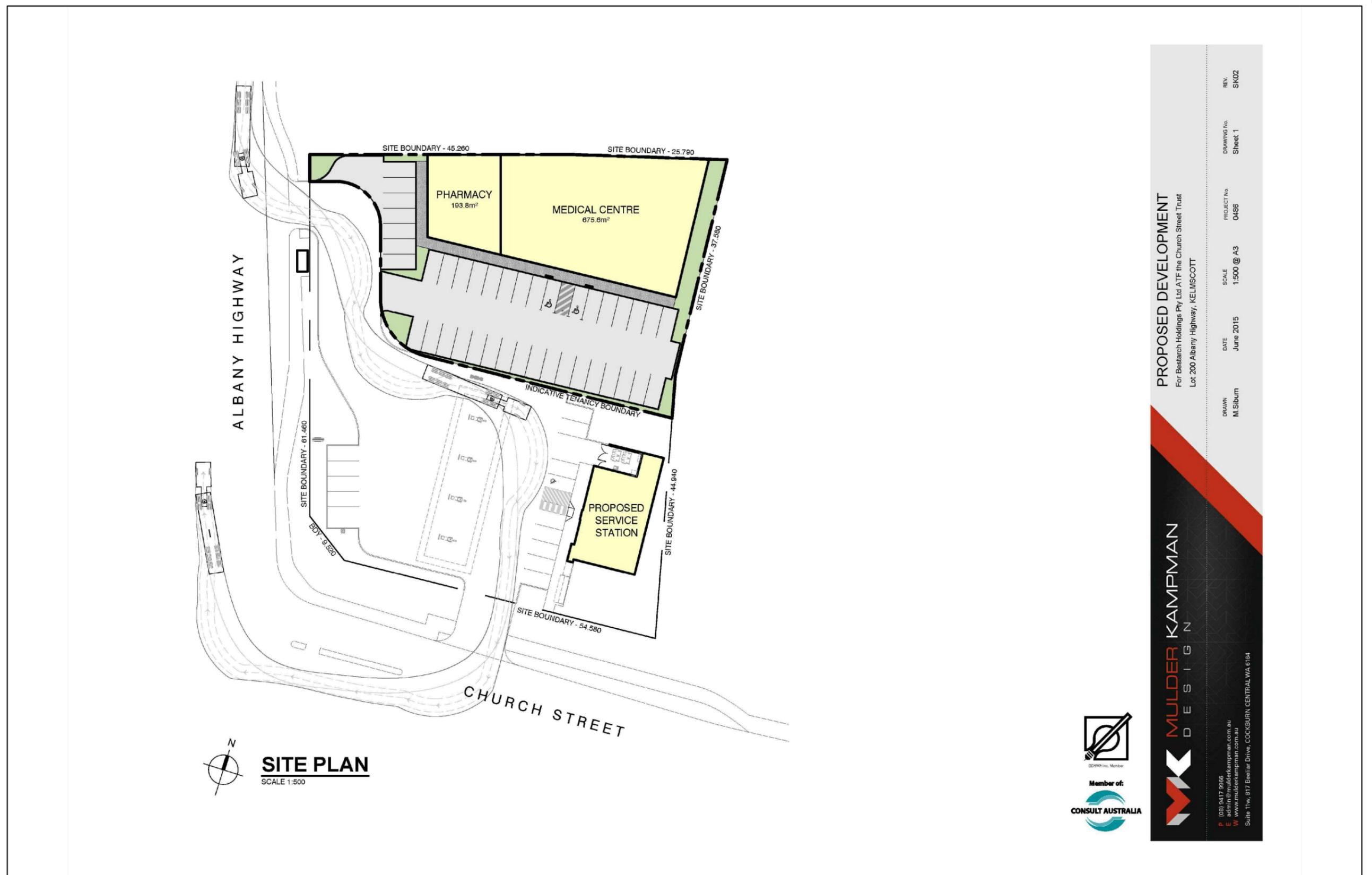
**LOT 200 CHURCH STREET
KELMSCOTT**
DRAFT CONCEPT PLAN 1: SERVICE STATION AND FAST FOOD OUTLET

DATE 9 December 2015 - REVISION 1502
p:\autocad\agenda_drawings\2015\12 december\200_church\lot200_church.dwg

NOT TO SCALE

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**LOT 200 CHURCH STREET
KELMSCOTT**
DRAFT CONCEPT PLAN 2: SERVICE STATION, MEDICAL CENTRE AND PHARMACY

DATE 9 December 2015 - REVISION 1502
p:\autocad\agenda_drawings\2015\12 december\200_church\lot200_church.dwg



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