

CITY OF ARMADALE

MINUTES

**OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE FUNCTION ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 19
JULY 2021 AT 7.00PM.**

PRESENT:	Cr D M Shaw	(Chair)
	Cr R Butterfield	
	Cr C Frost	
	Cr J Munn CMC	
	Cr M S Northcott	
	Cr G J Smith	
	Cr G Nixon	(Deputy to Cr Wielinga)
APOLOGIES:	Nil	
OBSERVERS:	Cr C M Wielinga	7.06pm to 7.38pm
	Cr J Keogh	7.10pm to 7.38pm (<i>via Teams</i>)
IN ATTENDANCE:	Ms J Abbiss	Chief Executive Officer (<i>via Teams</i>)
	Mr P Sanders	Executive Director Development Services
	Mr G Dine	Health Services Manager (<i>via Teams</i>)
	Mrs N Cranfield	Executive Assistant Development Services
PUBLIC:	1	

*“For details of Councillor Membership on this Committee, please refer to the City’s website
– 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 was read.

DECLARATION OF MEMBERS' INTERESTS

Cr Northcott and Cr Smith

- Minister for Planning's Decision - Amendment No.111 to TPS No.4 - Heritage List

QUESTION TIME

Nil.

DEPUTATION

Nil.

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Development Services Committee Meeting held on 21 June 2021 be confirmed.

**Moved Cr J H Munn
MOTION CARRIED**

(7/0)

ITEMS REFERRED FROM INFORMATION BULLETIN - ISSUE 11 - JUNE 2021

Outstanding Matters & Information Items

Report on Outstanding Matters - Development Services Committee
Review before the State Administrative Tribunal (SAT)
Design Review Panel Meetings 2021

Health

Health Services Manager's Report - June 2021

Planning

Planning Applications Report - June 2021
Town Planning Scheme No.4 - Amendment Action Table
Subdivision Applications - WAPC Approvals/Refusals - June 2021
Subdivision Applications - Report on Lots Registered for 2020/2021
Compliance Officer's Report - June 2021

Building

Building Services Manager's Report - June 2021
Building Health/Compliance Officer's Report - June 2021

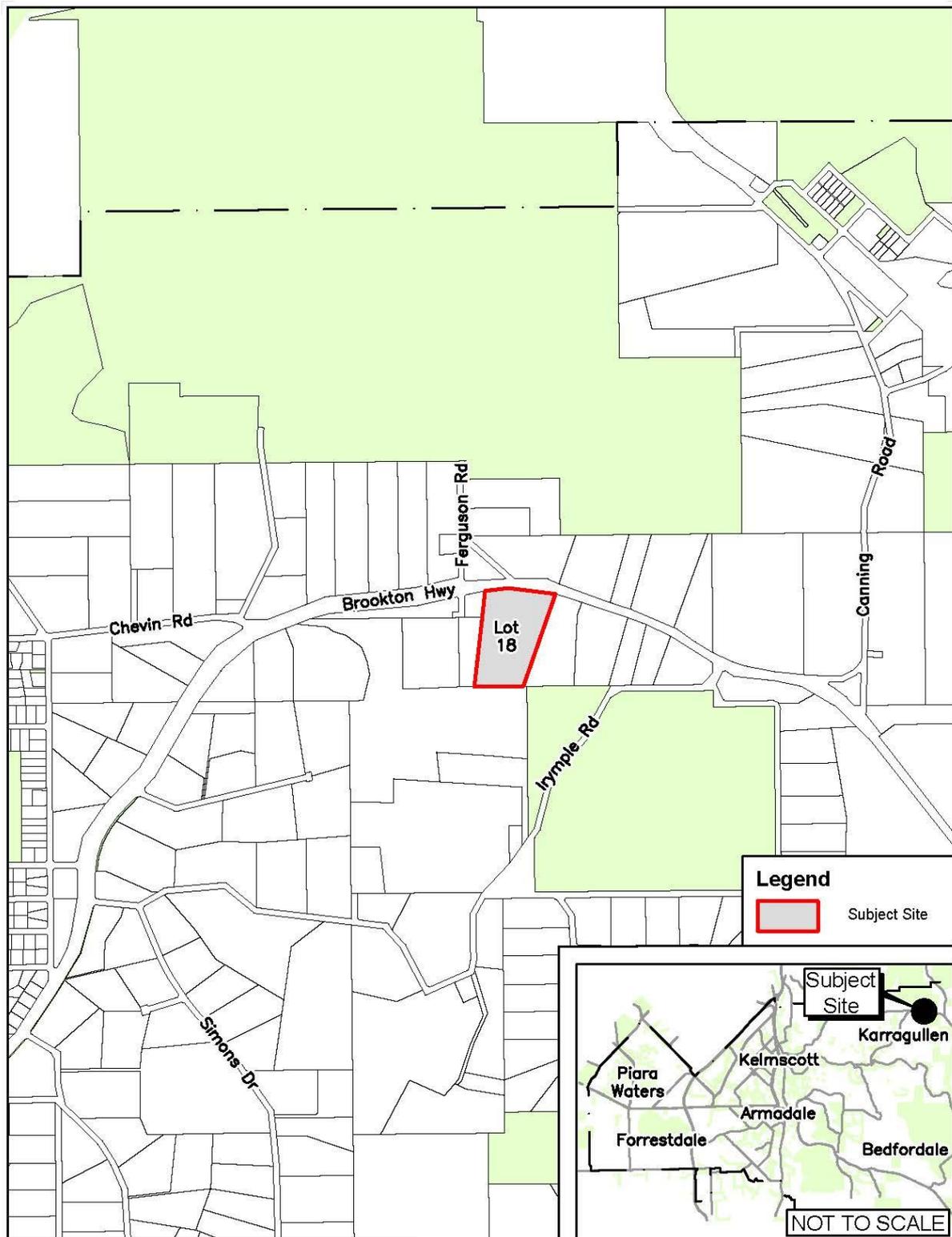
Committee noted the information and no further items were raised for discussion and/or further report purposes.

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19 JULY 2021

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LOCATION PLAN

Lot 18 (No. 1088) Brookton Highway, Karragullen



SCALE 1 : 20000

DATE 19 May 2021 - REVISION 2101
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1.1 - DEVELOPMENT APPLICATION - EXTENSION OF OPERATING HOURS & CHANGE OF USE - MICRO BREWERY AND CELLAR DOOR - LOT 18 BROOKTON HIGHWAY, KARRAGULLEN

WARD : HILLS
FILE No. : - M/342/21
APPLN NO. : 10.2020.140.1
DATE : 15 July 2021
REF : AR
RESPONSIBLE MANAGER : EDDS
APPLICANT : Dale Design Services
LANDOWNER : Green Tower Pty Ltd
SUBJECT LAND : Property size 6.39ha
ZONING : Rural
MRS / :
TPS No.4 : General Rural

In Brief:

- The City received an application for:
 - an extension of operating hours for the existing Restaurant use; and,
 - a new Microbrewery and incidental Cellar Door.
- The Microbrewery and incidental Cellar Door are uses not listed under the City's Town Planning Scheme No.4 (TPS No.4).
- The application was advertised for a period of 3 weeks. A total of 10 submissions were received, with 6 objecting to the proposal.
- The main issues raised during the application assessment relate to noise.
- Recommend that the Council approve the application subject to appropriate conditions.

Tabled Items

Nil.

Decision Type

- Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- Executive** The decision relates to the direction setting and oversight role of Council.
- Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil.

Strategic Implications

- 2.5 Quality Development that enhances the amenity and liveability of the City.
- 2.5.6 Constantly seek improvements to the nature and standard of developments within the City.
- 3.4.2 Encourage the development of new attractions, accommodation and activities for tourists, particularly day trippers.



AERIAL PLAN

Lot 18 (No. 1088) Brookton Highway, Karragullen



SCALE 1 : 10000

DATE 5 January 2021 – REVISION 2101
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Legal Implications

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Environmental Protection (Noise) Regulations 1997

Liquor Control Act 1988

Town Planning Scheme No.4

Local Planning Strategy 2016

Metropolitan Region Scheme

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

Council Policy/Local Law Implications

PLN 2.9 Landscaping

PLN 5.1 Highway Development

Budget/Financial Implications

Nil.

Consultation

The application was advertised to the public for a period of 21 days, with the submission period closing on 04/08/2020. Letters were sent to 27 landowners along Brookton Highway and Ferguson Road. The application was referred to Main Roads Western Australia (MRWA), the Department of Fire Emergency Services (DFES) and the City's Development Control Unit for comment.

BACKGROUND

The site is located along Brookton Highway and has a total area of 6.39ha. The site slopes down approximately 10m towards Brookton Highway, from the highest point at the centre of the site and towards the rear portion of the site. The majority of the site consists of thick vegetation, with several buildings, outdoor playground and garden area located towards the Brookton Highway boundary.

The existing restaurant is located within the old house that is closest to Brookton Highway. A steel framed colorbond tearoom with decking is located behind the restaurant and a steel framed colorbond storage shed is located further south. The storage shed has an area 121.5m² and is 7.5m wide, 16.2m deep and has a wall height of 3.4m. The shed also consists of two large 7.5m sliding doors to the western façade for truck deliveries.

Vehicles currently access and exit the site through an existing gravel crossover and driveway located along the north western corner. The site consist of 96 car parking bays with 18 parking bays provided along the north western boundary and an additional 78 bays provided towards the centre of the site, behind the existing storage shed. The parking areas are currently cleared and only have vegetation around the perimeter.

The restaurant is currently operating as Naked Apple Cider House, which serves food and its own cider that is produced offsite. The restaurant is also open for private events during the summer months.

In 2014, the City first approved the restaurant use under a previous vendor, known as Hopscotch. In 2016, the City approved to extend the existing restaurant operating hours to the current times, which are:

Day	2014 Approved Hours	2016 Approved Hours
Monday	8:00am to 6:00pm	No change
Tuesday	8:00am to 6:00pm	No change
Wednesday	8:00am to 6:00pm	8:00am to 9:00pm
Thursday	8:00am to 6:00pm	8:00am to 9:00pm
Friday	7:00am to 9:00pm	7:00am to 10:00pm
Saturday	7:00am to 9:00pm	7:00am to 10:00pm
Sunday	7:00am to 7:00pm	No change
Public Holidays	Closed	No change

DETAILS OF PROPOSAL

The submitted proposal is for:

- an extension of operating hours for the existing Restaurant use (refer to below table);
- a new Microbrewery (production of apple cider); and,
- converting the existing tearooms to an incidental Cellar Door (tastings and sale of pre-packaged apple cider produced on site).

The applicant has submitted the following technical reports in support of the application:

- Acoustic Assessment report (v.2 prepared by Herring Storer Acoustics - dated 8 February 2021);
- Noise Management Plan (v.1 prepared by Ross Engel (owner of the restaurant) - dated 3 May 2020); and
- Bushfire Management Plan (v.2 prepared by Bushfire West - dated 21 January 2021)

The City has provided advice to the applicant over the last twelve months regarding the submission requirements for the proposed application.

Restaurant - Extension of Operating Hours

The application proposes to change the existing restaurant use operating hours as follows:

Day	2016 Approved Hours	Proposed Hours
Monday	8:00am to 6:00pm	closed
Tuesday	8:00am to 6:00pm	closed
Wednesday	8:00am to 9:00pm	11:00am to 4:00pm
Thursday	8:00am to 9:00pm	11:00am to 9:00pm
Friday	7:00am to 10:00pm	11:00am to 11:00pm
Saturday	7:00am to 10:00pm	11:00am to 11:00pm
Sunday	7:00am to 7:00pm	8:30am to 5:00pm
Public Holidays	closed	11:00am to 5:00pm

The applicant advises that the new hours will provide a greater service to the local community and will become more appealing for private functions and weddings due to the proposed varied operating times, which they are seeing an increase in demand for.

As part of the current liquor license, the applicant advised that last drinks are served 15 minutes before closing time and staff usually take 30 minutes after closing time to clean and close the restaurant. As such, staff vehicles could leave the site at 11:30pm at latest on Friday and Saturday.

Microbrewery

The microbrewery is proposed to be located within the existing colorbond steel frame shed, behind the restaurant and existing tearoom. The microbrewery is proposed to brew apple cider on site for the restaurant to serve and for the cellar door to sell on site and provide tastings. The microbrewery will consist of:

- 12 cider storage tanks
- 2 cool rooms; and
- An apple processing area that consists of a washing area, crushing machine and apple press.

The only proposed changes to the shed are to include new roof rotary vents to improve ventilation within the brewery and a new external door to the northern façade. The microbrewery is proposed to be operational when the restaurant is proposed to be closed on Monday and Tuesday from 8am to 6pm. A maximum of two staff members will be on site at any one time and the microbrewery is not proposed to be open to the public for viewings or tours.

Cellar Door

The existing tearoom is proposed to be converted into a Cellar Door. The tearoom currently contains a front counter with bar taps and a cash register, cool and dry storage areas are located within the building and an outdoor decking area for patrons is located to the east. The cellar door is proposed to continue to serve beverages and take food orders, in addition to allow for tastings and purchase pre-packaged apple cider to take home.

The Cellar Door is proposed to operate during the same times as the proposed extension of operating hours for the restaurant.

COMMENT

Main Roads Western Australia (MRWA)

In accordance with the *Planning and Development Act 2005*, MRWA have been consulted about the proposal due to the site having access to Brookton Highway, which is reserved under the *Metropolitan Regional Scheme (MRS)* as a Primary Regional Road and is managed by MRWA. As part of the consultation process, MRWA did not raise any concerns given the crossover to Brookton Highway is existing and there is no proposed increase in patron numbers.

Department of Fire and Emergency Services (DFES)

The site is located within a Bushfire Prone Area and is considered to be a vulnerable land use under the Western Australian Planning Commission (WAPC) *State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)*. In addition, the supporting Bushfire Management Plan (BMP) designates the Bushfire Attack Level rating to be ‘Flame Zone’ due to the vegetation located throughout the site.

In accordance with SPP 3.7, the supporting BMP has been reviewed by the DFES and has been through several iterations to address the concerns raised by DFES. The City is supportive of the final BMP (v2 dated 20 January 2021) which proposes to reduce the BAL rating around the existing structures to BAL 29 by implementing an Asset Protection Zone.

In accordance with DFES referral comments, a Landscape Management Plan should be prepared that provides clear guidance to the landowner of the location of any significant vegetation to be removed or retained to establish the Asset Protection Zone and driveway clearances stipulated within this Bushfire Management Plan. The Bushfire consultant has advised that no trees are required to be removed within the APZ and that the Landscape Management Plan will need to specify which trees need to be trimmed so that they do not touch or hang over the existing buildings and outline how the under growth will be managed in order to comply with the WAPC *Guidelines for Planning in Bushfire Prone Areas*.

The requirement for a Landscape Management Plan can be conditioned as part of the Development Approval. Further information regarding bushfire is covered in the Analysis section of the report.

Development Control Unit (DCU)

The City's Environmental Services have raised concerns with the removal of any vegetation in order to reduce the BAL on site. As per the Bushfire Consultant's advice above, no trees will be removed within the APZ. However, any existing shrubs located under trees or within 3 metres of a building will be required to be removed in accordance with the WAPC *Guidelines for Planning in Bushfire Prone Areas*. This will be further addressed through the Landscape Management Plan. Given the buildings and restaurant use are existing, with up to 90 patrons visiting the site at any one time, creating an Asset Protection Zone is a requirement under the WAPC SPP 3.7 and is required to allow more time for patrons to leave the site safely in the case of a bushfire emergency. The City also notes that the structures and use were approved prior to the current 2015 Bushfire requirements, which did not require a BMP at the time and the proposed BMP is supported by DFES.

The City's Health Services Department noted that compliance with the *Food Act 2008* and Food Safety Standards is required. Any approval should contain this as an Advice note. Health Services were also satisfied with the supporting Acoustic Report (version 2 dated 12/02/2021), however, have requested for an amended Noise Management Plan to be provided as part of a Condition of Approval in order to suitably address the noise concerns which were raised through the public advertisement process. The Acoustic Report is addressed further in the Analysis section of the report.

Public Advertising

The application was advertised for three weeks, closing on 4 August 2020. Advertising was carried out by way of letters to affected and nearby landowners and details of the proposal were placed on the City's website.

Total No. of letters sent to residents/owners	:	27
Total No. of submissions received	:	10
No. of submissions of conditional support/no objection	:	4
No. of submissions of objection	:	6
No. of submissions of general advice by Service Agencies	:	2

All issues raised in the submissions have been considered by the officers when preparing this report. The main issues raised in submissions, together with a comment on each issue are outlined below.

Key Issues

Issue 1 - Noise

- *Loud music and noise from patrons are currently coming from restaurant during late hours, impacting adjoining landowners ability to sleep.*
- *Noise tends to be louder during private functions.*

Comment

The site abuts residential dwellings that are zoned ‘General Rural’ to the north, east and south, and zoned ‘Special Rural 2’ to the west. The neighbouring properties consist of residential houses and have lot areas that vary between 5ha to 0.5ha.

The City has previously received complaints about the restaurant shortly after it was first operational, with the first complaint being received in 2015 regarding noise from vehicles and loud music from functions being held outside of the restaurant’s operating hours. A petition from neighbouring properties was also presented to Council in 2015. Noise complaints from neighbouring properties have continued to be received by the City’s Health Services in 2017, 2019, 2020 and earlier this year. Health Services have investigated these complaints and have written to inform the restaurant operator of the noise complaints and provided the operator a copy of the *Environmental Protection (Noise) Regulations 1997* requirements.

A Noise Management Plan (prepared by one of the owners of Naked Apple Cider House) was lodged with the application and was advertised as part of development application. Given the number of submissions raising concerns with the existing noise levels, once advertisement concluded, the City requested for an Acoustic Report to be provided to ascertain the noise levels currently being emitted from the site and for the Noise Management Plan to be amended to accurately reflect the findings of the Acoustic Report.

After consultation between the City’s Health Services and the applicant, the final Acoustic Report (prepared by Herring Storer Acoustics) was submitted on 12 February 2021 to the City’s Health Services satisfaction. The Acoustic Report states that no “annoying characteristics” were measured from the existing restaurant, in accordance with the *Environmental (Noise) Regulations 1997*. The noise levels associated with the operation of the microbrewery was also considered and the report predicts that the noise will comply with the *Environmental Protection (Noise) Regulations 1997*.

The development approval can be conditioned to ensure compliance with the Acoustic Report noise level readings. The Acoustic report is discussed further in the Analysis section of the report.

Recommendation

That the issue is supported in part.

Issue 2 - Opening Hours

Complaints that the Restaurant is currently operating after its approved closing times.

Comment

The City's Planning Compliance officers have previously attended the site to investigate following a complaint from neighbours and has written to the business owner in December 2020 and March 2021 advising of the alleged breach of the operating hour's condition in accordance with the City's 2016 Development Approval.

The Restaurant is an approved use which must operate in accordance with the current conditions of development approval. The conditions of development approval were imposed to manage potential impacts from the approved use as they run with the land (not with any individual applicant). The application to extend the Restaurant's operating times could be conditioned to only operate during the proposed times. Any alleged breaches could be investigated by the City's Planning Compliance Services and Health Services on a case by case basis.

Recommendation

That the issue is supported in part.

Issue 3 - Anti-social behaviour

- *Object to the cellar door as it will attract drunken disorderly behaviour.*
- *Landowner has already experienced bottles of alcohol being thrown over into their property and patrons also trespassing into their property.*

Comment

Any anti-social behaviour within a premise with a liquor license should be managed by the operator and/or Police. The City could require a condition on any approval to provide:

- a lighting plan and installation of surveillance cameras to deter anti-social behaviour;
- an Operational Management Plan that outlines how anti-social behaviour could be managed by the operators; and
- additional bins around the property to deter patrons from littering.

Recommendation

That the issue is supported in part.

Issue 4 - Overflow parking

During peak periods patrons have parked their cars on neighbouring roads and fire breaks causing issues.

Comment

Based on the submission, the City requested an amended site plan to be provided allowing for additional car parking bays. The applicant has lodged an amended plan to the City's satisfaction which proposes an additional 11 parking bays to be provided within the rear parking area. The applicant has advised that no trees will be removed and that the additional bays will be provided between and around the trees.

In the event that vehicles are parked within the Brookton Highway Reserve, this should be reported to the City's Ranger Services for investigation.

As a condition of development approval, the following could be imposed:

- all existing and proposed parking bays to be formally lined marked as shown on the proposed site plan; and
- a Parking Strategy to deal with any possible parking overflow issues at peak times and provide solutions on how to address patrons parking within the Brookton Highway verge.

Parking is further addressed under the Analysis section of this report.

Recommendation

That the issue is supported in part.

Issue 5 - Odour

Concern with the odour during the cider brewing process.

Comment

The applicant has advised that there is no foul odour during cider production. The process involves apples being crushed and juiced without the use of any chemicals. Given the property is located amongst other orchards, the applicant advises that the smells generated during the process will be similar to the smells coming from neighbouring orchards during harvesting.

This issue was not raised as an issue in the City's Health Services assessment, however the application can be conditioned to require an Operational Management Plan that addresses and manages any issues with odour.

Recommendation

That the issue is supported in part.

Issue 6 - Bushfire

Bushfire concerns with property as prescribed burning has never occurred. Has advised City's Rangers and Roleystone volunteer bushfire brigade. Is concerned that a fire on the site will impact the safety and properties of adjoining neighbours.

Comment

The original restaurant was approved prior to the current the 2015 State Planning Policy 3.7 – Planning in Bushfire Prone Areas and did not require a Bushfire Management Plan (BMP) to be provided at the time.

The applicant has lodged a supporting BMP, which has been amended to address concerns raised by DFES. The BMP proposes the implementation of an Asset Protection Zone (APZ) around the existing buildings to reduce the BAL rating to BAL 29. The Bushfire consultant has advised that no trees will be required to be removed within the APZ, however shrubs under trees that are within 3m of the building and 10m of a window or door will need to be removed. As a condition of approval, the proposal will need to implement and comply with the supporting BMP. Bushfire is further addressed in the Analysis section of the report.

Recommendation

That the issue is supported in part.

Issue 7 - Vehicle access

- *Patron vehicles and commercial delivery trucks accessing the site is considered to be unsafe given the speed limits on Brookton Highway make it difficult to slow down in time.*
- *Crossover is considered to be located along a blind corner. Patrons tend to drive past onto adjoining properties, as they don't see sign for the Restaurant.*
- *Traffic along Brookton Highway is considered to be unsafe due to poor lighting and signage.*

Comment

The crossover location for patron and commercial delivery vehicles was approved as part of the 2014 restaurant change of use development application. The crossover was approved by MRWA. Any signs within the Brookton Highway verge to make the Restaurant more visible and help patron's slowdown is the responsibility of MRWA and the restaurant operator.

Recommendation

That the issue is not supported.

ANALYSIS

Zoning

The site is zoned 'General Rural' under the City's TPS No.4 and is affected by a Primary Regional Roads Reservation under the MRS and TPS No.4.

Land Use Permissibility – Restaurant

The existing Restaurant land use is defined under Schedule 1 of TPS No.4 as a "*premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988*".

Under the City's TPS No.4 Land Use Table, Restaurant is an 'A' use which is a permitted use, subject to the application being advertised and provided the City has exercised its discretion. Although the Restaurant use is existing, the proposed change of operating hours were still advertised to neighbouring landowners, in accordance with the 'A' use definition.

Land Use Permissibility – Microbrewery and Incidental Cellar Door

Microbrewery and Cellar Door are uses not listed under the City's TPS No.4. The City notes that the Microbrewery land use best fits the definition of 'brewery' under the *Planning and Development (Local Planning Schemes) Regulations 2015* model provisions, which is defined as; "*premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988.*"

In accordance with the *Liquor Control Act 1988*, Cellar Door is best described as for the purpose of sale of liquor and is required to be located in the district where the liquor is produced. The applicant has also described the Cellar Door as an area where patrons can sample and purchase pre-packaged cider that's brewed on site. The Cellar Door is also proposed to be used as a servery for the existing Restaurant.

Given Microbrewery and Cellar Door are uses not listed under TPS No.4, the application has been assessed under Clause 3.4.2 of TPS No.4, which states:

If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

- a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b) *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the Deemed Provisions in considering an application for development approval; or*
- c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The application has been advertised in accordance with sub-clause (b). In accordance with sub-clause (c) above, the objectives for the 'General Rural' zone under TPS No.4 Clause 3.2.4 are:

- a) *To provide for a wide variety of productive farming activities, ranging from broad acre razing to intensive horticulture, depending on the defined lot sizes, land form and natural resource base.*
- b) *To provide for a range of associated compatible activities and development to complement the primary productive use of the land while preserving the rural character and amenity.*

The proposed Microbrewery and Cellar Door are considered to be compatible with the existing 'Restaurant' use and therefore addresses Clause 3.2.4 (b) and Clause 3.4.2 (c) of the TPS No.4.

In addition to the Cellar Door being required to be located within the area that the liquor is produced, as per the *Liquor Control Act 1988*, Cellar Door is considered to be incidental to the Microbrewery use. Under TPS No.4, incidental use is defined as "*a use of premises which is ancillary and subordinate to the predominant use*". As such, the Cellar Door can only be operational if the Microbrewery continues to operate on site.

It is considered that the Microbrewery and incidental Cellar Door proposal are generally consistent with the objectives of the zone.

Car Parking

The existing restaurant currently provides 96 car parking bays. Given no additional sitting area is proposed for the Restaurant, additional parking bays are required only for the new Microbrewery and incidental Cellar Door.

Under Clause 4B.4.1 of the City's TPS No.4, development within General Rural zones are required to provide car parking in accordance with the standards for respective uses detailed in Schedule 7A. Unless otherwise approved or required by the local government, required car parking is to be provided on the site of the proposed development.

Given the Microbrewery and incidental Cellar Door are uses not listed and are not covered under Schedule 7A of the TPS No.4, the City requested for the original development plan to be amended to provide 8 additional car parking bays - 2 additional staff bays for the Microbrewery and 6 spaces for every 100m² of Net Leasable Area for the Cellar Door, which is consistent with parking requirements for a 'Shop' and a 'Liquor Store –Small', under Schedule 7A of TPS No.4.

The City considers the latest development plan, submitted on 22 January 2021, to satisfactorily address the above requirements, as 11 additional bays are now proposed within the rear car park area (107 bays in total). As shown on the site plan, the applicant has advised that in order to provide the additional bays, no trees will be required to be removed. The additional car bays will also assist in addressing overflow parking concerns that were raised through the public advertisement process.

As a condition of development approval, the proposal will need to:

- comply with the parking numbers shown on the latest development plan;
- all existing and proposed parking bays to be formally lined marked as shown on the proposed site plan; and
- a Parking Strategy to deal with any possible parking overflow issues at peak times and provide solutions on how to address patrons parking within the Brookton Highway verge.

Bushfire

The site is located within a Bushfire Prone Area. The original application was submitted with a supporting BAL Report by Structure (dated 01/07/2019), which identified the site as having a BAL rating higher than BAL-29. Under *State Planning Policy 3.7 – Planning in Bushfire Prone Areas* (SPP 3.7) the proposal is also considered to be a 'Vulnerable' land use, due to the potential for visitors to be unfamiliar with the area and the responses required during a bushfire emergency.

As such, given the vulnerable land use and the BAL rating being over BAL 29, in accordance with the SPP 3.7, a Bushfire Management Plan was later provided as part of the City's additional information request, and submitted to the Department of Fire and Emergency Services for their review.

The BMP has identified the native remnant vegetation located throughout the site to have a BAL-FZ rating, which is considered to be hazardous and will require separation between the vegetation from the existing structures in order to reduce the BAL rating to no higher than BAL-29, as per the State Government Guidelines for Planning in Bushfire Prone Areas. In order to reduce the BAL rating, the BMP proposes the following:

- An Asset Protection Zone (APZ) of 27m around the existing structures. The APZ is required to be maintained to a low threat level in accordance with the relevant Australian Standards.

- A Landscape Management Plan detailing any significant vegetation to be removed or retained to establish the required APZ and driveway clearances is required. This is to be conditioned as part of the approval.
- The Bushfire consultant has advised that no trees are required to be removed within APZ and that the Landscape Management Plan will need to:
 - Identify trees that need to be trimmed so that they do not touch or hang over the existing buildings;
 - Remove tree branches to a height of 2m above the ground.
 - Identify shrubs to be removed that are located under trees and within 3m of a building or 10m from a window or door.
 - Remove fallen branches and dead plant material under trees and 2m from any building or 100m from a window or door.
 - Management of grass to be kept below 100mm in height.
- Firebreaks are to comply with the City of Armadale Firebreak Notice.
- A Bushfire Emergency Evacuation Plan to be implemented.
- Since the private driveway is longer than 50m from the Brookton Highway, the driveway is required to be maintained as:
 - all-weather trafficable surface.
 - 4m wide with 6m horizontal clearance.
 - Allow for 15tone capacity.
 - 8.5m turn radius.
 - Maximum grade <50 1 in 10.
 - Maximum cross fall 1 in 33.
 - A 17.5m diameter driveway
 - turnaround area for fire emergency vehicles
- A dedicated fire-fighting water tank with 50,000 L capacity is to be installed and maintained with adjacent 17.5m diameter turnaround area and hardstand

Any approval should include a condition requiring maintenance of the APZ and for a Landscape Management Plan to provide clear guidance to the landowner on how to manage vegetation in order to establish the Asset Protection Zone and driveway clearances stipulated within the Bushfire Management Plan.

Noise

An acoustic assessment report was requested to be submitted in support of the application due to the objection received and the history of complaints in relation to noise emissions from the site. The City's Health Services Department undertook a review of the submitted Acoustic Assessment Report (prepared by Herring Storer Acoustics) which underwent several iterations in order to address the City's Health Services comments.

The Acoustic Report assessed the noise being emitted on site through continuous noise monitoring conducted from Friday 11th to Tuesday 15th December. During this period, operations were conducted as normal, with the restaurant being closed on Monday in order to provide base noise level data for the microbrewery calculations.

In order to monitor noise on site, a noise receiver was placed along the western boundary, closest to the neighbouring house (6 Ferguson Road) and towards the eastern boundary, adjacent to the outdoor seating area where it's considered to have the most noise being emitted by patrons and the restaurant.

The Environmental Protection (Noise) Regulations 1997 consider the following noise levels to be acceptable for residential premises to be exposed to:

45decibels (dB)	7am to 7pm on Monday to Saturday
40dB	9am to 7pm on Sunday and Public Holidays
40dB	7pm to 10pm on all days
35dB	10pm to 7am on all days

The Acoustic report study conducted on Saturday 12th December has been chosen as representing a period of normal to high operating conditions with a large number of patrons attending the site in addition to a local business having an end of year Christmas function. Noise sources were generally associated with patrons conversing, and children playing in the outdoor playground area. The noise levels recorded from the closest residents along the western boundary are shown to steadily increase from 6am (approx. 30dB) and peaking at 9pm (approx. 47dB), then bouncing between 45dB to approx. 48dB throughout the day and slowly declining back down from 4pm (approx. 45dB) to closing time at 11pm (approx. 40dB).

Based on the findings from the 12 December, the City found that the premise emitted slightly higher noise levels than the acceptable noise levels assigned under the *Environmental Protection (Noise) Regulations 1997* from:

- 9am to 4pm by approx. 2dB; and
- 10pm to 11pm by approx. 3dB.

The study conducted on Monday 14th December has been chosen as representing a day where the restaurant is closed in order to inform the noise level calculations for the microbrewery. Noise sources on this day were found to be mostly from maintenance work being conducted on site and traffic noise from Brookton Highway. The noise levels are shown to be constant between 6am to 11am (approx. 45dB) and having sharp spikes every hour between 11am and 5pm due to the maintenance work, with the highest spike being recorded at 1pm (approx. 68dB and back down to around 50dB by 2pm). Noise levels begin to decrease from 5pm (approx. 48dB) to 11pm (approx. 30dB).

The spikes recorded throughout the day and night are considered to be over the noise levels assigned under the Environmental Protection (Noise) Regulations 1997. However, given the noise emitted is from temporary maintenance work, the consultant advises that the spikes should be disregarded as they are not considered to be true representations of noise levels during a time when the restaurant is closed.

Based on computer modelling and data taken from the 14th December, the report found the brewery process to be a low noise impact to surrounding neighbours due to all the mechanical brewing equipment being located within the existing colorbond steel frame shed and only one delivery of apples per week required by a 3 ton truck. From the nearest house located at 6 Ferguson Road, the noise levels from the microbrewery was calculated to be 23dB and 45dB from the 3 ton delivery truck.

The report concludes that the findings associated with restaurant activities and microbrewery are considered to not contain tonal characteristics and have been calculated to comply with the *Environmental Protection (Noise) Regulations 1997*. However, from the findings on 12 December, there were certain points throughout the day and night that the restaurant did not comply with the acceptable noise levels assigned under *the Environmental Protection (Noise) Regulations 1997*.

In the opinion of the City's Health Services, the Acoustic report dated 8 February 2021 satisfactorily addresses the *Environmental Protection (Noise) Regulations 1997* requirements. However, the City requested that an amended Noise Management Plan be conditioned as part of the approval to further address concerns raised and to identify ways to reduce noise levels during peak periods to comply with the acceptable noise levels assigned under *the Environmental Protection (Noise) Regulations 1997*.

The City's Health Services have requested that the Noise Management Plan should address the following concerns:

- How sources of noise from the acoustic report will be managed and maintained in accordance with the *Environmental Protection (Noise) Regulations 1997* assigned levels.
- Amplified music to be reduced at agreed times to mutually acceptable levels.
- Management of patron vehicle noise and from truck deliveries.

In previous instances, similar to this application, Health Services have also recommended either a trial or annual audit be conducted to demonstrate ongoing compliance with the *Noise Regulations* is achieved. As such, any approval should conditionally require review of the Acoustic Assessment Report to include all significant noise sources associated with the Restaurant and Microbrewery use and an annual audit to ensure the report recommendations (noise management plan) are implemented and sufficient to enable the Restaurant and Microbrewery to comply with the *Environmental Protection (Noise) Regulations 1997*. A period of three years is considered sufficient for annual audits of the operation to demonstrate compliance.

Local Planning Policy 2.9 Landscaping (PLN 2.9)

The City's Town Planning Scheme No.4 (TPS No.4) requires that landscaping is provided and maintained so as to enhance visual amenity and contribute towards overall environmental performance of all development sites. The landscaping management plan providing a new tree at the rate of at least 1 tree per 10 metre along any line of car parking, should incorporate appropriate plant species in accordance with PLN 2.9. The Landscaping Management Plan would also need to be consistent with the bushfire risk mitigation requirements set out in the Bushfire Management Plan.

OPTIONS

1. Council may conditionally approve the proposal; or
2. Council may resolve to refuse the application and provide planning reasons for its decision.

CONCLUSION

The proposal is located in close proximity to sensitive noise receivers (adjacent residential dwellings) and is within a bushfire prone area. Accordingly, the application is supported by an Acoustic Report and Bushfire Management Plan prepared by a suitably qualified acoustic and bushfire consultant.

The significant issues raised during the application's assessment relate to noise, which has been addressed through the findings provided within the Acoustic Report and requirement for a Noise Management Plan and annual audits to be conducted as conditions of development approval. In addition, the applicant has revised the Bushfire Management Plan in response to concerns raised by the City, landowners and from DFES.

It is considered that the applicant has sufficiently demonstrated the capability for reasonable and acceptable outcomes in relation to noise, bushfire risk mitigation and car parking. The proposal will enable the site to produce and serve apple cider on site, and for the restaurant to operate longer hours in order to be better suited for private functions and serve local residents and tourists (day trippers). It is therefore considered that the proposal is compliant with the requirements and objectives of the City's Town Planning Scheme No.4. It is recommended that Council approve the application in accordance with Option 1 above, with appropriate condition.

ATTACHMENTS

1.  Site Plan - Lot 18 Brookton Highway, Karragullen
2.  Site Plan (Highlighted) - Lot 18 Brookton Highway, Karragullen
3.  Floor Plan - Lot 18 Brookton Highway, Karragullen
4.  Elevation Plans - Lot 18 Brookton Highway, Karragullen
5.  Bushfire Management Plan - Lot 18 Brookton Highway, Karragullen
6.  Photos - Lot 18 Brookton Highway, Karragullen
7. CONFIDENTIAL Submitter Plan - Lot 18 Brookton Highway, Karragullen - *This matter is considered to be confidential under Section 5.23(2) (b) of the Local Government Act, as it deals with the matter relates to the personal affairs of a person*

Cr Wielinga attended the meeting at 7.06pm and Cr Keogh attended the meeting at 7.10pm during Committee discussion of this report.

Committee Discussion

Committee discussed the Acoustic Assessment Report, Noise Management Plan, operation hours and the closing time of events/functions held at the restaurant, noise complaints and impacts on the surrounding landowners, directional signage and the management and identification of car parking bays.

Committee requested that Part A(9) be amended to read "To ensure parking does not exceed the total number of parking bays available onsite at any one time and cause any significant adverse impacts on the amenity of the area, a car parking strategy, including the identification of car parking bays onsite, shall be prepared by the applicant and/or landowner and approved by the Executive Director Development Services to manage the demand for parking upon commencement of operations by staff and customers/clients, via appropriate management practices, and continuously implemented. This may include a location for temporary overflow parking area" and that a new Advice Note No.17 be added to read "The applicant consider the use of directional signage to better identify the vehicle entrance". Accordingly, the Recommendation was amended.

RECOMMEND

D20/7/21

That Council:

- (A) Approves the application for Planning Approval for Restaurant extension of operation hours and a Microbrewery with incidental Cellar door on Lot 18 Brookton Highway, Karragullen, subject to the following Conditions and Advice Notes:

Conditions:

1. Prior to occupation of the microbrewery development, a notification, pursuant to section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate of title of the proposed lot. The notification is to state as follows:

The subject lot is subject to a bushfire management plan and is within a bushfire prone area. Dwellings and/or habitable buildings shall be designed/constructed in-accordance with Australian Standard 3959 – ‘Construction of Buildings in Bushfire-Prone Areas’ (or superseding standard) to minimise the risk of property damage”.

2. The Bushfire Management Plan submitted by Bushfire West (20/01/2021 attached), shall be implemented including site preparation and establishment of the Asset Protection Zone prior to commencement of the Microbrewery.
3. A Landscape Management Plan shall be submitted to and approved by the Executive Director Development Services. The Landscape Management Plan shall include location of any significant vegetation to be removed or retained to establish the Asset Protection Zone and driveway clearances as specified under the Bushfire Management Plan by Bushfire West (20/01/2021).

All landscaping shall be managed in accordance with the Landscape Management Plan prior to commencement of the Microbrewery development and maintained as per the approved plan thereafter.

4. No materials shall be stored in the car parking areas.
5. Prior to commencement of the Microbrewery development, all rubbish bin storage areas and servicing areas associated with the Microbrewery shall be appropriately screened from public vantage points to the satisfaction of the Executive Director Development Services.
6. Prior to commencement of the Microbrewery development, air conditioning units, compressors and other equipment related to utilities shall be screened from public view and positioned so as to avoid any adverse effects, including noise, on the occupants of nearby residential properties to the satisfaction of the Executive Director Development Services.
7. An Operational Management Plan is to be prepared, and lodged with the City for approval addressing matters such as (but not limited to) litter, servicing, truck deliveries, odour, and anti-social behaviour to the satisfaction of the Executive Director Development Services. The plan shall

be implemented to the satisfaction of the Executive Director Development Services thereafter.

8. Prior to commencement of the Microbrewery, patron rubbish bin facilities shall be provided within the outdoor seating areas, to the restaurant and cellar door in accordance with Clause 4C.4.1 of Town Planning Scheme No.4, to the satisfaction of the Executive Director Development Services. Bins shall be continuously maintained in good condition and the surrounding area kept free of litter thereafter.
9. To ensure parking does not exceed the total number of parking bays available onsite at any one time and cause any significant adverse impacts on the amenity of the area, a car parking strategy, including the identification of car parking bays onsite, shall be prepared by the applicant and/or landowner and approved by the Executive Director Development Services to manage the demand for parking upon commencement of operations by staff and customers/clients, via appropriate management practices, and continuously implemented. This may include a location for temporary overflow parking area.
10. Prior to commencement of the Microbrewery, all new vehicle manoeuvring and car parking spaces shall be constructed to the satisfaction of the Executive Director Technical Services and continuously maintained thereafter. Relocation/removal of any services/infrastructure will be at the cost of the developer.
11. Maximum number of patrons at any one time shall not exceed ninety (90) persons.
12. Hours of operation for the Restaurant and incidental Cellar Door shall not exceed the following:

Wednesday:	11:00am to 4:00pm;
Thursday:	11:00am to 9:00pm;
Friday & Saturday:	11:00am to 11:00pm;
Sunday:	8:30am to 5:00pm;
Public Holidays:	11:00am to 5:00pm.
13. Hours of operation for the Microbrewery shall not exceed the following:

Monday & Tuesday:	8:00am to 6:00pm;
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14. Prior to commencement of the Microbrewery use, a revised Noise Management Plan shall be resubmitted and approved to the satisfaction of the City's Health Services.
15. The Acoustic Assessment Report (by Herring Storer Acoustics dated 08/02/2021) and revised Noise Management Plan required by Condition 14 shall be implemented to the satisfaction of the Executive Director Development Services.
16. A report (audit) on compliance with the Acoustic Report (by Herring Storer Acoustics dated 08/02/2021) shall be submitted to the City on an annual basis by the 25 July each year, for a period of three years from the commencement of the use. The annual audit must include:
 - a) the Restaurant, Microbrewery and incidental Cellar Door operations

- measured against the *Environment Protection (Noise) Regulations 1997* and this shall include but not be limited to a complete operational noise survey;
- b) compares the results of the noise as part of the operational noise survey to the initial noise modelling assessment submitted with the application;
 - c) defines compliance with the *Environmental Protection (Noise) Regulations 1997*;
 - d) confirms timeframes for the implementation of appropriate mitigation measures, where compliance has not been met, to the satisfaction of the City's Health Services;
 - e) A suitably qualified and experienced person must conduct the audit to the satisfaction of the City.
17. The existing Effluent Treatment System is to be upgraded in accordance with the approved plans and to the satisfaction of the Executive Director Development Services.
18. A Lighting Plan showing lighting to pathways, car parking and buildings submitted to and approved by the Executive Director Development Services. All lighting shall be installed prior to the commencement of Microbrewery and operated as per approved plan.
19. All conditions are to be complied with prior to exercising the right of this approval, to the satisfaction of the Executive Director Development Services.

Advice Notes:

1. The proposal involves a change of classification or use therefore the building will need a new Occupancy Permit in accordance with the *Building Act 2011* Section 49. A change of classification requires compliance with the current Building Code of Australia in accordance with the *Building Regulations 2012* Section 31G. This may include but is not limited to energy efficiency, disabled access and fire safety. Any alteration works will require a Building Permit.
2. A separate application is required for all signs associated with the development.
3. With regard to the Condition requiring a Landscape Management Plan, please refer to the City's Landscaping Guidelines – (Industrial and Commercial), Landscaping Guidelines – Plants to Avoid, the City's Urban Forestry Strategy and Landscape Factsheet - Trees for Confined Spaces to assist you to formulate a satisfactory landscaping proposal. Copies of these documents are available on the City's website at: <https://www.armadale.wa.gov.au/planning-information-sheets>.
4. Lighting shall comply with Australian Standard 4282-1997 "Control of the obtrusive effects of outdoor lighting" or its equivalent and the City's Environment, Animals and Nuisance Local Laws.
5. It is recommended that security cameras and CCTV be installed in internal and external areas of the premises, including car parking areas to manage

any potential anti-social behaviour.

6. In relation to the Effluent Disposal system condition, By-product dregs are not to be discharged into the septic tanks and leach drains. A separate system will be required.
7. The applicant and/or landowner will be required to submit an Effluent Treatment System Application to the City's Health Services which is available on the City's website:
<https://www.armadale.wa.gov.au/sewageand-effluent-disposal> .
8. Compliance with the *Environmental Protection (Noise) Regulations 1997* is required.
9. With regard to the Condition requiring a car parking strategy, the strategy should outline appropriate management practises including (but not limited to): location of all parking areas; staff numbers/shift management, hours of operation, advice to patrons on specifics such as peak periods and events, and encouragement of car-pooling and alternative forms of transport during events/functions.
10. With regard to Condition 19, the owner and/or applicant is encouraged to provide written evidence to the City to demonstrate compliance of the conditions noted above. For further information please refer to Planning Information Sheet "Development Application Condition Clearance" available at <https://www.armadale.wa.gov.au/information-sheets-forms-and-fees-building-planning>
11. The developer is reminded of the requirement under the provisions of the *Environmental Protection Act* that all construction work (which includes earthworks and similar) be managed with due regard for noise control. Works generating noise and rock breaking in particular, are not permitted:-
 - Outside the hours of 7:00am to 7:00pm; or
 - On a Sunday or Public Holiday
12. The owner is advised that compliance with the Firebreak Notice issued by the City's Ranger & Emergency Services under the *Bush Fires Act 1954* is required. An application to vary the requirements of the Fire Break Notice may be required. Further information is available from the City's website: <https://www.armadale.wa.gov.au/fire-and-emergency-services>
13. The applicant and landowner are advised that it is a statutory requirement to comply with all conditions of this approval, and that not complying with any condition is therefore illegal. Failure to comply with any condition of this approval or the approved plans constitutes an offence under the *Planning Development Act 2005*.

The City can issue a Planning Infringement Notice of \$500 (without notice) and/or commence legal action with higher penalties up to \$200,000 for each offence and a daily penalty of \$25,000 per day for the continuation of that offence. It is the responsibility of the applicant and/or landowner to inform Council in writing when they consider the development to be complete and all conditions of this approval have been satisfied.

14. If the applicant is aggrieved by a Refusal to Approve his/her application, or, where Approved, is aggrieved by any Condition imposed in that Approval he/she may apply for a Review to the State Administrative Tribunal pursuant to the provisions of Part 14 of the *Planning and Development Act 2005* against such refusal or imposition of such aggrieved Condition.

Such application for Review must be made not more than twenty eight (28) days after the date of Council's decision via the form available from the State Administrative Tribunal (copies available from the State Administrative Tribunal, Level 6, State Administrative Tribunal Building, 565 Hay Street, Perth, WA, 6000 or GPO Box U1991, Perth, WA, 6845, or www.sat.justice.wa.gov.au or from Council's offices), and should be accompanied by the relevant fee detailed in Schedule 18 of the *State Administrative Tribunal Regulations 2004*).

15. If the development the subject of this approval is not substantially commenced within a period of 24 months from the date of this letter, the approval shall lapse and be of no further effect.
16. Where the approval has so lapsed, no development shall be carried out without the further approval of the City having first been sought and obtained.
17. The applicant consider the use of directional signage to better identify the vehicle entrance.

(B) That the submitters be advised of the Council decision in this regard.

Moved Cr D M Shaw
MOTION CARRIED

(7/0)

2.1 - MINISTER FOR PLANNING'S DECISION - AMENDMENT NO.111 TO TPS 4 - HERITAGE LIST

Cr Northcott declared a non-financial interest in this matter as she has an association through a family member with a landowner on the MHI Listing (presented in the Attachments to this report). As a consequence, there may be a perception that her impartiality on the following matter may be affected, but declared that she would disregard this association, consider the matter on its merits and vote accordingly.

Cr Smith declared a financial interest in this item on the basis that he owns property and business ownership within the proposed report area (Church Avenue, Armadale) and left the meeting at 7.26pm.

WARD : All
FILE No. : - M/364/21
DATE : 15 July 2021
REF : MK
RESPONSIBLE MANAGER : EDDS
APPLICANT : City of Armadale
LANDOWNER : N/A
SUBJECT LAND : N/A
ZONING MRS / TPS No.4 : N/A

In Brief:

- On 5 May 2021, the WAPC advised the City in writing that the Hon. Minister for Planning had refused to approve Amendment No.111 to TPS No.4, the purpose of which was to add a Heritage List containing all properties classified as Category 1 or 2 in the City's Local Heritage Survey to TPS No.4.
- Changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* over the last 2 years has seen the WAPC move away from the previous practice of including Heritage Lists in Schemes due to the difficulty of amending the lists when properties are removed or added.
- This report is to consider the Minister's decision and examine alternative measures available to the City to protect Heritage properties classified as Category 1 or 2 in the City's Local Heritage Survey.
- Recommend that Council adopt the Heritage List in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Tabled Items

Nil.

Decision Type

Legislative

The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.

Executive

The decision relates to the direction setting and oversight role of Council.

Quasi-judicial

The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil.

Strategic Implications

Outcome 2.5: Quality development that enhances the amenity and liveability of the City.

Objectives:

- 2.5.1 Ensure the City's planning framework is modern, flexible, responsive and aligned to achieving the outcomes of the Strategic Community Plan and Corporate Business Plan.
- 2.5.5 Seek opportunities to preserve, document and acknowledge the heritage of the City.

Legal Implications

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Heritage Act 2018

Town Planning Scheme (TPS) No.4

State Planning Policy SPP 3.5 Historic Heritage Conservation

Council Policy/Local Law Implications

Local Planning Strategy 2016

Local Heritage Survey 2020

Budget/Financial Implications

Nil.

Consultation

Public consultation, including targeted consultation of owners of properties proposed to be included in the Heritage List, was carried out prior to the Council finally adopting Amendment No.111 in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City's *Community Engagement Strategy*.

BACKGROUND

Council at its meeting on the 23rd March 2020, resolved to initiate Amendment No.111 to TPS No.4 to insert a new Schedule 10 'Heritage List' into the Scheme to meet the requirement of the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Deemed Provisions Part 3 Heritage Provisions Clause 8(1)* as follows:

8. Heritage list

- (1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.*

The proposed Amendment was subsequently advertised for public comment and at the end of the public comment period was referred to Council for final adoption. Council resolved to adopt Amendment No.111 to TPS No.4 at its meeting on 29 September 2020. The Amendment was then lodged with the WAPC for recommendation to and approval by the Hon. Minister for Planning.

On 5 May 2021, the WAPC wrote to the City and advised that the Amendment had been refused for the following reasons:

The Minister has refused to approve the amendment in accordance with Section 87(2)(c) of the Act for the following reasons:

- a. *Amendment No.111 is contrary to the Planning and Development (Local Planning Scheme) Regulations 2015 which provide the adequate framework for Local Governments to prepare and administer Heritage Lists outside of the Scheme.*
- b. *The proposed inclusion of the Heritage List within the City of Armadale Town Planning Scheme No.4 is contrary to the Action Plan for Planning Reform which aims to streamline planning processes.*

Council is advised that:

- a. *The City look to progress a Local Heritage List as a priority in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015. This will ensure the Local Heritage items, as identified in the Local Heritage Survey, are protected under the planning framework.*

DETAILS OF PROPOSAL

As advised by the WAPC in their letter dated 5 May 2021, the Council now needs to adopt the Heritage List in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Deemed Provisions Part 3 Heritage Provisions Clause 8(1)*. The *Planning and Development (Local Planning Schemes) Regulations 2015* state that a Heritage List must contain a description of each place and the reason why the place is considered to have heritage value.

In Amendment No.111 the Heritage List comprised all places identified as being within Management Categories 1 or 2 in the City's Local Heritage Survey 2020. Categories 1 and 2 are defined as follows:

Management Category	Level of Significance	Description	Outcome
1	Exceptional Significance	Essential to the heritage of the locality. Rare or outstanding example	The Place should be retained and conserved. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place). Development would require consultation with the City of Armadale and possibly the Heritage Council of Western Australia. Maximum encouragement to the owner should be provided under the City of Armadale's Town Planning Scheme to conserve the significance of the place. A Heritage Assessment* and Impact Statement should be undertaken before approval is given for any major redevelopment. Incentives to promote heritage conservation should also be considered.
2	Considerable Significance	Very important to the heritage of the locality. High	Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place. Maximum

Management Category	Level of Significance	Description	Outcome
		degree of integrity / authenticity.	encouragement to the owner should be provided under the City of Armadale's Town Planning Scheme to conserve the significance of the place. A Heritage Assessment* and Impact Statement should be undertaken before approval is given for any major redevelopment. Incentives to promote heritage conservation should also be considered.

A copy of the Council's adopted Heritage List is presented in the Attachments to this report.

Alternately, the Council can advocate to the WAPC and the Hon. Minister to reconsider the refusal to approve the Amendment if Council considers that the adoption of the Heritage List as an individual stand-alone document combined with the powers contained within the existing clauses, relating to the requirement for Development Approval to be obtained for any development involving a Heritage Place, in TPS No.4 do not provide adequate protection for Heritage Places within the City.

COMMENT

Many local Government organisations in Western Australia currently have Heritage Lists within their Town Planning Schemes. However, between the time period when Amendment No.111 was initiated and final adoption of the amendment by Council there were amendments made to the *Planning and Development (Local Planning Scheme) Regulations 2015* that meant that the *Regulations* no longer support the inclusion of Heritage Lists within town planning schemes. This was part of the Planning Reforms that occurred during 2020.

One main problem raised by the WAPC with having Heritage Lists within a Scheme is that adding or deleting places from the list requires an amendment to the Scheme. Whilst officers of the City do not believe this is a significant issue, the WAPC have not supported this view.

Officers of the City consider that there are provisions already in TPS No.4 which will enable the enforcement of the Heritage List and protection of the Heritage properties on Council's adopted Heritage list. TPS No.4 Schedule A - Supplemental Provisions to the Deemed Provisions Clauses 61(1)(k), (l), (m) and (n) requires Planning Approval to be obtained for any development (including advertising signs) on any place listed in the Heritage List. However, having the Heritage List in TPS No.4 would have made it easier for the public to locate the information and the TPS is the logical location.

As the Heritage List was previously advertised to affected landowners and the public as part of the processes carried out for Amendment No.111 it will not be necessary to carry out stakeholder engagement prior to the Heritage List being adopted. It is recommended however that the adoption of the list be advertised in local newspapers and published on the City's website and, that all owners of places on the list and anyone who made a submission on the properties included on the Heritage List during the advertising of Amendment No.111 be directly advised of the Council's decision and the Minister's decision with regard to Amendment No.111.

ANALYSIS

State Planning Policy (SPP) 3.5 Historic Heritage Conservation (SPP 3.5)

Provision 6.4 of SPP 3.5 is as follows:

6.4 Establishment of heritage lists

A heritage list established pursuant to a local planning scheme should be compiled having regard to the places identified in the inventory. A local government may elect to include all of those places in its heritage list, or may include a smaller sub-set of places. The standard procedures for the compilation of a heritage list are set out in the Model Scheme Text. The inclusion or exclusion of places from a heritage list should be based on their degree of historic heritage significance, supported by the findings in the inventory, irrespective of whether they are privately or publicly owned.

As stated previously, the intent is to include all places within Management Categories 1 and 2 in the City's Local Heritage Survey within the Heritage List. Generally, it would not be necessary for places that are also included in the State Register of Heritage Places to be included on a local Heritage List because they already have a higher level of protection under the *Heritage Act 2018*. However, it is considered that having all of the Management Category 1 and 2 places on one list provides a more comprehensive one stop information base for these important heritage places and would ensure that heritage issues were considered should a Development Application be received for any of these properties on the State Register and prompt the officer dealing with the application to refer it to the Department of Planning, Lands and Heritage for comment prior to determining the application.

The properties that are also on the Stage Heritage Register have been marked with an asterisk on the draft Heritage List attached.

OPTIONS

Council has the following options:

1. Adopt the Heritage List as attached to this report or with modifications.
2. Resolve to not adopt the Heritage List.
3. Request the Hon. Minister for Planning to reconsider her decision to refuse Amendment No.111.

CONCLUSION

Amendment No.111 has been refused by the Hon. Minister for Planning so it is now necessary to consider what action to take in response to this decision. Changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* with regard to the Deemed Provision relating to Heritage have meant that the WAPC no longer supports the inclusion of Heritage Lists within Schemes. The WAPC consider the planning framework provided by the *Regulations* is adequate to protect locally nominated Heritage Places. The WAPC also considers that it would be onerous to have to do a Scheme Amendment every time a place was added or removed from the Heritage List.

It is considered by officers of the City that there are sufficient provisions within TPS No.4 to enable enforcement of the Heritage List and which require Planning Approval before any development occurs in relation to a Heritage Place on the Heritage List. Accordingly, it is recommended that Council adopt the Heritage List as an independent document in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

ATTACHMENTS

1. [City of Armadale Heritage List](#)

RECOMMEND

D21/7/21

That Council:

1. **Note the Hon. Minister for Planning's decision to refuse Amendment No.111 to TPS No.4.**
2. **Pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Deemed Provisions Part 3 Heritage Provisions Clause 8(1)* adopt the attached Heritage List.**
3. **Require an advertisement to be placed in The Examiner and The West Australian newspapers advising of the adoption of the Heritage List and the publishing of the Heritage List on the City's website.**
4. **Advise all people and/or organisations who made a submission on Amendment No.111 and the owners of all places on the Heritage List of the Hon. Minister for Planning's decision with regard to Amendment No.111 and the adoption of the Heritage List.**

Moved Cr G Nixon
MOTION CARRIED

(6/0)

Cr Smith returned to the meeting at 7.29pm



LOCATION PLAN
Amendment 117



SCALE 1 : 5000

DATE 9 November 2020 - REVISION 001
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Based on information provided by and with the permission of the
Western Australian Land Information Authority (LARA) or Landgate, Perth.
Aerial photograph supplied by LandGate, Perthshire by their depot.



2.2 - FINAL ADOPTION - AMENDMENT NO.117 TO TPS NO.4 - WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO.8 AND PROPOSED AMENDMENT NO.120 TO TPS NO.4 - WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO.8 (EXTENSION TO SPECIAL CONTROL AREA 3 AREA)

WARD : Minnowarra
FILE No. : M/313/21
DATE : 15 July 2021
REF : RS/CM/SW
RESPONSIBLE MANAGER : EDDS
APPLICANT : N/A
LANDOWNER : Various
SUBJECT LAND : West of Rail Precinct
ZONING MRS / TPS No.4 : DevelopmentWA Area

In Brief:

- At its 14 December 2020 meeting, Council initiated a scheme amendment to incorporate Development Contribution Plan No.8 (DCP 8) into Schedule 9B of the Scheme to operate in accordance with the provisions contained therein. The amendment also proposed to designate the West of Rail Precinct as Development Contribution Area 8 on the Special Control Area Map 3.
- The amendment was advertised for public comment for a period of 60 days and attracted a total of 9 submissions.
- Council is required to consider the submissions received during the advertising period and determine the amendment for final adoption.
- It is recommended that Council adopt the amendment without modification and request that the Hon Minister for Planning grant final approval to the amendment.
- In response to submissions received during the advertising period and after further consideration, it is also recommended that Council initiates Amendment No.120 to extend the Development Contribution Area 8 on the Special Control Area Map 3 to include Lots 4 and 502 Green Avenue.

Tabled Items

Nil.

Decision Type

Legislative

The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.

Executive

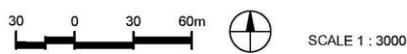
The decision relates to the direction setting and oversight role of Council.

Quasi-judicial

The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.



AERIAL PLAN
Amendment 117



DATE 21 July 2020 - REVISION 3001
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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. (Indicative to HeadMap)



Officer Interest Declaration

Nil

Strategic Implications

- 1.2.1 Advocate for the delivery of services and programs as well as increased resources to contribute to improvements in community safety.
- 1.2.2 Facilitate the alignment of service and program delivery to identified social priorities within the community.
- 2.5.4 Proactively plan for normalisation of Development WA (DWA) areas back to the planning jurisdiction of the City.
- 2.5.6 Constantly seek improvements to the nature and standard of developments within the City.
- 2.5.8 Advocate and plan for the provision and preservation of public transport throughout the City.
- 3.1.1 Facilitate vibrant and prosperous activity centres throughout the City.
- 3.1.2 Advocate for the Armadale Strategic Metropolitan City Centre Structure Plan and cultivate the strategic partnerships necessary for its successful implementation.
- 3.1.5 Facilitate the development of high quality middle density projects within the City Centre.
- 3.2.2 Capitalise on the City's position as the gateway to the metropolitan area.

Legal Implications

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

State Planning Policy 3.6 - Infrastructure Contributions

Town Planning Scheme No.4

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

Development Contribution Plans (DCP) enable a user pays approach to the provision of required facilities under a need and nexus approach. Items included in DCPs have a connection between development and the demand created and having these items in the DCP provides an equitable mechanism to share cost between landowners to support the orderly and timely planning and development of the area.

Through DCP 8, the City will act as the administrator of cost sharing arrangements for infrastructure that will deliver essential infrastructure to the West of Rail Precinct. Landowners / Developers will be required to make monetary contributions to the City upon the development or subdivision of their land, pursuant to Part 5A of TPS No.4. The contributions will be administered within a separate reserve account solely for DCP 8 funds and used to fund infrastructure included in DCP 8.

Developers, subject to the City's approval, may also make contributions by completing works in kind. The cost of these works may then be offset against contributions due. Such arrangements may result in the DCP running a deficit if essential infrastructure is delivered to support approved early stage redevelopment of the area.

Consultation

- City Business Units.
- The Environmental Protection Authority (EPA) advised that the amendment did not warrant an environmental assessment.
- The WAPC's consent to advertise was required.
- Adjoining and affected landowners.
- State Government agencies and servicing authorities.

BACKGROUND

At its 14 December 2020 meeting, Council initiated Amendment No.117 to incorporate DCP 8 into Schedule 9B of the Scheme and designate the West of Rail Precinct as Development Contribution Area (DCA) 8 on the TPS No.4 Special Control Area Map No.3. Consent to advertise was subsequently granted by the WAPC and following this, the City advertised the amendment for a period of 60 days.

The proposed infrastructure items to be funded by the DCP include:

- Cornish Street construction including a laneway to Fifth Avenue;
- Development of a public square opposite the train station;
- Sewer upgrades; and
- DCP administration costs.

DCP 8 will effectively replace the West of Rail Precinct DCP that is currently being administered by DevelopmentWA. It is noted that DevelopmentWA recently advertised a proposal to rescind the abovementioned DCP, with the advertising period partially overlapping the advertising period for Amendment No.117. The proposal to rescind DevelopmentWA's DCP had been anticipated by the City and the rescinding process forms an important step in the normalisation process for the West of Rail Precinct.

DevelopmentWA has previously advised that the West of Rail DCP will continue to be operational until the point of normalisation, even after a decision is made to rescind the document. Any contributions collected by DevelopmentWA will be transferred to the City at the point of normalisation to be included in the City's proposed DCP 8.

DETAILS OF PROPOSAL

This report proposes the final adoption of Amendment No.117 to incorporate DCP 8 following the completion of the public advertising period.

In response to submissions received during advertising and following further assessment, this report also proposes the initiation of Amendment No.120 to TPS No.4 to extend the DCA 8 boundaries in the Special Control Area Map No.3 to include Lots 4 and 502 Green Avenue, Armadale.

The purpose of Amendment No.117 is to introduce the required statutory framework within TPS No.4 to support the proposed DCP to operate within the West of Rail Precinct. The proposed DCP will operate in accordance with the provisions of DCP 8 in Schedule 9B and applicable provisions of Part 5A of the Scheme.

Where the provisions of Development Contribution Plan 8 are inconsistent with the provisions of Part 5A of the Scheme, then the provisions of Development Contribution Plan 8 in Schedule 9B prevail to the extent of any inconsistency.

The Development Contribution Area (DCA) is to be shown on Scheme Special Control Area Map 3 as DCA 8 and is commonly known as West of Rail. DCP 8 is intended to apply to all land within the West of Rail Precinct upon development or subdivision. Owners are required to contribute to infrastructure that is attributable to the subdivision and development of the precinct and their land.

Effective redevelopment of the Precinct requires the cost efficient provision of infrastructure and facilities, such as roads, open space and servicing infrastructure. This physical and social infrastructure will greatly benefit the standard of living, mobility and lifestyle choices of the community and will support the economic and social wellbeing of the community.

The Precinct is uniquely situated within a City Centre setting. Based on the proposed residential densities and built form outlined in the planning framework for the area, it is important that the level of infrastructure being provided is commensurate with the standard of infrastructure that would be expected within an activity centre.

DCP costs have been distributed over the entire precinct having regard to the principles underlying development contributions described in the WAPC's State Planning Policy 3.6 – Infrastructure Contributions (SPP 3.6).

The purpose of Amendment No.120 is to extend the DCA 8 boundaries in the Special Control Area Map No.3 beyond the boundaries illustrated in the SCA 3 Map No.3 that was advertised as part of Amendment No.117 to include Lots 4 and 502 Green Avenue, Armadale.

If Council initiates Amendment No.120 and subject to WAPC approval to advertise, then the proposal will be advertised for public and landowner feedback prior to its formal consideration for adoption and incorporation into TPS No.4.

Public Advertising of the Amendment

Amendment No.117 was advertised for a minimum period of 60 days, with the submission period closing on 16 April 2021. Advertising was carried out by way of referral to adjoining and affected landowners, State Government agencies and servicing authorities, advertisements in the "The West Australian" and the "Examiner" newspapers and publication on the City's website.

Total No. of submissions received:	9
No. of submissions of conditional support/no objection:	6
No. of submissions of objection:	3

Refer to the Confidential Attachment for location plan of submitters.

The issues raised by the submissions have been summarised and recommendation made on each submission in Attachment "Schedule of Submissions".

The five main issues raised in the submissions, together with a comment on each are outlined below. Four of the submissions of conditional support/no objection were received from Government agencies.

Key Issues

Issue 1 - Lack of need and nexus between land included within the proposed DCA boundaries and the DCP.

Some of the submitters assert that the street block bounded by Tudor Road, Forrest Road and Green Avenue should not be included in the Development Contribution Area (DCA) for the West of Rail DCP as the land does not enjoy any benefit from the common DCP infrastructure which is mainly being provided in Cornish Avenue. The submitters contend that because of this, the DCP is inconsistent with the need/nexus and equity principles in SPP 3.6 and as such, inclusion of the land within the DCP cannot be justified.

Comment

Amendment No.117 has been initiated in order to facilitate the replacement of the DCP administered by DevelopmentWA with a DCP administered by the City. The inclusion of this street block is consistent with DevelopmentWA's DCP. Whilst it is acknowledged the street block does not have frontage to Cornish Street which is a common infrastructure item identified in the DCP, it does not necessarily follow that there is no need/nexus between the road upgrade and the street block. There is a clear connection between the development of the street block and Cornish Street as the entire West of Rail Precinct is a designated activity centre and the upgrade of Cornish Street, including the provision of public open space is intended to service all of the West of Rail Precinct.

Recommendation

This issue is not supported.

Issue 2 - The inclusion and exclusion of certain land and infrastructure within the DCA.

Submitters have raised objections to the exclusion of Lots 4 and 502 Green Avenue from the DCP suggesting that because these lots were included in an earlier version of the DevelopmentWA's West of Rail DCP but were subsequently removed at a later stage due to lack of need/nexus, the same principles should be applied to exclude the Tudor Road/Forrest Road/Green Avenue street block from the DCA boundaries.

Submitters have also raised concerns regarding the number and provision of on-street parking bays in the civil design drawings which form part of the DCP report documentation, resident and visitor car parking requirements noted in the Structure Plan, and the potential for railway station patrons to use car parking bays provided within the precinct.

Comment

The exclusion of Lots 4 and 502 was not based on a lack of need/nexus. The proposed DCA boundaries identified in Amendment No.117 are consistent with the DCP administered by DevelopmentWA.

These particular lots are owned by State Government agencies and are directly adjacent to the railway reserve. It is understood that the exclusion of these lots from a previous version of the DevelopmentWA administered DCP was based on the fact that these lots are owned by State Government agencies, and that some of the infrastructure works in the vicinity of these lots would be funded by the State Government on an 'in kind' basis to correspond with infrastructure needs identified by future masterplanning undertaken for the proposed Armadale Railway station upgrade. As these factors are no longer applicable, there is merit in considering having Lots 4 and 502 Green Avenue being included within the future DCA boundaries.

Car parking is included as part of the Cornish Street upgrade and not as a separate infrastructure item within the DCP. The number and configuration of the parking bays identified in the civil design drawings is consistent with the approved Structure Plan for the precinct. Resident and visitor parking requirements are specified in the approved Structure Plan. The DCP, which is supported by civil design drawings is consistent with the approved Structure Plan.

The proposed parking provision is directly generated by the proposed land uses identified the West of Rail Precinct Structure Plan and is not being provided to service railway service patrons. It is commonplace for Main Streets in Activity Centre areas to include on-street parking.

PTA provides specifically dedicated car parking areas to service railway users and on-street parking provided within Cornish Street is expected to be time limited in keeping with on-street parking timing restrictions provided elsewhere within the Armadale City Centre. Developments will also need to provide off-street parking in accordance with the Structure Plan requirements.

Recommendation

- The inclusion of Lots 4 and 502 Green Avenue in the DCA boundary is considered appropriate and it is recommended that Council initiates a separate scheme amendment (Amendment No.120) to follow its determination on Amendment No.117 as part of this report.
- The exclusion of car parking from the Cornish Street design is not supported, and the number and use of future parking bays will be governed by the City's planning and local law frameworks. Furthermore, it is appropriate to consider adjustments to the scope of the Cornish Street infrastructure items as part of the review of the infrastructure cost schedule that will occur following approval of the amendment and at annual reviews thereafter. Should it be determined that the design should change this can be incorporated at a future date.

Issue 3 - Proposed DCP infrastructure costs.

Some submissions have raised concerns regarding the infrastructure cost estimates contained in the DCP report being too high and resulting in the contribution rate being too high.

Comment

Cost estimates were completed based on current industry rates and the City's approved tender rates. It is acknowledged that civil design drawings provided in the advertised DCP report were based on a concept design that had not been finalised for construction purposes.

The design has now been completed by the City's Technical Services and the updated drawings are now incorporated in the amended version of the DCP report which is included as part of the Council report attachments. The costs estimates contained in the ICS as advertised as part of the scheme amendment documents are consistent with the updated civil design drawings.

All cost estimates are supported by detailed drawings and specifications. The approach the City has taken in formulating the cost estimates contained in the ICS is consistent with the WAPC's SPP 3.6 and the City's established practices to ensure infrastructure costs are robust and accurate. It is also noted that DCP infrastructure costs are reviewed on an annual basis with these reviews being presented to Council for approval.

Recommendation

This issue is not supported.

Issue 4 - Proposed TPS and DCP report provisions.

A submitter has raised some concerns with various elements of the proposed TPS amendment and DCP report provisions including:

- Land valuation clauses including recourse for landowner objections;
- Compulsory acquisition clauses including alignment of provisions with the *Land Administration Act*;
- Arbitration clauses;
- Refunding of excess contributions clauses;
- Clauses being difficult to understand; and
- Clauses operating retrospectively and creating a double dipping effect.

The submitter has also raised concerns regarding provisions contained in the DCP report not being included in the scheme resulting in the DCP report not having any statutory status.

Comment

The proposed DCP report and scheme text provisions contain standard clauses which are already in operation for other DCPs administered by the City. The proposed provisions are also considered consistent with the template in the WAPC's SPP 3.6 which does not include the provisions suggested for inclusion in the scheme by the submitter.

Clause 4.2 of the proposed Amendment No.117 scheme provisions to be included in Schedule 9B of TPS No.4 specifically refers to the DCP Report: *The Development Contribution Plan Report means a report appurtenant to the Scheme and Development Contribution Plan 8, and containing information and instructions on the operation of Development Contribution Plan 8, as periodically reviewed in accordance with Development Contribution Plan 8.* In this regard, the DCP 8 report has sufficient statutory status. Additionally, SPP 3.6 provides that the items included in the DCP Report should not form part of the scheme provisions.

Recommendation

This issue is not supported.

Issue 5 – *The proposed DCP will not support and encourage future development.*

A submitter has raised concerns that the DCP will not work as no development has occurred in the area since the ARA/MRA/DWA's DCP was first introduced 11 years ago and the DCP relies on development occurring generating contributions revenue to fund the provision of infrastructure identified in the DCP. The submitter contends that the planning framework does not support/encourage development as the construction of multiple dwellings/high density built form in this location is not feasible.

Comment

Amendment No.117 does not propose any changes to the planning framework for the area in terms of land uses and housing densities. Amendment 108 to TPS No.4, which introduces the planning framework for zonings and land uses within the amendment area, was supported by Council, and was ultimately approved by the WAPC and Minister for Planning. The WAPC's SPP 3.6 specifically provides that the timing of a DCP should align with comprehensive planning, and the approval of Amendment No.117 will help to achieve this.

Recommendation

This issue is not supported.

COMMENT

Amendment No.117 will facilitate the replacement of the existing DCP administered by DevelopmentWA with a DCP administered by the City. The DCP generally conforms to the planning framework for the area and takes into consideration the existing DevelopmentWA planning framework, Amendment No.108, City of Armadale Local Planning Strategy, Armadale Activity City Centre Structure Plan, Corporate Business Plan and Strategic Community Plan.

Ultimately the DCP will enable the collection of development contributions for the development of new and the upgrade of existing infrastructure which is required as a result of increased demand generated in the Development Contribution Area.

Amendment No.120 which proposes to extend the proposed DCA 8 boundaries in the Special Control Area Map No.3 to include Lots 4 and 502 Green Avenue will achieve the following:

- It will result in a logical expansion of the DCA to include all of the lots held in freehold title which lie to the west of the railway reserve and which fall within the current DevelopmentWA redevelopment area boundaries;
- It will facilitate closer alignment with the planning framework established through Amendment No.108 to TPS No.4 which introduces the planning framework for zonings and land uses within the current DevelopmentWA redevelopment area boundaries as part of the normalisation process;
- Amendment No.120 will enhance consistency with the WAPC's SPP 3.6 in terms of need and nexus between common infrastructure and land benefiting from the provision of this common infrastructure; and
- It will enable the costs of common infrastructure included in DCP 8 to be apportioned over a wider area resulting in a minor reduction in cost contributions per square metre.

OPTIONS

- A. Council has the following options with respect to Amendment No.117:
1. Resolve to adopt the amendment with or without modifications and request that the Hon Minister for Planning grant final approval to the amendment.
 2. Resolve to not adopt the amendment giving reasons and request that the Hon Minister for Planning and Infrastructure refuse to approve the amendment.
- B. Council also has the following options with respect to Amendment No.120:
1. Council may initiate the Scheme Amendment as proposed or with modifications.
 2. Council may decline the initiation of the Scheme Amendment if it considers the proposed extension of the Special Control Area 3 boundaries to apply to the additional lots unnecessary (stating reasons why) or for any other reasons.

CONCLUSION

Whilst the issues raised in the submissions received are acknowledged, none of the issues raised by submitters are considered to require modifications to the proposed scheme text provisions in Amendment No.117.

The infrastructure costs and the manner in which these costs are apportioned will be reviewed once the DCP has been approved through the gazettal of Amendment No.117. The WAPC's SPP 3.6 provides that within 90 days of the scheme amendment being gazetted, the City is required to finalise and adopt the DCP Report ICS as a separate process. This process ensures that all infrastructure costs within the DCP are as current and accurate as possible.

In addition, the inclusion of Lots 4 and 502 Green Avenue within the West of Rail Precinct DCA through Amendment No.120 is considered appropriate on several grounds as articulated in the preceding section of this report.

It is recommended that Council resolve to adopt Amendment No.117 in accordance with Option A1 above.

It is also recommended that Council resolve to initiate Amendment No.120 in accordance with Option B1 above.

ATTACHMENTS

1. [↓](#) Separate Attachment - Final Adoption Amendment No 117 to TPS No 4 - West of Rail DCP No 8
2. [↓](#) Schedule of Submissions - Amendment 117 West of Rail DCP No. 8
3. [↓](#) Special Control Area Map 3 – Amendment 117
4. [↓](#) Special Control Area Map 3 – Amendment 120
5. Schedule of Submissions - Names and Address List - Amendment 117 [Confidential] - *This matter is considered to be confidential under Section 5.23(2) (b) of the Local Government Act, as it deals with the matter relates to the personal affairs of a person*
6. Submitter plan - West Rail DCP No 8 [Confidential] - *This matter is considered to be confidential under Section 5.23(2) (c) of the Local Government Act, as it deals with the matter relates to a contract entered into or which may be entered into by the City of Armadale*

RECOMMEND

D22/7/21

That Council:

1. Pursuant to Part 5 of the *Planning and Development Act 2005* adopt, without modification, Amendment No.117 to Town Planning Scheme No.4 to:
 - a) Amend Special Control Map 3 as shown on the attached Proposed Zoning – Special Control Area Map 3 Plan, include the area as Development Contribution Area 8 and insert Development Contribution Plan No.8 into Schedule 9B of Town Planning Scheme No.8 as follows:

No.	Description of Land	Contribution Arrangements
8	Development Contribution Area (DCA) 8 – West of Rail Redevelopment Area as identified on Scheme Special Control Area Map 3	<p>4.1 Relationship to other plans and other parts of the Scheme</p> <p>The development contribution plan generally conforms to the Approved Structure Plans for Development Contribution Area 8 and the Local Planning Strategy, Armadale Activity Centre Structure Plan, Corporate Business Plan and Strategic Community Plan.</p> <p>Where the provisions of Development Contribution Plan 8 are inconsistent with the provisions of Part 5A of the Scheme, then the provisions of Development Contribution Plan 8 in Schedule 9B prevail to the extent of any inconsistency.</p> <p>4.2 Definitions</p> <p>Assessed Value means a land value obtained in accordance with the procedures described in clauses 4.4.5 to 4.4.6 of Development Contribution Plan 8.</p> <p>Developable Area is defined as a total area of land minus land area deductions as detailed in the Development Contribution Plan 8 Infrastructure Cost Schedule.</p> <p>Development Contribution Plan Report means a report appurtenant to the Scheme and Development Contribution Plan 8, and containing information and instructions on the operation of Development Contribution Plan 8, as periodically reviewed in accordance with Development Contribution Plan 8.</p> <p>Infrastructure Cost Schedule means a schedule appurtenant to the Scheme and Development Contribution Plan 8, and containing the estimated cost of Infrastructure and Administration of Development Contribution Plan 8, contribution cost, land area deductions and land area summary, as periodically reviewed in accordance with Development Contribution Plan 8.</p> <p>4.3 Infrastructure and Administrative Items to be funded</p> <p>4.3.1 Infrastructure Item 1a – Movement Network and Urban Plaza</p> <p>Full cost to construct Cornish Street, including laneway connection to Fifth Avenue, urban plaza and land</p>

		<p>acquisition as detailed in the Development Contribution Plan Report and Infrastructure Cost Schedule.</p> <p>4.3.2 Infrastructure Item 2a - Public Utilities</p> <p>Contribution towards the Sewer Upgrade from Cornish Street to Fifth Avenue as detailed in the Development Contribution Plan Report and Infrastructure Cost Schedule.</p> <p>4.3.3 Administration Costs:</p> <p>Full costs associated with preparing and administering Development Contribution Plan 8.</p> <p>4.4 Method for Calculating Contributions and Assessed Values</p> <p>4.4.1 Approach</p> <p>Contributions for infrastructure items will be calculated on a Developable Area basis.</p> <p>4.4.2 Cost Contribution Calculation</p> <p>The contribution to be made by each Owner to the implementation of the Infrastructure and Administration Costs shall be a Cost Contribution, based on a per square metre basis calculated by the Local Government as follows:</p> <p>4.4.2.1 Infrastructure Items per Square Metre Rate calculation</p> <p>a) Calculation for entire Development Contribution Area</p> <p>Infrastructure Items per Square Metre Rate (E) calculated as follows at each review of the Infrastructure Cost Schedule and to remain applicable from the approval of one review to approval of the next:</p> <p>Cost of infrastructure items where the costs are to be shared across the entire Development Contribution Area 8 as detailed in the Infrastructure Cost Schedule (A) + (plus) Administrative Costs (B) minus contributions collected (C) / (divide) total Developable Area remaining (m²) for Development Contribution Area 8 (D).</p> $A + B - C / D = E$ <p>4.4.2.2 Cost Contribution Due</p> <p>The Cost Contribution due by owners shall be based on the Developable Area of an owners land parcel and calculated as follows:</p> <p>i. Cost Contribution due by owners that is applicable to all Developable Area within Development Contribution</p>
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		<p style="text-align: right;">Area 8:</p> <p style="text-align: right;">Developable Area (m2) of an owners land parcel x (multiply) Infrastructure items per Square Metre Rate.</p> <p>4.4.3 Valuations</p> <p>The provisions of Clauses 5A.9.2 to 5A.9.6 of the scheme do not apply to Development Contribution Plan 8. The following variations apply to the acquisition of land for Infrastructure Works, calculation of costs and valuation of land within Development Contribution Area 8.</p> <p>4.4.4 Compulsory Acquisition</p> <p>Where land has been compulsorily acquired and a lawful claim for compensation has been served on the Council, the Council may claim compensation for betterment under Section 184 of the <i>Planning and Development Act 2005</i> and the value attributed to the betterment of the land the subject of the claim shall be set off against any compensation otherwise payable to the claimant under the <i>Land Administration Act 1997</i> or any re-enactment of its provisions related to compulsory acquisition and compensation.</p> <p>4.4.5 Assessed Value</p> <p>a) The Council may at any time ascertain the value of any land in Development Contribution Plan 8 for the purpose of estimating Infrastructure costs, payments and cost contributions.</p> <p>b) If it is necessary, for any purpose to ascertain the value of any land, such value should be determined by two licensed valuers appointed from time to time by the local government herein referred to as “the Valuation Panel”. The members of the Valuation Panel may confer as to value, and if they are unable to arrive at a consensus value, they shall confer with the Chief Executive Officer of the local government (“CEO”) or the officer to whom the CEO delegates that function from time to time.</p> <p>If the valuers with the officer cannot arrive at a consensus value then the officer shall select a value which represents the median value between the two values nominated by the valuers on the Valuation Panel and will be advertised under the next following paragraph (c) (“the Assessed Value”).</p> <p>The Valuation Panel may determine more than one Assessed Value in the Development Contribution Plan area, where the local government or the Panel identifies that there are significant differences in land values within Development Contribution Area 8.</p>
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		<p>c) As soon as possible after the Assessed Value or Assessed Values have been ascertained it should be advertised for a period of not less than 28 days to allow for submissions to be made in regard to the proposed Assessed Value or Assessed Values. Assessed Values may be advertised concurrently as part of a Development Contribution Plan 8 review carried out in accordance with Clause 4.8.1 of Development Contribution Plan 8.</p> <p>An owner who lodges an objection under this clause shall submit with the objection supporting evidence from a suitably qualified person in the specific field being objected to.</p> <p>d) The local government shall as soon as possible consider all submissions made on an Assessed Value and may refer any submission to the Valuation Panel for comment, but where a submission is accompanied by expert valuation advice based on the valuation principles contained in Development Contribution Plan 8, it should be referred by the local government to the Valuation Panel for comment.</p> <p>Having considered the submissions and any comment from the Valuation Panel, the local government shall fix upon the Assessed Value or Assessed Values to be applied under Development Contribution Plan 8 and Infrastructure Cost Schedule until the next Assessed Value or Assessed Values has been determined.</p> <p>e) It is intended that any Assessed Value or Assessed Values should apply for no more than 13 months but while an Assessed Value remains current it shall stand as the value of land within Development Contribution Plan 8 and Infrastructure Cost Schedule for all purposes under Development Contribution Plan 8 and Part 5A of the scheme and the Infrastructure Cost Schedule.</p> <p>f) Where land is ceded or acquired for a Infrastructure Work, otherwise than by compulsory taking, for the purpose of determining the amount to be paid to the owner from whom the land is acquired, the value of the land shall be calculated according to the same Assessed Value as was applied to the Cost Contribution paid or payable by that owner on the clearance by the local government of the subdivision of land in the same deposited plan as contains the land acquired.</p> <p>4.4.6 Valuation Principles</p> <p>In ascertaining the Assessed Value or Assessed Values under Development Contribution Plan 8, all land shall be valued in its broad acre form as depicted on 1 January 2020 or other date selected by the Local</p>
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		<p>Government, ignoring any services or infrastructure provided in-accordance with the provisions of the relevant Local Structure Plan and applying the following principles:</p> <ol style="list-style-type: none">i. regard is to be had to the land classifications and zonings existing at the date of valuation;ii. the date of valuation is to be the date on which the local government nominates;iii. ignoring any improvements or works on the land;iv. the land should be valued without regard to the Infrastructure work and the purpose for which the land is acquired shall not be taken into consideration;v. in selecting relevant sales evidence, regard should be had first to values derived from land in the same area, and if there is not adequate evidence, from nearby or similar land in the area, in priority to any other sales evidence; andvi. the method of valuation shall otherwise be in accordance with normal fair market valuation principles. <p>4.4.7 Variance and Solatium</p> <ol style="list-style-type: none">a) When calculating or reviewing Contribution Costs and the Infrastructure Cost Schedule, the local government will have regard to the value of the land required for Infrastructure and include an amount of 10% over and above the Assessed Value of such land, to ensure that the local government has or will receive sufficient funds in Development Contribution Plan 8 account to acquire land for Infrastructure to meet its obligations for appropriate payment to such owners, and ensure the Infrastructure can be completed in a manner that minimises the need for external borrowing. <p>The local government may also apply a further amount above the Assessed Value to recognize any compulsory taking of land, compensations and/or acquisition of structures.</p> <ol style="list-style-type: none">b) Where land is acquired in the circumstances contemplated in subclause 4.4.5 (f) of Development Contribution Plan 8, the Council shall pay to the owner an additional amount not more than 10% of the amount calculated under that Clause. <p>4.4.8 Acquisition Prior to Gazettal</p> <p>Where land required for Infrastructure is ceded to the Crown or acquired by the local government prior to the Minister granting final approval and publication of the Development Contribution Plan 8 Amendment in the Government Gazette, the appointment of the Valuation Panel by the local government under of Development</p>
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		<p>Contribution Plan 8 or adoption of the Infrastructure Cost Schedule by the Council, the land shall be valued in-accordance with the clauses 4.4.3 to 4.4.7 of Development Contribution Plan 8 by the Valuation Panel and the date of valuation shall be the date the land for the Infrastructure Work is acquired by the local government or the local government issues its clearance to the deposited plan that contains the Infrastructure land, whichever is the earlier.</p> <p>4.4.9 Provision of Land for Infrastructure Works</p> <p>Where the Infrastructure Cost Schedule includes a land component for a Infrastructure on the relevant lot for which a Cost Contribution is due, an Owner shall cede to the Crown or transfer to the local government the required Infrastructure land at the first stage of subdivision and/or development for that particular landholding or by prior agreement at an alternative date agreed by the local government. The value of the land will be determined in accordance with Development Contribution Plan 8 and Owners will be paid once the land is ceded to the Crown or transferred to the local government and is already included in Development Contribution Plan 8 and sufficient funds have been collected in the Development Contribution Plan 8 account and / or having regard to the timing and priority of infrastructure works.</p> <p>4.5 Period of Operation</p> <p>4.5.1</p> <p>Development Contribution Plan 8 is proposed to operate for a period of 12 years from the date of gazettal of the town planning scheme amendment that introduces Development Contribution Plan 8 into the Scheme, by which time development within Development Contribution Area is expected to be largely complete.</p> <p>The proposed timeframe aims to account for uncertainty regarding the staging and completion of development across the entire area.</p> <p>The City may in the future consider extending the period of operation, through an amendment to the Scheme, in the event that growth does not occur as rapidly as expected, or if new growth areas occur. The City may also terminate the Development Contribution Plan 8 earlier, through an amendment to the Scheme, if growth occurs quicker than expected and all contributions have been settled.</p> <p>All land within the Development Contribution Area is subject to the requirements of the Development Contribution Plan 8 until the plan expires or revoked.</p> <p>4.6 Excess in Contributions</p> <p>4.6.1</p> <p>Clause 5A.8.2 of the scheme does not apply to Development Contribution Plan 8. If there is an excess in the total of Cost</p>
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		<p>Contributions when all Cost Contributions have been made or accounted for in the Development Contribution Area, the local government is to refund the excess funds to the contributing owners or use all or some of the excess funds for improvements to infrastructure included in Development Contribution Plan 8 and subject to agreement from the majority of the contributing Owners.</p> <p>If, however, it is not reasonably practicable to identify Owners and their entitled amount of refund and consult with Owners, any excess in funds shall be applied to the provision of additional improvements to Infrastructure included in Development Contribution Plan 8.</p> <p>The local government should make information publically available regarding any spend of excess funds.</p> <p>4.7 Timing and priority</p> <p>4.7.1</p> <p>The Local Government will use its best endeavours to provide Infrastructure, including the acquisition of land for infrastructure, as soon as possible taking into considering the Local Government's Corporate Business Plan, the rate of development in Development Contribution Area 8 and funds collected in Development Contribution Plan 8.</p> <p>4.8 Review</p> <p>4.8.1 Review</p> <p>Development Contribution Plan 8 will be reviewed at least every 5 years from the date of gazettal or when considered appropriate having regard to the rate of development in the area since the last review and the degree of development potential still existing.</p> <p>The estimated Infrastructure Costs, Assessed Values and Infrastructure Cost Schedule will be reviewed and updated at least annually. The Review will reflect changes in material prices, design costs, design requirements, specifications, labour requirements, Assessed Values and other expenditure associated with Development Contribution Plan 8 and actual and forecast future development patterns in the area. In some instances the costs will be indexed based on the Local Government Cost Index (LGCI) or another appropriate index and they may be reviewed and certified by a suitably qualified person. The local government's priority and timing for infrastructure will also be reviewed at least annually.</p> <p>Reviews of Development Contribution Plan 8 or Infrastructure Cost Schedule, including Assessed Values shall be undertaken in accordance with the provisions contained within the Development Contribution Plan 8 Report and applicable Local Government Local Planning Policy. In the absence of an applicable Local Government Local Planning Policy the provisions contained in the Development Contribution Plan 8 Report shall solely apply.</p>
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2. Authorise the Mayor and the Chief Executive Officer to execute the Amendment No.117 documents.
3. Forward the Amendment No.120 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 No.117 for inclusion in the Schedule of Submissions to be forwarded to the Western Australian Planning Commission.
5. Advise the submitters of its decision.
6. Authorise the Mayor and Chief Executive Officer to execute the modified Amendment No.117 documents, should the Hon Minister for Planning grant final approval to the Amendment subject to minor modifications.
7. Pursuant to Section 75 of the *Planning and Development Act 2005*, initiate Amendment No.120 to Town Planning Scheme No.4 as a complex amendment in accordance with Part 5, Clause 34 – complex amendment, subsection (e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as follows:
 - a) Amending Special Control Map 3 as shown on the attached Proposed Zoning – Special Control Area Map 3 Plan by including Lots 4 and 502 Green Avenue, Armadale within Development Contribution Area 8.
8. Amendment No.120 is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):
 - It is an amendment to identify a development contribution area and prepare a development contribution plan.
9. Refers the above Amendment No.120 to Town Planning Scheme No.8 to the Environmental Protection Authority (EPA) pursuant to section 81 of the *Planning and Development Act 2005*.
10. Forward the Amendment No.120 to the WAPC to obtain consent to advertise the Amendment No.120 as proposed.
11. Once permission to advertise is obtained from the WAPC, advertise the Amendment No.120 for no less than 60 days.
12. Authorise the Mayor and the Chief Executive Officer to execute the Amendment documents.
13. Authorise Officers to update the attached Development Contribution Plan 8 Report and Infrastructure Cost Schedule to include Lots 4 and 502 Green Avenue for advertising as part of Amendment No.120.
14. Should the WAPC require any minor modifications prior to advertising, authorise the Mayor and CEO to execute the modified Amendment No.120 documents.

Moved Cr C Frost
MOTION CARRIED

(7/0)

COUNCILLORS' ITEMS

3.1 DRAIN RESERVE - PAGE ROAD / SADDLERS RETREAT, KELMSCOTT
(Cr Ruth Butterfield)

Cr Butterfield raised concern with the water flow and the potential flooding and ponding of the drain reserve at Page Road / Saddlers Retreat, Kelmscott. Cr Butterfield requested that officers liaise with the Water Corporation in regards to vesting authority and maintenance of this drain reserve.

RECOMMEND

D23/7/21

That the Councillor item regarding the Drain Reserve (Page Road / Saddlers Retreat, Kelmscott) be referred to Development Services for action/or report back to Committee.

Moved Cr D M Shaw
MOTION CARRIED

(7/0)

EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORT

Nil.

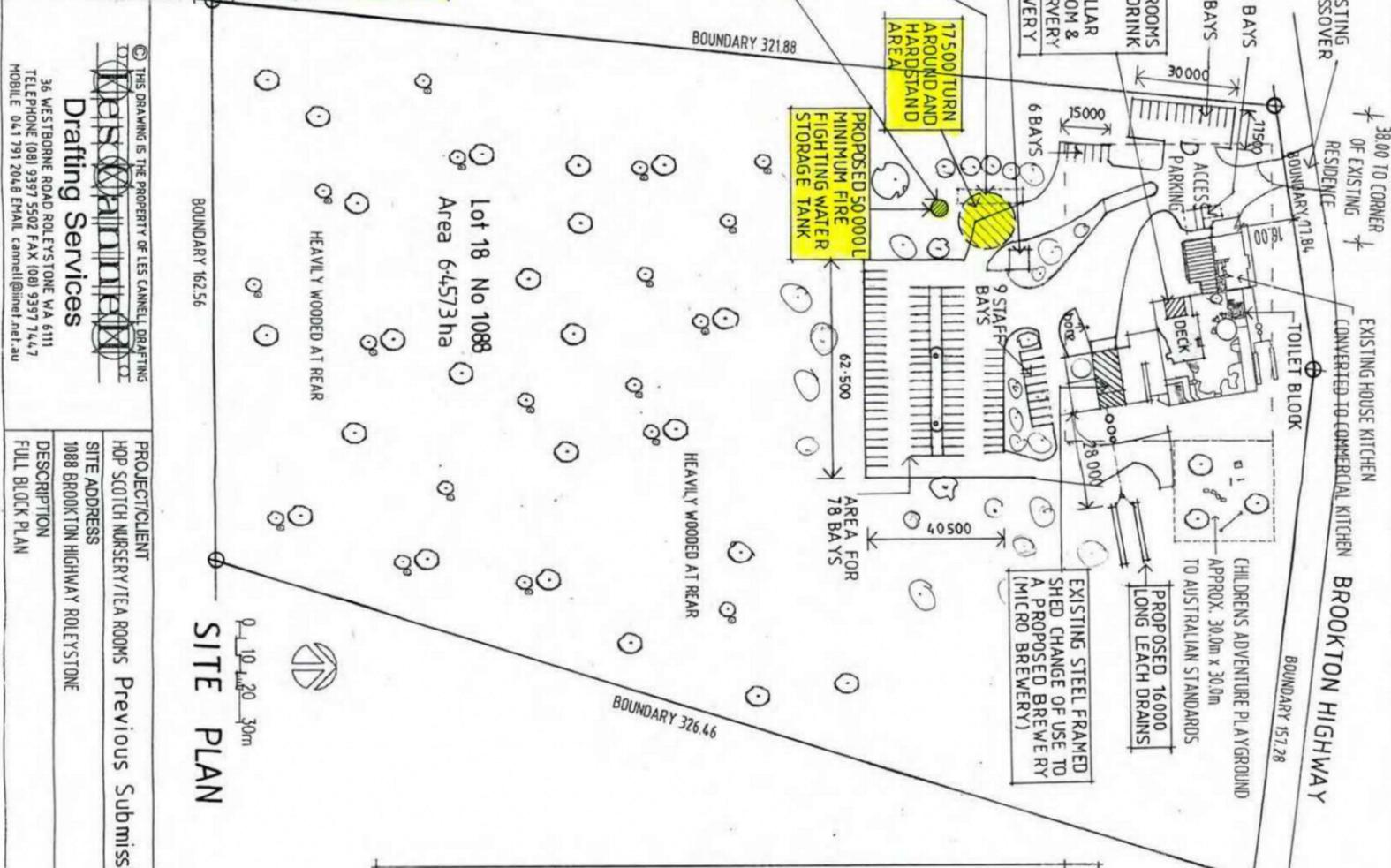
MEETING DECLARED CLOSED AT 7:38 PM

DEVELOPMENT SERVICES COMMITTEE		
SUMMARY OF ATTACHMENTS		
19 JULY 2021		
ATT NO.	SUBJECT	PAGE
1.1 DEVELOPMENT APPLICATION - EXTENSION OF OPERATING HOURS & CHANGE OF USE - MICRO BREWERY AND CELLAR DOOR - LOT 18 BROOKTON HIGHWAY, KARRAGULLEN		
1.1.1	Site Plan - Lot 18 Brookton Highway, Karragullen	53
1.1.2	Site Plan (Highlighted) - Lot 18 Brookton Highway, Karragullen	54
1.1.3	Floor Plan - Lot 18 Brookton Highway, Karragullen	55
1.1.4	Elevation Plans - Lot 18 Brookton Highway, Karragullen	56
1.1.5	Bushfire Management Plan - Lot 18 Brookton Highway, Karragullen	57
1.1.6	Photos - Lot 18 Brookton Highway, Karragullen	58
2.1 MINISTER FOR PLANNING'S DECISION - AMENDMENT NO.111 TO TPS 4 - HERITAGE LIST		
2.1.1	City of Armadale Heritage List	61
2.2 FINAL ADOPTION - AMENDMENT NO.117 TO TPS NO.4 - WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO.8 AND PROPOSED AMENDMENT NO.120 TO TPS NO.4 - WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO.8 (EXTENSION TO SPECIAL CONTROL AREA 3 AREA)		
2.2.1	Separate Attachment - Final Adoption Amendment No 117 to TPS No 4 - West of Rail DCP No 8	67
2.2.2	Schedule of Submissions - Amendment 117 West of Rail DCP No. 8	68
2.2.3	Special Control Area Map 3 – Amendment 117	73
2.2.4	Special Control Area Map 3 – Amendment 120	74

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 THE USE OF THE PLANS IS TO SHOW THE PROPOSED ADDITIONS & AMENDMENTS TO THE EXISTING STRUCTURE ON THE SAME LOT. THE PLANS HAVE NOT BEEN REPRODUCED TO CONSTRUCT THE STRUCTURE ON ANOTHER LOT.

FIRE FIGHTING WATER TANK
 Establish and maintain a dedicated Fire Fighting Water Tank, 50,000 L, minimum, to be placed in the existing cleared area & the base to be made level with a 150mm minimum compacted sand pad with the existing driveway access and adjacent to the cleared 17.5m turnaround & hardstand area, that is within 3m of the proposed water tank and suitable for a type 3.4 fire appliance.

17	NO TREES TO BE REMOVED FOR THE TANK	KT	21-1-2021
16	17 500 DIA TURNAROUND ADDED	KT	21-1-2021
15	50,000L MINIMUM FIRE FIGHTING WATER TANK ADDED	KT	21-1-2021
14	SHADE HOUSE TO BE REMOVED	KT	21-1-2021
13	NO TREES TO BE REMOVED FOR THE 9 BAYS	KT	14-1-2021
12	THE ADDITIONAL 9 BAYS TO BE ADDED TO THE EXISTING CLEARED AREAS	KT	14-1-2021
11	COUNTER SERVERY NOTE ADDED	KT	14-1-2021
10	6 ADDITIONAL VISITORS BAYS ADDED	KT	14-1-2021
9	3 ADDITIONAL STAFF BAYS ADDED	KT	14-1-2021
8	More accurate location of Parking bays areas & PARKING CALCULATIONS Table added	KT	2-11-2019
7	16,000 Leach drains added	KT	13-10-2019
6	Existing Entry Pergola & Parking Bays added	KT	13-10-2019
5	Existing Timber Deck & TEAROOMS Notations added	KT	13-10-2019
4	Existing Shed to Scale & Notations added	KT	13-10-2019
3	Bore/Effluent & Pump tanks added to Plan	KT	13-10-2019
2	ACCESS CARPARK ADDED	LC	29/08/14
1	CARPARK MODIFIED	LC	27/06/14
0	ORIGINAL ISSUE	LC	02/04/14



Amended 21st Jan 2021
 Amended 14th Jan 2021
 Amended 2nd Nov 2019
 Issued: **21 JAN 2021**
 SHEET: ① of ④
 OVER 4000 PROJECTS BY DALE DESIGN SERVICE

PARKING CALCULATIONS:
 Current Approved Seated Patronage is 90, Current Total Staff numbers is 9.
 Floor Area of the DECK is 140sq metres
 Floor Area of the Alfresco is 92sq metres
 Floor Area of main Restaurant seating area is 62sq metres
The Total Floor Area is 294sq metres (does not include any licensed garden areas)
 The BUILDING CODE of AUSTRALIA Allows for 1 person per sq metre, that would equate to 294 patrons (subject to BCA & toilet facilities).
 A Site investigation on the 31st October was conducted to obtain a more accurate location of the parking areas & record the size of the existing cleared parking areas.
Parking Bays:
 The cleared parking areas allow for 107 5,500 x 2,500 parking bays (includes 2 disabled & 9 Staff bays).
 The Proposed Micro Brewery will have 2 staff members = 2 parking bays
Restaurant = 1 space for every 5 seats
 90 seated Patrons ÷ 5 = 18 Bays or 1 space per every 5sq metres seating area.
 If the Total Seated Floor Area is used, 294sq metres ÷ 5 = **58.8 Bays**
 All areas are subject to survey.

PARKING & DRIVEWAYS
 The Existing Parking Areas & Driveways are constructed with compacted gravel. There is No Stormwater drainage system in place other than the roof waters collected in Rain water tanks.

PROJECT/CLIENT: HOP SCOTCH NURSERY/TEA ROOMS Previous Submission 2014
 SITE ADDRESS: 1088 BROOKTON HIGHWAY ROLEYSTONE
 DESCRIPTION: FULL BLOCK PLAN

DRAWN BY: LES CANNELL
 CHECKED BY: [Signature]
 DATE: 02/04/14

SCALE ON A3 SHEET: E500 ON A3 SHEET
 DRAWING NO.: J751-BP-01
 REV.: 2

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 COPYRIGHT IN FORCE ON ALL DALE DESIGN PLANS
 ARCHITECTURAL ART BY: Kim Turner
 PROJECT: PROPOSED CHANGE OF USE OF TEAROOMS TO A CELLAR DOOR & STEEL FRAMED SHED TO A BREWERY (Micro Brewery)

DALE DESIGN SERVICE
 Unit 2 No 33 Gillam Drive KELMSCOTT (PO BOX 144 KELMSCOTT 6991) TEL. 9390 4161
 BUILDER REGO NO: [Blank]
 PROJECT LOCATION: LOT 18 NO 1088
 CLIENT-DEVELOPER: NAKED APPLE CIDER
 BROOKTON HIGHWAY 1088 BROOKTON HIGHWAY
 KARRAGULLEN KARRAGULLEN 6111

SCALE: AS SHOWN
 DATE: 13th Oct 2019
 DRAWN BY: Kim Turner
 DESIGN CONSULTANT: KIM TURNER Cert. Arch. Drafting MBA Supervision Cert.
 DRAWING No: 4207/2019-29
 FILE No: 85/57

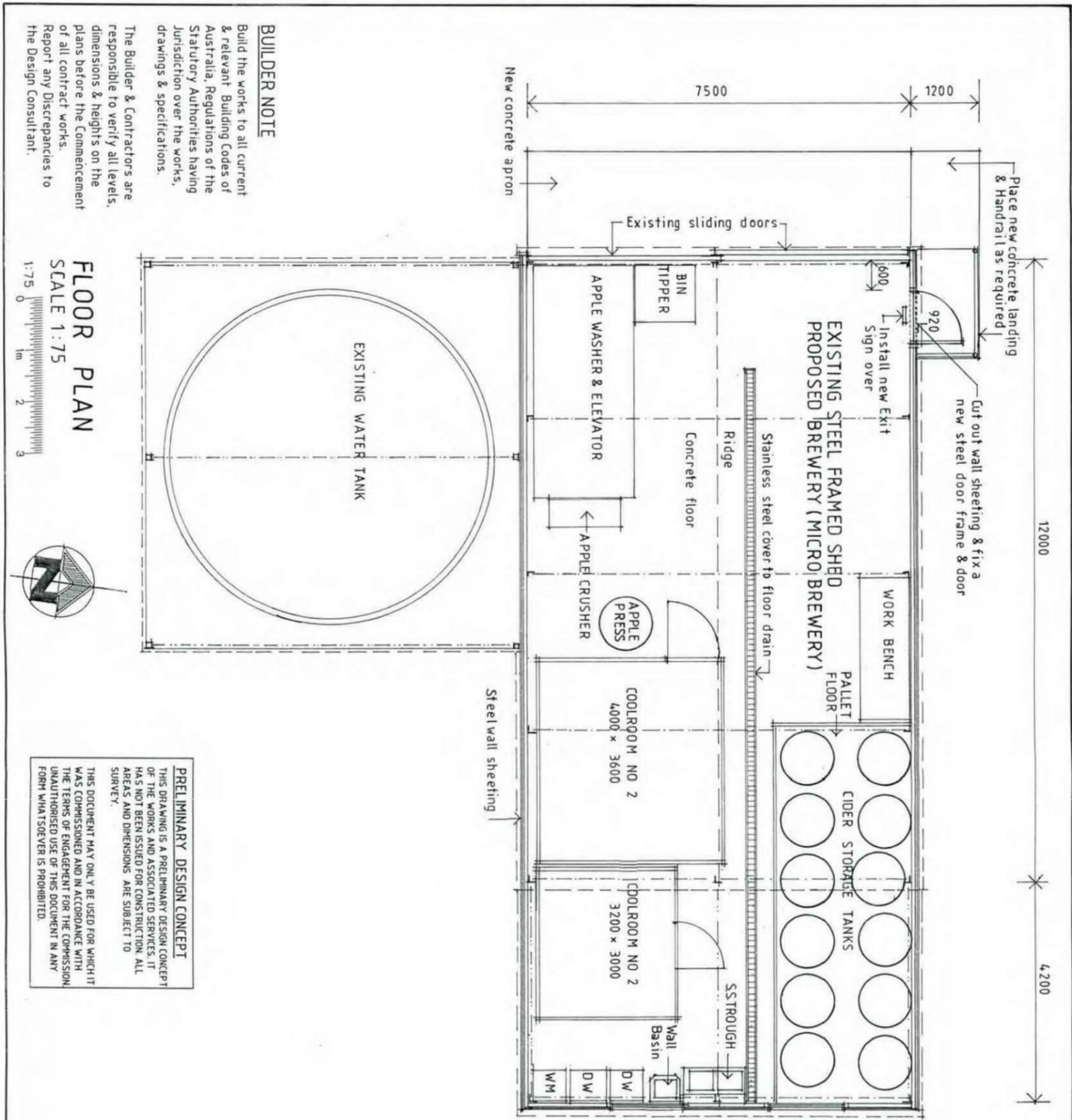
Overall Site Plan
 Lot 18 (No. 1088) Brookton Highway, Karragullen



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, Photomaps by NearMap.



DATE 20 May 2021 - REVISION 2021
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BUILDER NOTE
 Build the works to all current & relevant Building Codes of Australia, Regulations of the Statutory Authorities having Jurisdiction over the works, drawings & specifications.
 The Builder & Contractors are responsible to verify all levels, dimensions & heights on the plans before the Commencement of all contract works.
 Report any Discrepancies to the Design Consultant.

FLOOR PLAN
 SCALE 1:75
 1:75 0 1m 2 3

PRELIMINARY DESIGN CONCEPT
 THIS DRAWING IS A PRELIMINARY DESIGN CONCEPT OF THE WORKS AND ASSOCIATED SERVICES. IT HAS NOT BEEN ISSUED FOR CONSTRUCTION. ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY.
 THIS DOCUMENT MAY ONLY BE USED FOR WHICH IT WAS COMMISSIONED AND IN ACCORDANCE WITH THE TERMS OF ENGAGEMENT FOR THE COMMISSION. UNAUTHORISED USE OF THIS DOCUMENT IN ANY FORM WHATSOEVER IS PROHIBITED.

Issued: 20 MAY 2020
 SHEET: 3 of 4
 OVER 4000 PROJECTS BY DALE DESIGN SERVICE

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ARCHITECTURAL ART BY: Kim Turner		Unit 2, No 33 Gillam Drive KELMSCOTT (PO BOX 144 KELMSCOTT 6991) TEL. 9390 4161		DATE	13th Oct 2019
PROJECT: PROPOSED CHANGE OF USE OF TEAROOMS TO A CELLAR DOOR & STEEL FRAMED SHED TO A BREWERY (Micro Brewery)		BUILDER	REGO NO	DESIGN CONSULTANT	KIM TURNER Cert. Arch. Drafting MBA Supervision Cert.
		PROJECT LOCATION		DRAWING No	4207/2019-29
		CLIENT-DEVELOPER		FILE No	85157
		LOT 18 NO 1088			
BROOKTON HIGHWAY					
KARRAGULLEN					

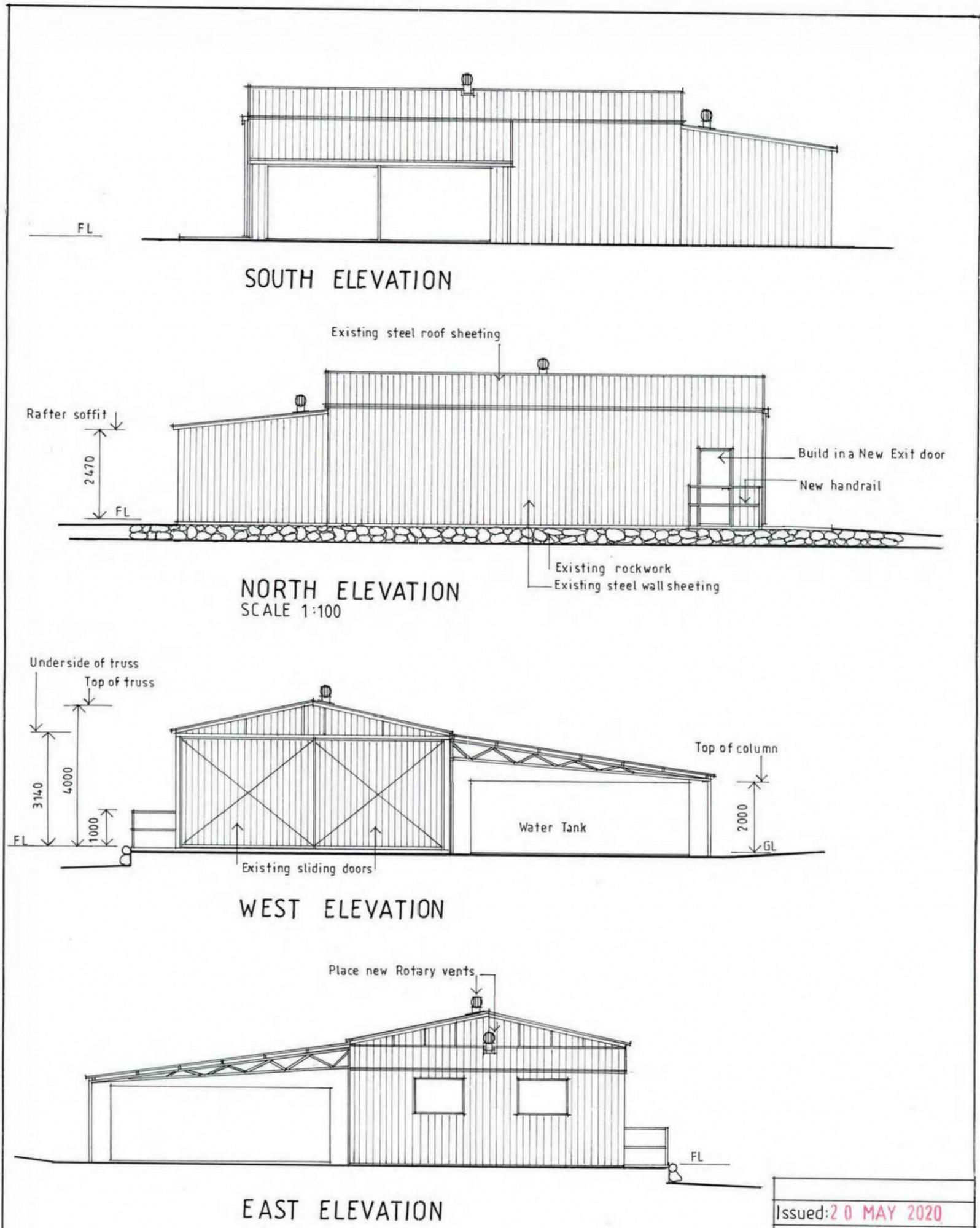
Floor Plan - Micro brewery
 Lot 18 (No. 1088) Brookton Highway, Karragullen

NOT TO SCALE

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, Photomaps by NearMap.



DATE 20 May 2021 - REVISION 2101
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 SHEET: 4 of 4
 OVER 4000 PROJECTS BY
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ARCHITECTURAL ART BY: Kim Turner		Unit 2 No 33 Gillam Drive KELMSCOTT (PO BOX 144 KELMSCOTT 6991) TEL. 9390 4161		DATE	13th Oct 2019
PROJECT: PROPOSED CHANGE OF USE OF TEAROOMS TO A CELLAR DOOR & STEEL FRAMED SHED TO A BREWERY (Micro Brewery)		BUILDER	REGO NO	DRAWN BY	Kim Turner
		PROJECT LOCATION		DESIGN	KIM TURNER
		LOT 18 NO 1088		CONSULTANT	Cert. Arch. Drafting MBA Supervision Cert.
		BROOKTON HIGHWAY KARRAGULLEN		DRAWING No	4207/2019-29
		CLIENT-DEVELOPER		FILE No	85/57
		1088 BROOKTON HIGHWAY KARRAGULLEN 6111			

Elevations - Micro brewery
 Lot 18 (No. 1088) Brookton Highway, Karragullen

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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, Photomaps by NearMap.



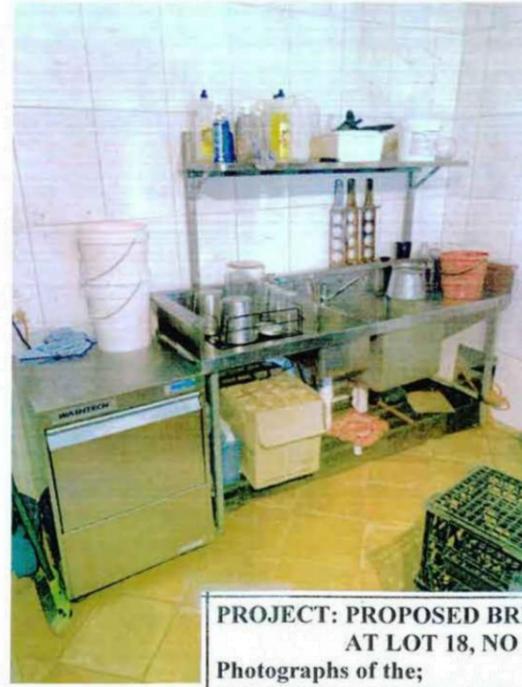
Bushfire Management Plan
 1088 Brookton Hwy, Karragullen



Figure 10A: Bushfire Management Strategies Map



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Based on information provided by and with the permission of the
Western Australian Land Information Authority (LAI) (2020)
Aerial photograph supplied by Landgate, Perth, Western Australia

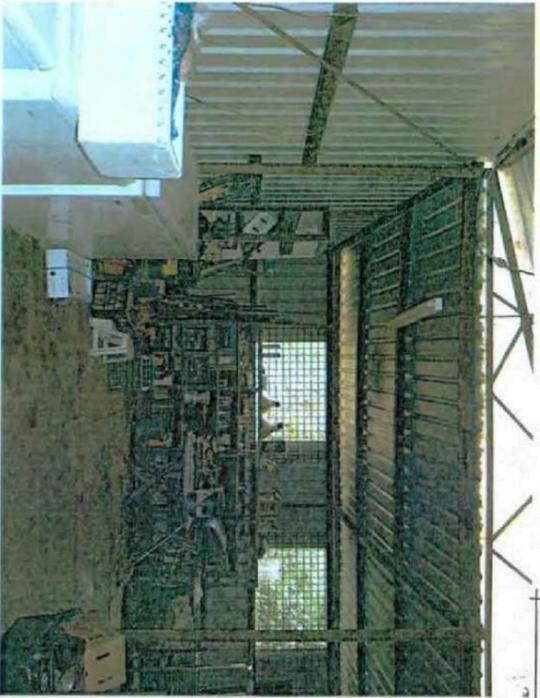
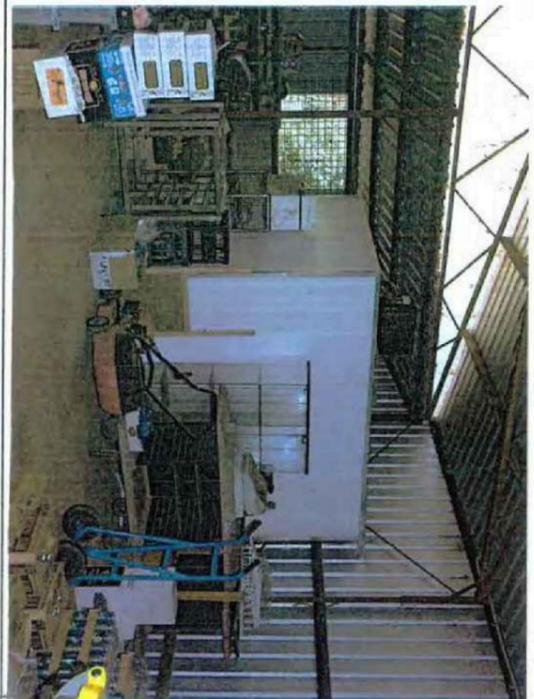
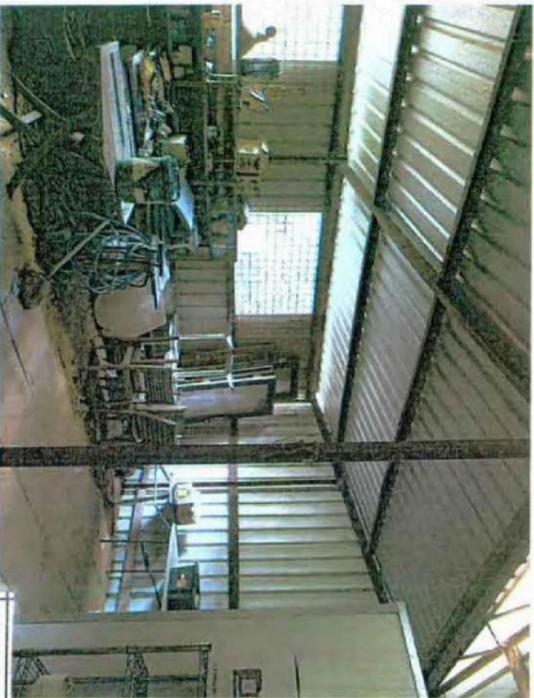


9 - OCT 2019

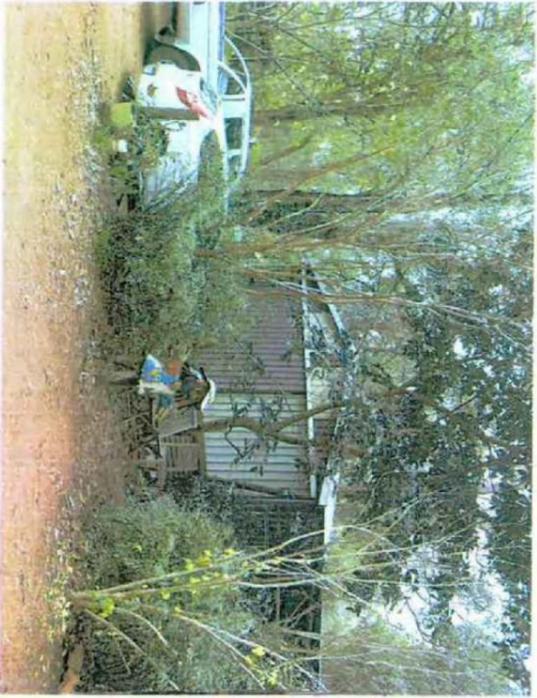
**PROJECT: PROPOSED BREWERY (MICRO BREWERY) & CELLAR DOOR
AT LOT 18, NO 1088, BROOKTON HIGHWAY, KARRAGULLEN**
Photographs of the; **20 MAY 2020**
EXISTING - "TEAROOMS - COOLROOM - DRINK PREP ROOM"
PROPOSED - "CELLAR DOOR - COOLROOM - BEVERAGE SERVERY"

Photos - Cellar Door
Lot 18 (No. 1088) Brookton Highway, Karragullen

DATE: 20 May 2020 - 10:00 AM
PROJECT: PROPOSED BREWERY (MICRO BREWERY) & CELLAR DOOR AT LOT 18, NO 1088, BROOKTON HIGHWAY, KARRAGULLEN



PROJECT: PROPOSED BREWERY (MICRO BREWERY) & CELLAR DOOR
AT LOT 18, NO 1088, BROOKTON HIGHWAY, KARRAGULLEN
Photographs of the:
EXISTING - STEEL FRAMED SHED
PROPOSED - CHANGE OF USE TO A "BREWERY" - (MICRO BREWERY)
9 - OCT 2019



20 MAY 2020

Photos of Micro brewery shed
Lot 18 (No. 1088) Brookton Highway, Karragullen

Lot 18, 10 May 2020 - 19 July 2021
Photographs of the existing shed and proposed change of use to a brewery.

NOT TO SCALE

Based on information provided by and in the possession of the
Karragullen Shire Council. All information is current as of 19 July 2021.

City of Armadale Heritage List

Planning approval is required to be obtained prior to the commencement of any alterations, additions, demolition, erection of signage and other development occurring in accordance with TPS No. 4 Schedule A - Supplemental Provisions to the Deemed Provisions Clauses 61(1)(k), (l), (m) and (n).

Locality	Description of Place	Address	Place No. Local Heritage Survey (Places marked * are also on State Register of Heritage Places)	Management Category under Local Heritage Survey**
Armadale	Narrogin Inne	7 Albany Highway	001	1
	Moreton Bay Fig Tree	24 Aragon Court	003	2
	Oaklands Old Homestead	10 Benjamin Street	005	2
	The Manse Restaurant	31 Church Avenue	006	2
	Masonic Hall	31 Fourth Road	008	2
	Dr Colyer's Residence (Former)	36 Jull Street	011	2
	Armadale District Hall	90 Jull Street	012	1
	St Mathews Church	108 Jull Street	013	1
	Sugar Gums and Minnowarra Park	Orchard Avenue and Armadale Road	014	1
	Armadale Congregational Church	127 Jull Street	016	1
	Armadale Primary School (former)	127 Jull Street	017	1
	Shire Council Offices (former)	145 Jull Street	018	2
	Old Jarrah Tree	206 Jull Street	019*	1
	Post Office Building (former)	234 Jull Street	020	1

Locality	Description of Place	Address	Place No. Local Heritage Survey * (Places marked * are also on State Register of Heritage Places)	Management Category under Local Heritage Survey**
	Armada Obelisk Memorial Park	Corner Orchard Avenue and Jull Street	022	1
	Memorial Park and Trees	Corner Orchard Avenue and Jull Street	023	1
	Anglican Rectory (former)	11 Prospect Road	024	1
	Roads Board Building (former)	23 Prospect Road (fronts Jull street)	025	1
	Muckross Tearoom (former)	10 South Western Highway	030	2
	Armada State Brickworks (former)	245 South Western Highway	031*	1
	St Francis Xavier Church	10 Third Road	032	1
	RSL Hall	1 Commerce Avenue, Armadale	118	2
Ashendon	Canning Dam and Quarry (former)	Lot 348 McNess Drive	037	1
Bedforddale	Paradise Cottage	248 Albany Highway	039	1
	Churchman Brook Dam	96 Churchman Brook Road	042	1
	Wungong Dam	Lot 50 Springfield Road	045	2
	Willow Heights –	8 Triton Court	046	2
Forrestdale	Armada to Fremantle Railway Line and Bridge	Lot 718 Armadale Road	047	2

Locality	Description of Place	Address	Place No. Local Heritage Survey (Places marked * are also on State Register of Heritage Places)	Management Category under Local Heritage Survey**
	Forresdale Lake	Lot 459 Forrest Road	032	1
Karragullen	Hanbury's Stone Barn	22 Cassoti Road	049	2
	Illawarra Orchard	233 Illawarra Road	050	2
Kelmscott	Hugh & Hilda Buckingham's Residence (former)	2947 Albany Highway	052	2
	Nicholas Uren Residence	16 Armitage Road	054	2
	Vera Buckingham's House and shop	2 Armstrong Road	055	2
	Migrant Park	Lot 244 Brookton Highway	057	1
	Butcher Residence and Hospital (former)	24 Brookton Highway	058	2
	Buckingham Creamery (former) and Residence	197 Brookton Highway	059	2
	'Poplar' Homestead and Mill Site Caim	222 Brookton Highway	060	2
	Stonehaven	Lot 181 Buckingham Road	061	1
	Metropolitan Water Supply "The Yard"	7 Church Street	063	2
	Kelmscott Scout Hall (former)	20 Church Street	065	2
	Martin's Caim	111 Clifton Street	066	1
	Lloyd Hughes Residence	158 Clifton Street	067	2
	Fancote Residence	38 Fancote Street	068	2
	Merrifield House	30 Merrifield Avenue	069	2

Locality	Description of Place	Address	Place No. Local Heritage Survey * (Places marked * are also on State Register of Heritage Places)	Management Category under Local Heritage Survey**
	Rushton Park	25 Orlando Street	073	2
	Rushton Park Obelisk memorial	25 Orlando Street	074	1
	Jesse Hammond's Residence	21 Ottaway Street	075	2
	Martin's Crossing, Road Reserve and Rosebushes	Lot 501 River Road	077	2
	St Mary-In-The-Valley Church & Cemetery	4 River Road	078	1
	Abdullah's Residence	31 River Road	079	2
	Old Station Master's Residence	2793 Albany Highway	124	1
	Walter Butcher's Residence	61 River Road	080	2
	Albert Butcher's Residence	104 River Road	083	2
	James Butcher's Residence	112 River Road	084	2
	Kelmscott Congregational Church	17 Rundle Street	085	2
	Springhill	Lot 139 Turner Road	086	2
	Forestry House (former)	7 Ecco Road	087	2
Mount Nasura	Port Jackson Fig Trees	Lot 3860 Henrietta Avenue	088	1
	Carrigg Residence	1 Millen Street	090	2
	Wirra Willa Gardens	12 Wangoola Terrace	091*	1
Mount Richon	Convict Road and Culvert (former)	Lot 150 Albany Highway	092	1
	Armadale Brickworks Quarry (former)	Lot 21 Harrison Road	095*	1

Locality	Description of Place	Address	Place No. Local Heritage Survey (Places marked * are also on State Register of Heritage Places)	Management Category under Local Heritage Survey**
	Cole's Shaft	Lot 49 Summit View	096	1
Roleystone	Darjeeling	538 Brookton Highway	098	1
	Roleystone Theatre Hall	587 Brookton Highway	100	2
	Bangup	283 Chevin Road	102	2
	Roley Pool	Lot 4697 Collins Road	103	2
	Roleystone Community Church Hall	1 Croyden Road	104	2
	Croyden Court Guesthouse	236 Croyden Road	105	2
	Araluen Botanic Park	362 Croyden Road	106*	1
	William Buckingham's Homestead	Lot 701 Heritage Drive	107*	1
	Canning Contour Channel (former) and Two Stone Chimneys	Lot 50 Canning Mills Road	110*	1
	Third Stone Chimney Canning Contour Channel	Intersection of Peet Road and Mackie Road	111	1
	Roleystone Historic Precinct	2 Soldiers Road	112	2
	Thomas Buckingham's House Ruins	42 and 701 Thompson Road	116	1
Wungong	Dawkins Place	Lot 809 South West Highway	117	2

This heritage List was adopted by resolution of Council at their meeting held on in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Deemed Provisions Part 3 Heritage Provisions Clause 8(1)*.

****Management Category Descriptions**

Management Category	Level of Significance	Description	Outcome
1	Exceptional Significance	Essential to the heritage of the locality. Rare or outstanding example	The Place should be retained and conserved. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place). Development would require consultation with the City of Armadale and possibly the Heritage Council of Western Australia. Maximum encouragement to the owner should be provided under the City of Armadale's Town Planning Scheme to conserve the significance of the place. A Heritage Assessment* and Impact Statement should be undertaken before approval is given for any major redevelopment. Incentives to promote heritage conservation should also be considered.
2	Considerable Significance	Very important to the heritage of the locality. High degree of integrity / authenticity.	Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place. Maximum encouragement to the owner should be provided under the City of Armadale's Town Planning Scheme to conserve the significance of the place. A Heritage Assessment* and Impact Statement should be undertaken before approval is given for any major redevelopment. Incentives to promote heritage conservation should also be considered.

City of Armadale

DRAFT DEVELOPMENT CONTRIBUTION PLAN No. 8 REPORT

West of Rail

28 May 2021

Refer to Separate Attachment

SCHEDULE OF SUBMISSIONS – AMENDMENT 117 – WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO. 8

NO	Object / Support / Comment Only	Resume of Submission	Comment/Recommendation
1	Support with comment	<p>Submitter supports proposal but has some concerns regarding the contribution rate being potentially too high.</p>	<p>The submitter's comments are not supported for the following reasons as described in Issue 3 of the Council report:</p> <p>1) Cost estimates were completed based on current industry rates and the City's approved tender rates. It is acknowledged that civil design drawings provided in the advertised DCP report were based on a concept design that had not been finalised for construction purposes. The design has now been completed by the City's Technical Services and the updated drawings are now incorporated in the amended version of the DCP report which is included as part of the Council report attachments. The costs estimates contained in the ICS as advertised as part of the scheme amendment documents are consistent updated civil design drawings.</p> <p>All cost estimates are supported by detailed drawings and specifications. The approach the City has taken in formulating the cost estimates contained in the ICS is consistent with the WAPC's SPP 3.6 and the City's established practices to ensure infrastructure costs are robust and accurate. It is also noted that DCP infrastructure costs are reviewed on an annual basis with these reviews being presented to Council for approval.</p>
2	No comment / no objection	No comments or objections provided	Noted
3	No comment / no objection	<p>TPS amendment is supported by the submitter as it will facilitate the scheduled normalisation of the City Centre West of Rail Project Area.</p> <p>The submitter notes that the proposed DCP square metre rate is \$22/m² less than the current operational DCP exclusive of escalation, but is \$10/m² in excess of the draft DCP amendment proposed by DevelopmentWA in early 2020. A review of the cost estimates has identified that this \$10/m² difference resulted from the proposed City of Armadale DCP accounting for minor extra land takings for some lots, and increased estimated administration costs that were not accounted for by DevelopmentWA.</p>	<p>1) It is noted that the draft DCP proposed by DevelopmentWA in early 2020 did not account for the full costs associated with required sewer upgrades, and also overestimated the net developable land area within the precinct which resulted in a lower contribution rate than actually required for the provision of common infrastructure within the precinct. Additionally, it is noted that the administration costs proposed in the draft DCP prepared by DevelopmentWA underestimated the actual administration costs that the City would ultimately encounter for the lifespan of the DCP, and did not account for DCP governance costs in recognition of the increased governance standards imposed by the WAPC's SPP 3.6 – Infrastructure Contributions.</p> <p>2) The City will undertake annual reviews and audits which contribute to the administrative costs but result in more appropriate DCP management.</p>
4	No comment / no objection	No comments or objections provided	Noted
5	No comment / no objection	No comments or objections provided	Noted
6	No comment / no objection	No comments or objections provided	Noted

SCHEDULE OF SUBMISSIONS – AMENDMENT 117 – WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO. 8

NO	Object / Support / Comment Only	Resume of Submission	Comment/Recommendation
7	Objection with comment	<p>The submitter has raised the following comments in objection to the proposal:</p> <ol style="list-style-type: none"> 1) The DCP will not work as no development has occurred in the area since the DCP was first introduced 11 years ago, and the DCP relies on development occurring generating contributions revenue to fund the provision of infrastructure identified in the DCP. 2) Current planning framework does not support/encourage development as multiple dwellings/high density in this location is not feasible. 3) Landowners in the street block bounded by Tudor Road, Forrest Road and Green Avenue should not be included in the DCP 8 area as inclusion is not supported by the need/nexus, and equity principles in SPP 3.6 to justify inclusion of the land as the land does not enjoy any benefit of the common infrastructure identified in DCP 8. 4) Lots 4 and 502 Green Avenue were included in the approved structure plan (2016) but were excluded from the DWA DCP due to lack of need/nexus and as such, the above mentioned street block should also be excluded. 5) A large portion of DCP 8 is not included in the scheme, which would result in the DCP 8 report not having any statutory status which is not what DevelopmentWA intended when it prepared the DCP originally. 6) Provisions in Clause 4.3.2 of the DCP regarding betterment are more detailed than in the Amendment provisions which would result in double dipping as the affected landowner is already making contributions under the DCP for betterment and will then be penalised further by a reduced land value award of compensation which other landowners will not suffer. 7) Provisions in Clause 8.6 of the DCP which deal with refund of excess contributions is inconsistent with the Amendment provisions as it would give Council power to apply any excess which cannot be returned to landowners because they cannot be traced. 8) The DCP also makes clear that the land being compulsorily acquired by DevelopmentWA is not included in the items requiring funding in the DCP but 	<p>The submitter's comments are not supported for the following reasons as described in Issues 1, 2, 4 and 5 of the Council report:</p> <ol style="list-style-type: none"> 1) Amendment 117 does not propose any changes to the planning framework for the area in terms of land uses and housing densities. Amendment 108 to TPS 4, which introduces the planning framework for zonings and land uses within the amendment area, was supported by Council, and was ultimately approved by the WAPC and Minister for Planning. SPP 3.6 specifically provides that the timing of a DCP should align with comprehensive planning, and the approval of Amendment 117 will help to achieve this. 2) Amendment No. 117 has been initiated in order to facilitate the replacement of the DCP administered by DevelopmentWA with a DCP administered by the City. The inclusion of this street block is consistent with DevelopmentWA's DCP. Whilst it is acknowledged the street block does not have frontage to Cornish Street which is a common infrastructure item identified in the DCP, it does not necessarily follow that there is no need/nexus between the road upgrade and the street block. There is a clear connection between the development of the street block and Cornish Street as the entire West of Rail Precinct is a designated activity centre and the upgrade of Cornish Street, including the provision of public open space is intended to service all of the West of Rail Precinct. 3) The exclusion of Lots 4 and 502 was not based on a lack of need/nexus. The proposed DCA boundaries identified in Amendment No. 117 are consistent with the DCP administered by DevelopmentWA. These particular lots are owned by State Government agencies and are directly adjacent to the railway reserve. It is understood that the exclusion of these lots from a previous version of the DevelopmentWA administered DCP was based on the fact that these lots are owned by State Government agencies, and that some of the infrastructure works in the vicinity of these lots would be funded by the State Government on an 'in kind' basis to correspond with infrastructure needs identified by future masterplanning undertaken for the proposed Armadale Railway station upgrade. As these factors are no longer applicable, there is merit in considering having Lots 4 and 502 Green Avenue being included within the future DCA boundaries. 4) Car parking is included as part of the Cornish Street upgrade and not as a separate infrastructure item within the DCP. The number and configuration of the parking bays identified in the civil design drawings is consistent with the approved structure plan for the precinct. Resident and visitor parking requirements are specified in the approved structure plan. The DCP, which is supported by civil design drawings is consistent with the approved structure plan. The proposed parking provision is directly generated by the proposed land uses identified the West of Rail Precinct Structure Plan and is

SCHEDULE OF SUBMISSIONS – AMENDMENT 117 – WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO. 8

NO	Object / Support / Comment Only	Resume of Submission	Comment/Recommendation
	<p>the Amendment provisions have the potential to cause confusion as time goes on. The DCP says that it is only intended to cover land which may need to be acquired in the future which should also be made clear in the Amendment provisions to ensure equity between land owners who make their contributions before and after such changes.</p> <p>9) Clause 9.4 of the DCP provides objectors with the right to go to arbitration if the objection is not resolved to their satisfaction but this is not reflected in the Amendment provisions.</p> <p>10) Given there is no compulsory acquisition proposed in Amendment 117, it would seem that these proposals are unnecessary and should be removed. It can be appreciated why they are there as a contingency but late introduction of more infrastructure would be unfair to owners who have to pay for it in the future (compared to those who have not) and would create an imbalance which could not be overcome. If more infrastructure is required it should be in the form of another DCP.</p> <p>11) If the compulsory acquisition provisions are retained, the circumstances when they could apply should be made clear to ensure alignment with the <i>Land Administration Act</i> to mitigate double dipping, to ensure a mechanism is in place for appeal rights, and to avoid retrospective imposition of a valuation regime on land which has already been effectively resumed.</p> <p>12) The documents have a theme that the infrastructure is required to service the structure planning. This appears to be a misconception of the SPP 3.6 principles. The infrastructure must be a product of the need generated by the development of the land inside the structure plan and not the structure planning.</p> <p>13) Due to proximity to the train station, land for parking within the DCA is likely to be used for railway station users and should therefore be removed from the DCP, or alternatively costs for the provision of parking infrastructure should be underwritten by the PTA.</p> <p>14) There are concerns with Clauses 4.4.2, 4.4.5, 4.4.8 and 4.4.9 of the Amendment 117 scheme provisions with respect to clauses not being understood, insufficient</p>	<p>not being provided to service railway service patrons. It is commonplace for Main Streets in Activity Centre areas to include on-street parking.</p> <p>5) PTA provides specifically dedicated car parking areas to service railway users and on-street parking provided within Cornish Street is expected to be time limited in keeping with on-street parking timing restrictions provided elsewhere within the Armadale City Centre. Developments will also need to provide off-street parking in accordance with the Structure Plan requirements.</p> <p>6) The proposed DCP report and scheme text provisions contain standard clauses which are already in operation for other DCPs administered by the City. The proposed provisions are also considered consistent with the template in SPP 3.6 which does not include the provisions suggested for inclusion in the scheme by the submitter.</p> <p>7) Clause 4.2 of the proposed Amendment 117 scheme provisions to be included in Schedule 9B of TPS 4 specifically refers to the DCP Report: <i>The Development Contribution Plan Report means a report appurtenant to the Scheme and Development Contribution Plan 8, and containing information and instructions on the operation of Development Contribution Plan 8, as periodically reviewed in accordance with Development Contribution Plan 8.</i> In this regard, the DCP 8 report has sufficient statutory status. Additionally, SPP 3.6 provides that the items included in the DCP Report should not form part of the scheme provisions.</p>	

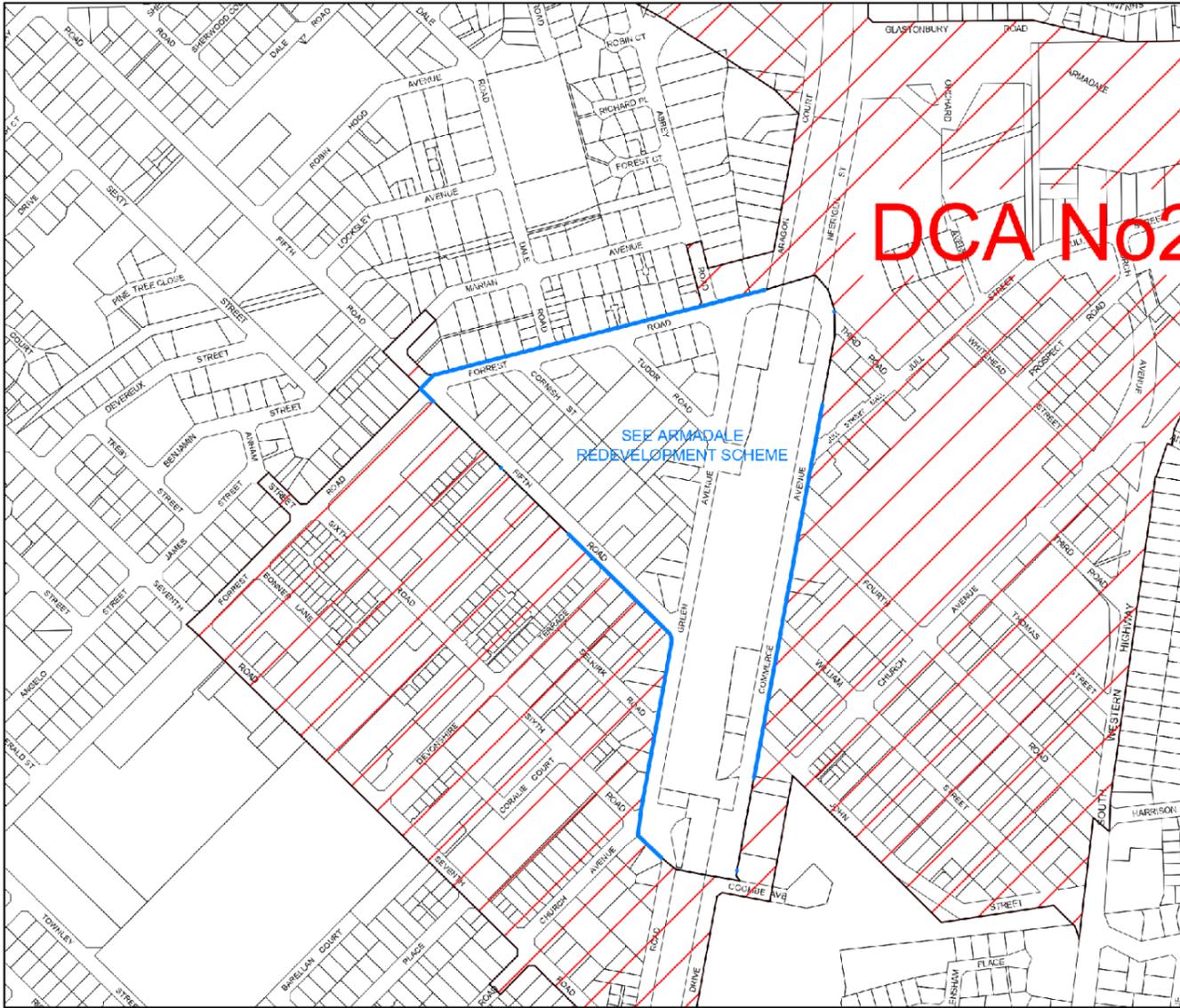
SCHEDULE OF SUBMISSIONS – AMENDMENT 117 – WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO. 8

NO	Object / Support / Comment Only	Resume of Submission	Comment/Recommendation
8	<p>Objection with comment</p>	<p>recourse for landowners to object to Assessed Values and retrospective imposition on land values.</p> <p>The submitter has raised the following comments in objection to the proposal:</p> <ol style="list-style-type: none"> 1) Landowners in the street block bounded by Tudor Road, Forrest Road and Green Avenue should not be included in the DCP 8 area as inclusion is not supported by the need/nexus, and equity principles in SPP 3.6 to justify inclusion of the land as the land does not enjoy any benefit of the common infrastructure identified in DCP 8. 2) Lots 4 and 502 Green Avenue were included in the approved structure plan (2016) but were excluded from the DWA DCP due to lack of need/nexus and as such, the above-mentioned street block should also be excluded. 	<p>The submitter's comments are not supported for the following reasons as noted in Issue 1 and 2 of the Council report:</p> <ol style="list-style-type: none"> 1) Amendment No. 117 has been initiated in order to facilitate the replacement of the DCP administered by DevelopmentWA with a DCP administered by the City. The inclusion of this street block is consistent with DevelopmentWA's DCP. Whilst it is acknowledged the street block does not have frontage to Cornish Street which is the main common infrastructure item identified in the DCP, it does not necessarily follow that there is no need/nexus between the road upgrade and the street block. There is a clear connection between the development of the street block and Cornish Street as the entire West of Rail precinct is a designated activity centre, and the upgrade of Cornish Street, including the provision of public open space is intended to service the surrounding activity centre precinct. 2) The exclusion of Lots 4 and 502 was not based on a lack of need/nexus. The proposed DCA boundaries identified in Amendment No. 117 are consistent with the DCP administered by DevelopmentWA. These particular lots are owned by State Government agencies and are directly adjacent to the railway reserve. It is understood that the exclusion of these lots from a previous version of the DevelopmentWA administered DCP was based on the fact that these lots are owned by State Government agencies, and that some of the infrastructure works in the vicinity of these lots would be funded by the State Government on an 'in kind' basis to correspond with infrastructure needs identified by future masterplanning undertaken for the proposed Armadale Railway station upgrade. As these factors are no longer applicable, there is merit in considering having Lots 4 and 502 Green Avenue being included within the future DCA boundaries.
9	<p>Objection with comment</p>	<p>The submitter has raised the following comments in objection to the proposal:</p> <ol style="list-style-type: none"> 1) DCP has an absence of studies to support change of zoning 2) Geotechnical report not undertaken to support civil design drawings 3) Proposed stormwater drainage design not in keeping with good engineering practice 4) No consideration has been given to sub-soil drainage requirements in the engineering design drawings 	<p>The submitter's comments are not supported for the following reasons as described in Issues 2 and 3 of the Council report:</p> <ol style="list-style-type: none"> 1) Cost estimates were completed based on current industry rates and the City's approved tender rates. It is acknowledged that civil design drawings provided in the advertised DCP report were based on a concept design that had not been finalised for construction purposes. The design has now been completed by the City's Technical Services and the updated drawings are now incorporated in the amended version of the DCP report which is included as part of the Council report attachments. The costs estimates contained in the ICS as advertised as part of the scheme amendment documents are consistent with the updated civil design drawings.

SCHEDULE OF SUBMISSIONS – AMENDMENT 117 – WEST OF RAIL DEVELOPMENT CONTRIBUTION PLAN NO. 8

NO	Object / Support / Comment Only	Resume of Submission	Comment/Recommendation
	<p>5) DCP is void any traffic study to support design of road network including number of parking bays provided, intersection treatment etc.</p> <p>6) Apportionment of costs in engineering cost estimate should be adjusted to reflect the true percentage of each portion of the works</p> <p>7) Cost estimates for some civil roadworks and stormwater drainage elements are too high</p> <p>8) Greywater infrastructure unavailable within the vicinity of the subject site and nominated provisional amount is inadequate to service the required landscaped areas</p> <p>9) Discrepancy between landscaping and civil design drawings regarding location of brick paved areas</p> <p>10) Engineering cost estimates may be inaccurate as findings of future geotechnical investigation will have a direct impact on cost estimates</p> <p>11) No information provided in DCP to support proposed number and configuration of car parking bays</p> <p>12) DCP does not address whether public parking will be provided or whether short term visitor parking is to be on site only</p> <p>13) Costs associated with implementing required sewer upgrades not accounted for in DCP infrastructure costs</p>	<p>2) All cost estimates are supported by detailed drawings and specifications. The approach the City has taken in formulating the cost estimates contained in the ICS is consistent with the WAPC's SPP 3.6 and the City's established practices to ensure infrastructure costs are robust and accurate. It is also noted that DCP infrastructure costs are reviewed on an annual basis with these reviews being presented to Council for approval.</p> <p>3) Car parking is included as part of the Cornish Street upgrade and not as a separate infrastructure item within the DCP. The number and configuration of the parking bays identified in the civil design drawings is consistent with the approved structure plan for the precinct. Resident and visitor parking requirements are specified in the approved structure plan. The DCP, which is supported by civil design drawings is consistent with the approved structure plan. The proposed parking provision is directly generated by the proposed land uses identified the West of Rail Precinct Structure Plan and is not being provided to service railway service patrons. It is commonplace for Main Streets in Activity Centre areas to include on-street parking.</p>	

EXISTING ZONING - SPECIAL CONTROL AREA MAP 3



LEGEND

- Development Area (Structure Plan) (Schedule 8)
- Development Contribution Area (Schedule 9A & 9B)
- Environmental Conditions (Schedule 8)
- Armadale Redevelopment Area Boundary

PROPOSED ZONING - SPECIAL CONTROL AREA MAP 3



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 Department of Planning

AMENDMENT No. 117

City of Armadale Town Planning Scheme No. 4
 Special Control Area Map 3

DATE 5 November 2020 - REVISION 2001

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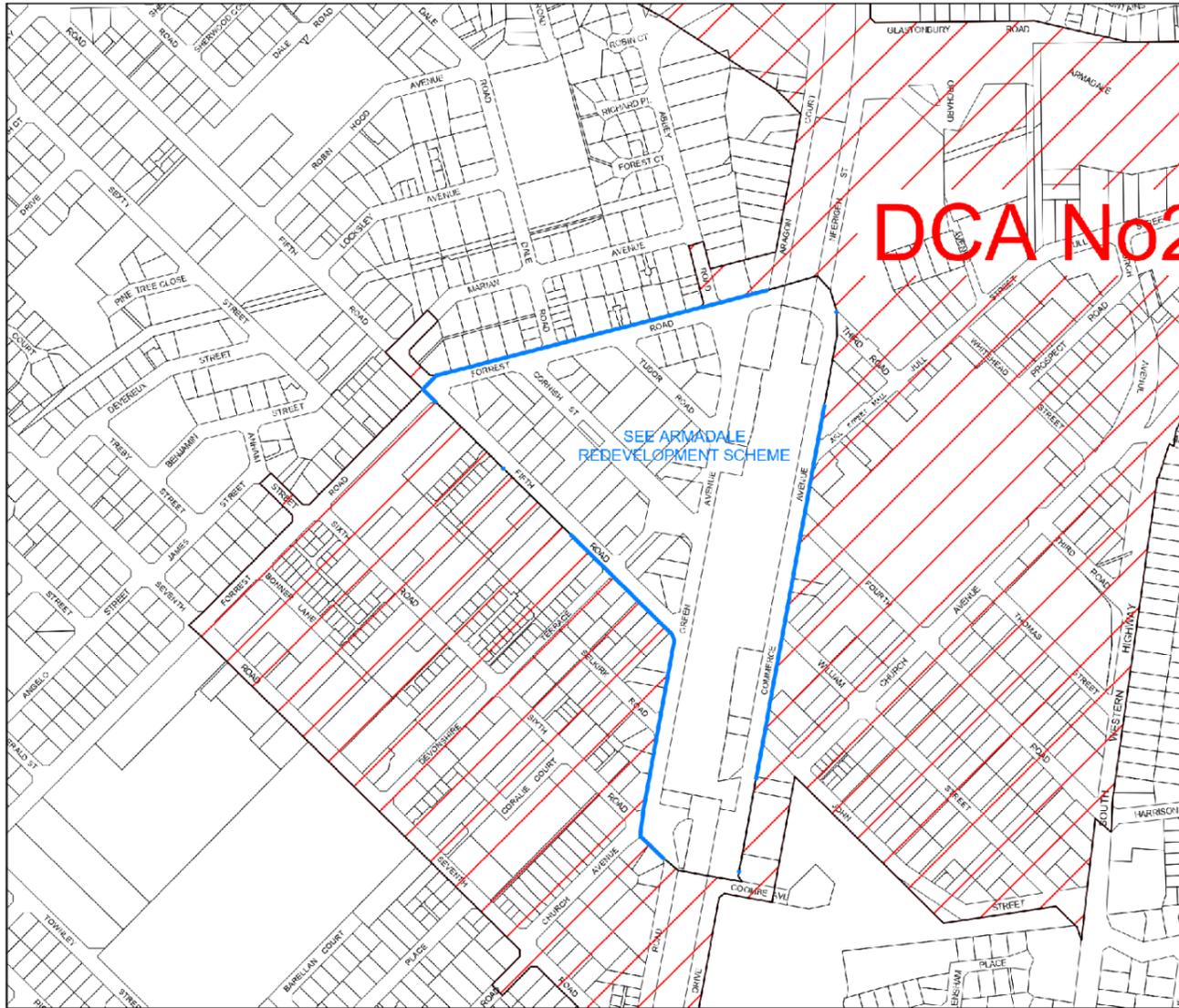


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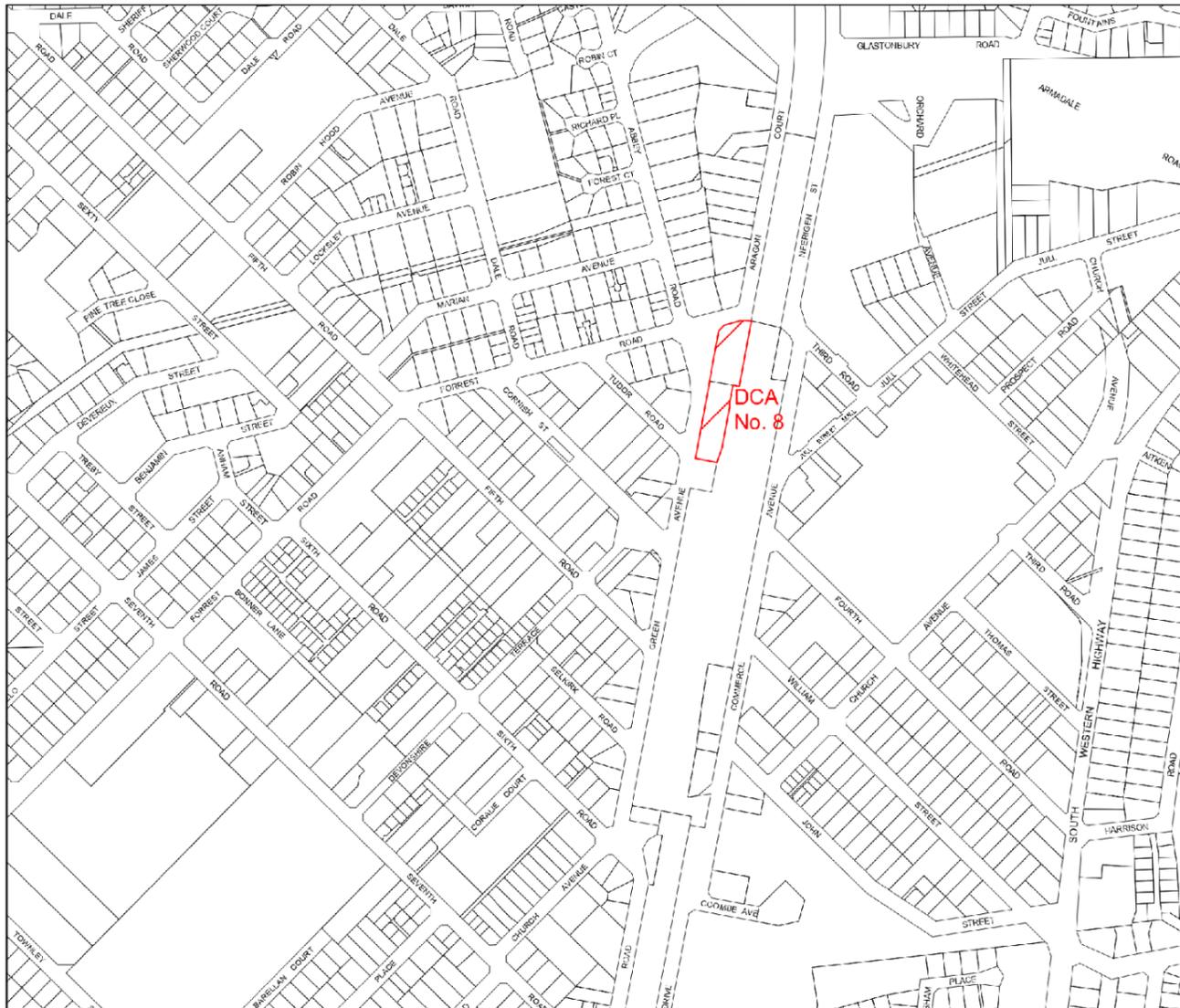
EXISTING ZONING - SPECIAL CONTROL AREA MAP 3



LEGEND

- Development Area (Structure Plan) (Schedule 8)
- Development Contribution Area (Schedule 9A & 9B)
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PROPOSED ZONING - SPECIAL CONTROL AREA MAP 3



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AMENDMENT No. 120

City of Armadale Town Planning Scheme No. 4
 Special Control Area Map 3

DATE 1 July 2021 - REVISION 2101

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SCALE 1 : 7500

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