3.4 PROPOSED EXTENSION OF TIME REQUEST - MULTIPLE DWELLINGS (38) - LOT 3 (NO.7) SPRING AVENUE, MIDLAND (DA412-15)

Ward: (Midland/Guildford Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

KEY ISSUES

- This application seeks an extension of time to the term of planning approval issued by The Metro-east Joint Development Assessment Panel for 38 multiple dwellings on Lot 3 (No.7) Spring Avenue, Midland.

- Council has discretion to approve or refuse this request.

- Consideration as to whether approval should be granted is a question as to whether or not the approved development complies or does not comply with the planning framework as it is at the current time.

- Since the original approval was issued on 9 September 2015, the planning framework has altered slightly, with amendments to the Residential Design Codes of WA with respect to parking requirements for unit development. The implications of this is that the approved development has a shortfall of 8 onsite car parking bays under the current R-Codes.

- Such a shortfall may or may not be problematic dependent upon whether parking requirements can be accommodated off site - specifically along Spring Avenue. This might be possible but it could entail additional requirements that might be properly and necessarily imposed as conditions. Consideration of extension of the term of an existing planning approval does not provide for amendments to the conditions of the approval or the addition of new conditions.

It is recommended that the Council refuse to extend the term of approval for 38 Multiple Dwellings at Lot 3 (No.7) Spring Avenue, Midland for the following reasons:

1. Since the issue of the original planning approval which has now expired there have been changes in the relevant planning instrument - the Residential Design Codes of Western Australia, under which the previously approved proposal has a shortfall of 8 on-site car parking bays.

2. A new application will enable an orderly and proper planning process to occur whereby the merits of the application at the current time may be properly considered.
AUTHORITY/DISCRETION

Planning and Development (Local Planning Scheme) Regulations 2015 (cl.77(4))

The Council may pursuant to cl.77 (4) of the Planning and Development Local Planning Schemes) Regulations 2015:

a) approve or refuse an application to amend the approval so as to extend the period within which any development approved must be substantially commenced;
b) approve or refuse an application to amend or delete any condition to which the approval is subject;
c) approve (with or without conditions) or refuse an application to amend an aspect of the development approved, which if amended, would not substantially change the development approved.
d) approve (with or without conditions) or refuse an application to cancel the application.

Council may make such a determination irrespective of whether the development has been substantially commenced.

Planning and Development (Development Assessment Panels) Regulations 2011 (cl.17A)

An owner of land in respect of which a development approval has been granted by a Development Assessment Panel (DAP) pursuant to a DAP application may apply, under the relevant planning instrument in this case being the City of Swan Local Planning Scheme No.17, for the responsible authority under that instrument, being the City of Swan, to amend or cancel the development approval.

As soon as practicable after an application is determined, the responsible authority is to give the administrative officer of the DAP that granted the initial development approval written notification of the determination and must include:

a) The date of determination;
b) The determination;
c) The terms of any condition to which the approval of the application is subject;
d) Reasons for any refusal of the application.

RIGHT OF REVIEW

LPS17 (cl.10.10)

In accordance with cl.10.10 of Local Planning Scheme No.17 if the applicant is aggrieved with the decision of the Council, a right of appeal may exist in accordance with Part 3 of the State Administrative Tribunal Act 2004 and Part 14 of the Planning and Development Act 2005.
2015 Regulations (cl.76(2))

In accordance with cl.76(2) of the Planning and Development Local Planning Schemes) Regulations 2015 an affected person (meaning the applicant of the subject development application or the owner of the subject land) may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the Planning and Development Act 2005 Part 14.

PROPOSAL AND PROPERTY DETAILS

Applicant: Ionic Projects (Frank Ricci)
Owner: Comet Nominees Pty Ltd (Peter Manios)
Zoning: LPS17 - Residential R40
         MRS - Urban
Strategy/Policy: SPP 3.1 Residential Design Codes of WA
                POL-LP-1.10 Provision of Public Art
                POL-C-040 Midland District Drainage Development Reserve Fund
                POL-TP-128 Building & Development Standards - Residential Zones
Development Scheme: Local Planning Scheme No 17
Existing Land Use: Single House and Outbuilding
Lot Size: 4,047m²
Use Class: Multiple Dwelling "D"

The subject application seeks to extend the term of approval for two years from the original determination date. The particulars of the application remain unchanged from that considered by the JDAP on 9 September 2015. These are described as follows:

- The development of 38 Multiple Dwelling units a maximum of two storeys high
- Eight single bedroom dwellings (1 bed x 1 bath) and 30 two-bedroom dwellings (2 bed x 2 bath) all of which will be less than 75m² in plot ratio area
- Covered parking and utilities and facilities areas on the ground floor
- A central communal open space for the provision of a swimming pool and other recreational facilities area.
- A total of 41 vehicle parking bays for residents, comprised of a one bay allocation for 35 of the multiple dwellings and a two bay tandem parking arrangement for each of the remaining three dwellings, will be provided for the development.
- Nine visitor parking bays are also provided on-site for the development as well as bicycle racks for residents and visitors.
DESCRIPTION OF SITE

The subject site is a 4,047m² lot with a frontage of 50.92m to Spring Avenue in Midland. The lot is zoned ‘Residential’ with a density code of R40 under the City’s Local Planning Scheme No.17. The subject site currently contains a single dwelling located within the north-eastern portion of the lot and associated residential outbuildings to the south of the dwelling.

Vehicular access to the site is provided from Spring Avenue via two existing crossovers, the eastern-most of which will be retained in its current location as part of the proposed development. The development site is otherwise flat with some vegetation.

A Location Plan is provided as an Attachment.

SITE HISTORY/PREVIOUS APPROVALS

DA412/2015 - approved by the JDAP on 9 September 2015

APPLICANT'S SUBMISSION

In support of the new parking shortfall, the applicant contends the following:

- The proposed development comprises 38 residential units of which eight (8) units are 1 bedroom / 1 bathroom apartments with the remaining 30 units being 2 bedroom / 2 bathroom apartments. The development proposed 38 car parking bays resulting in an allocation of 1 bay per unit which is generally consistent with the current supply and demand market ratio.

- The development also provides for 13 bicycle bays for permanent residents and four (4) bicycle bays for visitors, resulting in a total of 17 bicycle bays further reducing the supply and demand ratio of residential and visitor car parking bays.

- The development is located adjacent to Spring Avenue which has significant provision of public on-street parking which is available to accommodate any periodic parking overflow. The transport Statement prepared by Cardno also notes that on-site visitor parking is expected to be sufficient for at least 95% of all days, meaning the variation to the residential parking provision of the R-Codes is not considered to cause undue impact on the adjacent locality.

- The site is situated within 250m of two (2) bus stops located along Great Northern Highway which is within the 400m walkable catchment of the development. A number of routes provide bus services from these stops to the Midland Train Station and northern suburbs. Trains arrive at Midland Train Station every 8 - 15 minutes during weekdays. In this regard, it is considered that the site is afforded with good access to public transport facilities which will lessen the overall demand for on-site parking.
PUBLIC CONSULTATION

Public consultation was completed as per the following:

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<th>Duration:</th>
<th>14 days from 10 October 2017 to 25 October 2017</th>
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</thead>
<tbody>
<tr>
<td>Method:</td>
<td>Notification Letters to nearby landowners within 50m of the subject site</td>
</tr>
<tr>
<td>Submissions received:</td>
<td>One (1) objection Two (2) non-objections</td>
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</table>

ASSESSMENT

Residential Design Codes of Western Australia (R-Codes)

The development was originally approved under the previous Residential Design Codes WA (R-Codes). On the 23 October 2015, amendments to the R-Codes were gazetted and became effective.

A notable standard which has been amended and has a direct impact on the consideration of this proposal is in relation to vehicle parking.

Previously, the R-Codes required 1 parking bay per dwelling less than 75m² for residents, and 0.25 parking bays per dwelling for visitors, and the subject development was entirely compliant under these standards. 40 resident bays and 10 visitor bays were required. The development proposed and remains to propose 41 resident bays and 9 visitor bays. The visitor parking bay shortfall was previously justified through the surplus of resident parking bays.

The gazetted amendment now requires 1.25 parking bays for residents, which results in a 48 resident bay car parking requirement. As 41 resident bays and nine visitor bays are still proposed, this now means a seven resident bay parking shortfall and a one visitor bay parking shortfall, being overall an eight bay parking shortfall.

Parking Adequacy

The request was referred to surrounding landowners for comment. A submission was received objecting to the proposal on the grounds that any accommodation of parking for the development along Spring Street will have adverse implications for residents of that street.

Such a shortfall may or may not be problematic dependent upon whether parking requirements can be accommodated off site - specifically along Spring Avenue. This might be possible but it could entail additional requirements that might be properly and necessarily imposed as conditions. Consideration of extension of the term of an existing planning approval does not provide for amendments to the conditions of the approval or the addition of new conditions.

It is considered to be consistent with orderly and proper planning processes for a new application to be submitted in order to consider it on its merits.
OPTIONS AND IMPLICATIONS

**Option 1:** Council may resolve to refuse to approve the Extension of Time Request for 38 Multiple Dwellings on Lot 3 (No.7) Spring Avenue, Midland for the following reasons.

1. The planning Framework has substantially changed and the proposal is no longer consistent with the R-Codes deemed to comply provisions or the design principles.
2. The parking requirements have increased in direct response to lack of parking facilities caused by the superseded R-Codes.
3. The parking shortfall has gone from compliant to eight bays shortfall.
4. A fresh application should be lodged in light of this, to allow for a full assessment including parking alternatives and additional conditions of approval.

**Implications:** The owner/applicant would have a right of review to the State Administrative Tribunal if aggrieved by this decision.

This is the recommended option.

**Option 2:** Council may resolve to grant approval for the Extension of Time Request for 38 Multiple Dwellings at Lot 3 (No.7) Spring Avenue, Midland.

**Implications:** The Council will be approving an eight bay parking shortfall and will be unable to investigate alternative parking arrangements or cash-in-lieu options.

This is not the recommended option.

CONCLUSION

This application seeks an extension of time to the term of planning approval issued by The Metro-east Joint Development Assessment Panel for 38 multiple dwellings on Lot 3 (No.7) Spring Avenue, Midland.

Since the original approval was issued on 9 September 2015, the planning framework has altered slightly, with amendments to the Residential Design Codes of WA with respect to parking requirements for unit development. The implications of this is that the approved development has a shortfall of 8 onsite car parking bays under the current R-Codes.

Such a shortfall may or may not be problematic dependent upon whether parking requirements can be accommodated off site - specifically along Spring Avenue. This might be possible but it could entail additional requirements that might be properly and necessarily imposed as conditions. Consideration of extension of the term of an existing planning approval does not provide for amendments to the conditions of the approval or the addition of new conditions.

Accordingly the request should be refused and a new application required where its merits may be considered at the current time.
ATTACHMENTS
Current Location Plan
Metro East JDAP 9 September 2015 - Report, Determination and Approved Plans

STRATEGIC IMPLICATIONS
Nil.

STATUTORY IMPLICATIONS
Planning and Development Act 2005
Planning and Development (Local Planning Scheme) Regulation 2015
Planning and Development (Development Assessment Panels) Regulations 2011
City of Swan Local Planning Scheme No. 17
SPP 3.1 Residential Design Codes of WA
POL-LP-1.10 Provision of Public Art
POL-C-040 Midland District Drainage Development Reserve Fund
POL-TP-128 Building & Development Standards - Residential Zones
DS D12 Design Specification D12 - Property Development Design Guidelines

FINANCIAL IMPLICATIONS
Nil

VOTING REQUIREMENTS
Simple majority
RECOMMENDATION

That the Council resolve to:

1) Refuse to extend the term of approval for 38 Multiple Dwellings on Lot 3 (No.7) Spring Avenue, Midland for the following reasons:

   1. Since the issue of the original planning approval which has now expired there have been changes in the relevant planning instrument - the Residential Design Codes of Western Australia, under which the previously approved proposal has a shortfall of 8 on-site car parking bays.

   2. A new application will enable an orderly and proper planning process to occur whereby the merits of the application at the current time may be properly considered.

2) Advise the applicant/owner of the resolution of Council.

3) Advise the administrative officer of the Metro-East DAP that approved the initial application, of Council’s decision accordingly.

4) Advise the submitters of Council’s decision accordingly.

CARRIED
DISCLAIMER: Information shown here on is a composite of information from various different data sources. Users are warned that the information is provided by the City of Swan in this format as a general resource on the understanding that it is not suitable as a basis for decision making without verification with the original source.
Form 1 - Responsible Authority Report  
(Regulation 12)

<table>
<thead>
<tr>
<th>Property Location:</th>
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<td>38 Multiple Dwellings</td>
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<td>DAP Name:</td>
<td>Metro East JDAP</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Ionic Projects Pty Ltd / Rowe Group</td>
</tr>
<tr>
<td>Owner:</td>
<td>Raymond Augustine Netherway</td>
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<td>LG Reference:</td>
<td>DA-412/2015</td>
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<td>Responsible Authority:</td>
<td>City of Swan</td>
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<td>Authorising Officer:</td>
<td>Manager - Statutory Planning</td>
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<tr>
<td>Department of Planning File No:</td>
<td>DAP/15/00822</td>
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<td>Report Date:</td>
<td>28 August 2015</td>
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<td>9 June 2015</td>
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<td>Application Process Days:</td>
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<td>Attachment(s):</td>
<td>1. Location Plan</td>
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<td></td>
<td>2. Development Plans (DA01-Rev E; DA02-Rev D; DA03-Rev D; DA04-Rev E; DA05-Rev C; DA06-Rev C; DA07-Rev C)</td>
</tr>
<tr>
<td></td>
<td>3. Stormwater Management Plan (Project No. 15-076)</td>
</tr>
</tbody>
</table>

Officer Recommendation:

That the Metro East JDAP resolve to:

**Approve** DAP Application reference DAP/15/00822 and accompanying attached plans prepared by Ionic Projects (ie. DA01-Rev E; DA02-Rev D; DA03-Rev D; DA04-Rev E; DA05-Rev C; DA06-Rev C; DA07-Rev C) and the Stormwater Management Plan prepared by Construction Hydraulic Design (Project No. 15-076) in accordance with Part 4.2.24 and Part 10.3 of the City of Swan Local Planning Scheme No. 17, subject to the following conditions:

**Conditions**

1. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.

2. This approval is for “Multiple Dwellings” as defined in the City of Swan Local Planning Scheme No 17 and the subject land may not be used for any other use without the prior approval of the City.

3. Use of the site for the purpose approved shall not commence until an Occupancy Permit is issued.

4. In order to comply with the City of Swan Provision of Public Art Policy POL- LP-1.10, the owner(s) or applicant on behalf of the owner(s) shall within 28 days of the grant of this approval elect either;
a) To pay the City the sum of $40,000 which equates to 1% of the Construction Cost of the Development, in lieu of providing on-site Public Art (option 1); or

b) Seek approval from the City for an artist to provide Public Art on the development site to a minimum value of $40,000 (option 2)

If the election is Option 1, the cash-in-lieu amount must be paid to the City on the earlier of the date specified in an invoice issued by the City, or when an application is made for a building permit for the development the subject of the approval.

If the election is Option 2:

a) the owner(s) or applicant on behalf of the owner(s) within a further 28 days following the election (or such longer period agreed by the City) must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work. The City may apply further conditions regarding the proposed Public Art.

b) No part of the development may be occupied or used unless the Public Art has been installed in accordance with an approval granted by the City;

c) The Public Art approved must be maintained during the continuation of the development; and

d) Prior to the lodgment of a building permit application a Notification pursuant to section 70A of the Transfer of Land Act must be lodged against the certificate of title to the land on which the development is to be carried out, to make the proprietors and prospective purchasers aware of the preceding condition.

5. Prior to the lodgement of a Building Permit application for the proposed development, the owner of the land shall enter into a deed of agreement with the City of Swan whereby the owner:

a) Indemnifies the City against any loss or damage caused to any road reserve or other property during Waste Collection.

6. All stormwater produced from this property including subsoil drainage is to be collected and disposed into the City’s drainage system via a silt trap and in accordance with the City’s requirements.

7. As the development is within the Midland District Drainage Contribution Area, a drainage contribution of $25,698.45 is required. This fee is to contribute towards the upgrade and supply of an adequate drainage service within the area. Payment shall be made prior to the clearance of subdivision conditions or prior to the lodgement of a Building Permit application and prior to any work commencing on the site.

8. All parapet walls and footings shall be constructed inside the allotment.
9. The surface of parapet walls built up to the lot boundary shall be finished to a professional standard (i.e. have raked/rolled joints or an even render finish) to the satisfaction of the Chief Executive Officer.

10. Earthworks, footings and/or structures are not to extend over any lot boundaries.

11. Provision must be made for access and facilities for use by people with disabilities in accordance with provisions of the Building Code of Australia and AS1428.1.

12. The swimming pool must have suitable barrier to restrict access by young children to the immediate pool surrounds in accordance with AS 1926 (or equivalent).

13. A total of fifty (50) off-street vehicle parking bays, including nine (9) visitor parking bays, shall be provided in accordance with the approved plan. Vehicle parking bays shall be clearly line-marked on the ground and designed in accordance with the Australian Standard AS 2890.1 (or equivalent).

14. A minimum of seventeen (17) bicycle spaces shall be provided within the proposed development site, including at least four (4) bicycle space for the exclusive use of visitors, to the satisfaction of the Chief Executive Officer. Bicycle spaces shall be designed in accordance with AS2890.3 (or equivalent).

15. Vehicle access onto the site shall be restricted to that shown on the approved site plan.

16. Any existing vehicle crossover not included as part of the proposed development on the approved plan shall be removed, and the verge and kerb reinstated prior to the practical completion of the development to the City’s satisfaction.

17. All construction works within the road reserve including crossovers, drainage infrastructure, service adjustment, landscaping and footpath placement or reinstatement, must be built and maintained in accordance with the City’s specifications. Failure to do so may result in these works being removed and reinstated by the City at the applicant’s expense.

18. All pavement on the site must be capable of accepting anticipated loadings (including access ways, circulation and parking areas, storage and hardstands). The city will not accept responsibility for subsequent failure of any pavement.

19. Vehicle parking, access and circulation areas as depicted on the approved plans are to be sealed, kerbed, line-marked and drained to the satisfaction of the City.

20. All designated pedestrian access ways are to be brick paved and distinguishable in appearance from vehicle access ways so as to give clear
direction to all users and protect against vehicle access, to the satisfaction of the City.

21. Drainage, parking areas, pavement, kerbing, and line marking as depicted on the approved plans shall be maintained at all times to the satisfaction of the City of Swan.

22. Prior to the lodgement of a Building Permit Application, a landscape plan must be submitted to the City for approval. For the purposes of these conditions a detailed landscape plan is to be drawn to a scale of 1:100. Guidelines are available from the City.

23. All landscaping must be completed in accordance with the approved detailed landscape plan prior to the occupation of any building, and all landscaping is to be maintained onsite to the satisfaction of the Chief Executive Officer.

At occupancy, the owner is responsible for the maintenance of the crossover, landscaping and reticulation in the verge.

24. No wall, fence or landscaping greater than 0.75 metres in height shall be constructed within 1.5 metres of where the driveway meets the public road reserve.

25. All privacy screening as depicted on the approved plans shall be at least 75 per cent obscure, permanently fixed, and constructed of a durable material to restrict views in the direction of adjoining properties to the satisfaction of the City of Swan.

The approved privacy screening shall be maintained in good condition and shall be replaced to meet the same specification as approved in the event of damage or breakage. The privacy screening shall otherwise not be removed or altered unless the replacement screening and / or alterations meet the same specification as approved to the satisfaction of the City of Swan.

26. A refuse bin storage area adequate to service the development shall be provided to the satisfaction of the City’s Principal Environmental Health Officer before the development is occupied or used.

27. The development shall be connected to the Water Corporation’s sewer.

28. External lighting shall comply with the requirements of AS4282 – Control of Obtrusive Effects of Outdoor Lighting (or equivalent).

29. The applicant is to ascertain the location and depth of any services that may interfere with this development. Any adjustment to these services required as part of this approval, must be arranged by the applicant prior to these works commencing on the site. Any adjustment must be approved by the relevant service authorities and will be at the applicant’s expense.

30. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.
Advice Notes

a) This is a Development Approval of the City of Swan under its Local Planning Scheme No. 17. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.

b) Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.

c) This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City’s attention.

d) Take notice that it is the responsibility of the applicant to advise the landowners(s) and/or builder(s) of the need to satisfy the requirements of the conditions of the planning approval for the subject lot, prior to or on lodgement of Building Applications. The City will not issue a Building Permit until all the condition of planning approval and any other requirements pertaining to this planning approval have been met (including payment of fees and charges).

e) In accordance with the Building Act 2011 and Building Regulations 2012, a Building Permit application must be submitted to, and approved by the City’s Principle Building Surveyor prior to any construction or earthworks commencing on site.

f) The proposed development is required to comply in all respects with the Building Code of Australia. Plans and specifications that reflect these requirements are required to be submitted with the Building Permit application.

g) To enable your Building Permit Application to be assessed promptly, please ensure a complete application is submitted to the City.

To assist in preparing a complete Building Permit Application refer to the City of Swan Website (www.swan.wa.gov.au) and follow the links to Building Services Applicant Checklists.

If you require assistance, please contact Customer Services on 9267 9267.

h) A Demolition Permit must be issued before any demolition work commences on the site.
i) The developer must ensure that compliance with the access and facilities for disabled requirements of the Building Code of Australia and all other relevant Australian Standards in respect of access and facilities for the disabled are met.

j) The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental Protection (Noise) Regulations 1997.

All development works are to be carried out in accordance with control of noise practices set out in Section 6 of AS 2436-1981 or the equivalent current Australian Standard.

No works shall commence prior to 7.00 am without the City’s approval

k) It is recommended that consideration be given to the incorporation of noise attenuation measures as detailed in AS 2021.

l) The swimming pool/spa is to be approved by the Department of Health WA.

m) The carrying on of the development must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, use of water tanks, mulching or other land management systems should be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and in the manner directed by the City’s Principal Environmental Health Officer if it is considered that a dust nuisance exists.

n) Public Swimming Pools
   a. To comply in all respects with the Health (Aquatic Facilities) Regulations 1997, and
   b. Prior to commencement of any works, plans and specifications must be submitted to the department of Health and written approval received from the Executive Director of Public Health, and
   c. Plans and specifications which reflect these requirements (a and b) are to accompany the Building Permit application.

o) The applicant is required to ensure the development enables the placement of the required number of refuse and recycling mobile garage bins on the nominated collection day in a manner accessible to the City’s Waste Services. The applicant should seek advice from the City’s Waste Services as to its operational requirements.

p) Kerbs, roadways, footpaths, open drainage, stormwater pits, service authority pits, and nature strips must be adequately protected during construction of the development.

q) The City of Swan is authorised and liable for the maintenance and repair of roads under its control within its boundary and pursuant to Section 84 of the Road Traffic Act. The City is authorised to recover costs from the applicant, for the repair and maintenance of these roads if any damage is caused as part of this development to the kerb, footpath, drainage pits, stormwater system, landscaping or signs located within the road reserve.
r) This approval does not constitute approval from other service authorities to construct the crossover as shown on the plan. It is recommended that the applicant ascertain the location and depth of any services that may interfere with crossover and associated building construction. Any adjustment to affected services is to be arranged by the applicant at their expense with the appropriate service authority, prior to works commencing on the site.

**Background:**

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<tr>
<th>Insert Property Address:</th>
<th>Lot 3 (No. 7) Spring Avenue</th>
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<tr>
<td>Insert Zoning MRS:</td>
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<td>TPS:</td>
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<td>Insert Existing Land Use:</td>
<td>Single House</td>
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<td>Value of Development:</td>
<td>$4 million</td>
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**Description of Site:**

The subject site is a 4,047m² lot with a frontage of 50.92m to Spring Avenue in Midland. The lot is zoned 'Residential' with a density code of R40 under the City’s Local Planning Scheme No. 17. The subject site currently contains a single dwelling located within the north-eastern portion of the lot and associated residential outbuildings to the south of the dwelling.

Vehicular access to the site is provided from Spring Avenue via two existing crossovers, the eastern-most of which will be retained in its current location as part of the proposed development. The development site is otherwise flat with some vegetation.

A Location Plan is provided at Attachment 1.

**Details: outline of development application**

The application proposes the development of 38 Multiple Dwelling units on Lot 3 (No.7) Spring Avenue, Midland. The Multiple Dwelling development will be a maximum of two storeys high, and will comprise covered parking and utilities and facilities areas on the ground floor, as well as a central communal open space for the provision of a swimming pool and other recreational facilities area.

The development will provide for eight single bedroom dwellings (1 bed x 1 bath) and 30 two-bedroom dwellings (2 bed x 2 bath), all of which will be less than 75m² in plot ratio area. A total of 41 vehicle parking bays for residents, comprised of a one bay allocation for 35 of the multiple dwellings and a two bay tandem parking arrangement for each of the remaining three dwellings, will be provided.
for the development. An additional nine visitor parking bays are also provided on-site for the development as well as bicycle racks for residents and visitors.

Legislation & policy:

Legislation

- Planning and Development Act 2005
- City of Swan Local Planning Scheme No. 17

State Government Policies

- SPP 3.1 Residential Design Codes of WA

Local Policies

- POL-LP-1.10 Provision of Public Art
- POL-C-040 Midland District Drainage Development Reserve Fund
- POL-TP-128 Building & Development Standards - Residential Zones
- DS D12 Design Specification D12 - Property Development Design Guidelines

Consultation:

Public Consultation

The application was advertised for a period of 14 days via landowner letters to five survey-strata lots on the adjoining Lot 20 (No. 3) Spring Avenue to the west of the subject site, and to the landowners of Lot 8 (No. 11) Spring Avenue to the east of the subject site. The application was advertised due to a number of proposed variations to the Deemed-to-Comply requirements of the R-Codes relating to lot boundary setbacks and visual privacy.

Most of the advertised variations to minimum lot boundary setbacks and all advertised variations to the visual privacy requirements have since been omitted from the proposed development. The remaining proposed setback variations affect only four of the survey-strata lots on Lot 20 (No. 3) Spring Avenue to the west of the subject site, as detailed further in the assessment section of this report.

No objection to the proposed development was received from any landowner as a result of the public advertising period.

Planning assessment:

1.0 Zoning and Permissibility of Use Class
The subject lot is zoned 'Urban' in the Metropolitan Region Scheme (MRS) and 'Residential' with a density code of R40 in the City’s Local Planning Scheme No. 17.

Multiple Dwelling is a discretionary ('D') use in the 'Residential' zone, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

The objectives of the 'Residential' zone are to:

(a) provide for a range of forms and densities of residential development to meet the needs of the wide variety of households which make up the community;

(b) promote a residential environment in each locality consistent with the form and density of residential development permissible in the locality, so as to enhance a sense of place and community identity;

(c) preserve and enhance those characteristics which contribute towards residential amenity, and to avoid those forms of development which have the potential to prejudice the development of a safe and attractive residential environment;

(d) provide for a limited range of ancillary development compatible with the form and density of residential development, and complementary to the needs of local communities, but which will not compromise residential amenity;

(e) avoid development of land for any purpose or in any manner that would detract from the viability or integrity of development in either the Strategic Regional Centre or the Commercial zones.

The proposed Multiple Dwelling development is a residential development consistent with objective (a) of the zone. As detailed in the following assessment of the proposal against the Residential Design Codes of Western Australia (R-Codes) and local planning framework, the development is considered to further objectives (b) and (c) of the zone to preserve and enhance those characteristics which contribute toward residential amenity so as to promote the development of a safe and attractive residential environment consistent with the form and density of residential development permissible in the locality.

The proposed development is not an ancillary residential development and does not entail any form of commercial development, and so objectives (d) and (e) of the zone do not come into consideration.

2.0 Residential Design Codes of Western Australia (R-Codes)

The application has been assessed against the relevant Deemed-to-Comply requirements of the R-Codes as applicable to the R40 density code. The proposed development complies with most Deemed-to-Comply requirements, including those requirements relating to open space, building height, vehicle access and resident parking, dwelling size, visual privacy, overshadowing and the provision of utilities and facilities.
The application proposes a number of variations to other Deemed-to-Comply requirements, most notably those relating to plot ratio area (building size), building setbacks, visitor parking, and minor variations to landscaping and the provision of outdoor living areas. The Deemed-to-Comply requirements provide one way to satisfy the Design Principles for each design element of the R-Codes. Where variations to the Deemed-to-Comply requirements are proposed by this application, the development has been assessed against the relevant Design Principles and found to be compliant as discussed in the following sections:

6.1.1 C1 – Building Size:

Variation: The development proposes a plot ratio of 1:0.64 where the maximum allowable under the Deemed-to-Comply requirement is 1:0.6. This translates to an additional 176.48m² of plot ratio area – or 2.5 dwellings at the average proposed dwelling size – beyond the maximum allowable plot ratio.

The Design Principle to be considered in assessing building size that exceeds the Deemed-to-Comply requirement is whether or not:

*Development of the building is at a bulk and scale indicated in the local planning framework and is consistent with the existing or future desired built form of the locality.*

The proposed development is considered to be acceptable in this instance given the relevant Design Principle relates only to aspects of built form (i.e. bulk and scale) and not to aspects of density. The development complies with the Design Principles relating to built form, including building height, open space, and building setbacks as applicable to the R40 density code and consistent with the existing and desired built form of the locality.

Building heights and open space in particular are compliant with the applicable Deemed-to-Comply requirements, with open space provided at a rate of approximately 46% when accounting for accessible and usable outdoor living areas on the upper storey as per the definition in the R-Codes.

The proposal also employs architectural design treatments to further reduce the perception of bulk and height, including an articulated street facade with feature panels, staggered building heights and concealed roofs, and low, visually permeable fencing at the street level interface to moderate the visual impact of height and bulk at the pedestrian scale.

6.1.3 C3.1 – Street Setback:

Variation: The proposed building will be setback between 4 and 7.5 metres from the street boundary in accordance with the minimum street setback distance of 4 metres, however the proposed balconies
and supporting structures of street-facing dwellings will extend approximately 0.8 – 2.5 metres into the street setback area.

The Design Principle to be considered in assessing street setbacks is that:

*Buildings are set back from street boundaries an appropriate distance to ensure they:*
  * contribute to the desired streetscape;
  * provide articulation of the building on the primary and secondary streets;
  * allow for minor projections that add interest and reflect the character of the street without impacting on the appearance of bulk over the site;
  * are appropriate to its location, respecting the adjoining development and existing streetscape; and,
  * facilitate the provision of weather protection where appropriate.

The proposed development is considered to be acceptable in this instance given the reduced setback of the proposed balconies in combination with the greater setback of the building will achieve an articulated street facade that will contribute to the desired streetscape by adding interest, reducing the appearance of bulk, and responding to the existing character of the street.

All proposed balconies will be located entirely within the property boundary consistent with the relevant Deemed-to-Comply requirement 6.1.3 C3.2.

6.1.4 C4.1 – Lot Boundary Setbacks:

Variation: The proposed development will be setback from the western lot boundary in variation to the Deemed-to-Comply minimum lot boundary setbacks as set out in Table 2a and 2b of the R-Codes.

The proposed lot boundary setback variations are detailed below:

<table>
<thead>
<tr>
<th>Wall</th>
<th>Dimensions</th>
<th>Required Setback</th>
<th>Proposed Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Store 6</td>
<td>1.7m L x 2.8m H</td>
<td>1m</td>
<td>Nil</td>
</tr>
<tr>
<td>Store 8</td>
<td>1.7m L x 2.8m H</td>
<td>1m</td>
<td>Nil</td>
</tr>
<tr>
<td>Stores 32 &amp; 33</td>
<td>7.0m L x 2.8m H</td>
<td>1m</td>
<td>Nil</td>
</tr>
<tr>
<td>Unit 22 bedroom</td>
<td>3.1m L x 6.0m H</td>
<td>2.8m</td>
<td>1.95m</td>
</tr>
</tbody>
</table>

The relevant Design Principle to be considered in assessing lot boundary setbacks is that:

*Buildings set back from boundaries or adjacent buildings so as to:*
  * ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;
  * moderate the visual impact of building bulk on a neighbouring
property;
• ensure access to daylight and direct sun for adjoining properties;
and,
• assist with the protection of privacy between adjoining properties.

The properties affected by the proposed setback variations are four existing grouped dwellings located on Lot 20 (No. 3) Spring Avenue abutting the western boundary of the subject lot. The above Design Principle is considered in relation to the western elevation of the development and its impact on the abutting grouped dwellings located on Lot 20 (No. 3) Spring Avenue as follows:

Solar Access (Overshadowing)
The location and orientation of the subject lot means that the proposed building setbacks will have negligible impact on access to daylight and direct sun to both the subject development and the abutting properties to the west of the site, where 1% overshadowing of the land by the proposed development will occur.

Visual Privacy
The proposed development complies with the Deemed-to-Comply requirements of the R-Codes pertaining to visual privacy. The application does not propose any major openings on the wall(s) fronting the western lot boundary, and appropriate screening will be provided on the balcony of Unit 22 to restrict views from this outdoor living area in the direction of the abutting properties.

Building Bulk
Three boundary walls are proposed to be built up to the western lot boundary in lieu of the minimum required setback of 1m. It is noted that the minimum setback distance applicable to the unit 22 bedroom wall is determined on the basis of the total length of the building wall (43.2m) in accordance with Figure Series 4 in the R-Codes, however the portion of wall subject to variation is in actuality only 3.1m in length.

The potential impact of building bulk is detailed relative to each affected property below:

Unit 1/3 Spring Avenue, Midland
The proposed setback variation for the 1.7m long Store 6 wall and the two-storey Unit 22 bedroom wall will primarily impact this property. The grouped dwelling on Unit 1/3 Spring Avenue does not contain any outdoor living areas with views in the direction of the subject lot, however it does contain two bedrooms each with one major opening (sliding door) facing the subject boundary.

Upward views in the direction of the proposed development will be restricted from these ground floor major openings due to their
single-storey elevation, which indicates that the proposed setback of the Unit 22 bedroom wall at 1.95m instead of the required 2.8m will have negligible impact on building bulk as viewed from Unit 1/3 Spring Avenue. Side views in the direction of the proposed boundary wall will also be restricted from the major openings by the existing walls of the grouped dwelling, further reducing the impact of this proposed setback variation on building bulk to minimal.

**Unit 3/3 Spring Avenue & Unit 5/3 Spring Avenue, Midland**
The proposed setback variation for the Store 8 wall will primarily impact these two properties. The wall will be built up to the boundary at the point where both survey-strata lot boundaries adjoin so as to impact each property as minimally as possible.

Both grouped dwellings contain an outdoor living area with views in the direction of the proposed boundary wall. The proposed boundary wall will extend 1m above a standard 1.8m high dividing fence for a total length of 1.7m, sited halfway across the boundary between the survey-strata lots. The rest of the building facade behind this boundary wall will be setback over 3m from the boundary. This use of articulation in the building facade has been employed to reduce the overall perception of building bulk on the adjoining landowner to minimal.

**Unit 7/3 Spring Avenue, Midland**
The proposed setback variation for the 7m long wall for Stores 32 and 33 will affect this property. The proposed boundary wall will be within view of one major opening to the dwelling (kitchen), but not its outdoor living area. Views in the direction of the proposed development will be restricted from this ground floor major opening due to its narrowness and single-storey elevation, which indicates that the impact of the boundary wall on building bulk, as viewed from this property, will be minimal.

It is considered that the setback of the proposed building walls form the lot boundary have been designed to moderate the visual impact of building bulk on the adjoining properties. This is particularly apparent when considering the existing development on the adjoining land, which will have already restricted views in the direction of the proposed development from major openings.

Where views in the direction of the proposed development from outdoor living areas will occur on Unit 3/3 Spring Avenue and Unit 5/3 Spring Avenue, the impact of building bulk is likely to be minimal.

It is noted that all proposed setback variations were advertised to each affected landowner and no objection to the proposed development or the potential visual impact of building bulk on the affected property was received.
6.3.1 C1 – Outdoor Living Areas:

Variation: Proposed units 23 – 26 and 35 – 38 will be provided an outdoor living area with a minimum dimension of 2.4m and an approximate area of 9.3m², which is a minor variation to the Deemed-to-Comply minimum outdoor living area requirement of 10m².

The Design Principle for outdoor living areas is that:

*Balconies or equivalent outdoor living areas capable of use in conjunction with a habitable room of each dwelling, and if possible, open to winter sun.*

It is noted that the calculation of outdoor living area for units 23 – 26 and 35 – 38 excludes those areas that are still considered useable but have a dimension less than 2.4m as per the Deemed-to-Comply requirements for outdoor living area. When these areas are included in the calculation, outdoor living areas for units 23 – 26 and 35 – 38 will be greater than 10m². In this regard, the proposed outdoor living areas are considered to satisfy the Design Principle given that each will be accessible and capable of use in conjunction with a habitable room and of sufficient size to be functional.

6.3.2 C2i) – Landscaping:

Variation: More than 50% of the proposed street setback area for the development will be developed with hard surface in variation to the Deemed-to-Comply requirement for landscaping.

The Design Principle for landscaping is that:

*The space around the building is designed to allow for planting. Landscaping of the site is to be undertaken with appropriate planting, paving and other landscaping that:
* meets the projected needs of the residents;
* enhances security and safety for residents; and,
* contributes to the streetscape.*

The proposed development is considered to be acceptable given the design of the street setback area will allow for landscaping and paving that will both contribute to the streetscape as well as meet the needs of residents, particularly in relation to vehicle access, parking and manoeuvrability, and the provision of legible and safe pedestrian access and outdoor living areas.

6.3.3 C3.1 – Parking:

The development proposes a total of 9 visitor parking bays in lieu of the minimum Deemed-to-Comply requirement of 10 bays, which is rounded up from 9.5 in accordance with the minimum ratio of
0.25 visitor bays per multiple dwelling (38).

The relevant Design Principle to be considered in assessing on-site vehicle parking is to ensure:

Adequate car and bicycle parking provided on-site in accordance with projected need related to:
- the type, number and size of dwellings;
- the availability of on-street and other off-site parking; and,
- the proximity of the proposed development in relation to public transport and other facilities.

It is noted that the development proposes a total of 41 on-site vehicle parking bays for residents, comprised of a one bay allocation for 35 of the multiple dwellings and a two bay tandem parking arrangement for each of the remaining three dwellings. This provision of on-site car parking exceeds the minimum Deemed-to-Comply requirement of 1 bay per small (<75m²) dwelling for the applicable 'Location B' area by three bays.

The proposed variation to the provision of visitor parking bays is determined to be acceptable in this instance when considering that the projected need for visitor parking bays may be reduced in part by the provision of three additional parking bays available to residents.

It is also noted that the minimum ratio of visitor parking bays to each dwelling as set out in the R-Codes does not differentiate between the different types and size of dwellings. The proposed development will provide for only small (<75m²) dwellings comprising of five one-bedroom and 30 two-bedroom units. Considering that the proposed dwellings are on the lower scale of both size and bedroom type and that the variation is minimal given the actual requirement is for 9.5 visitor bays, the proposed provision of nine visitor parking bays is considered to be adequate for the projected needs of residents.

3.0 Other Local Policies and Design Specifications / Guidelines

The proposed development will comply with the City's various policies, design specifications, and guidelines relating to residential development as discussed below.

3.1 Vehicle access / manoeuvrability:

The design of parking spaces and vehicular access and circulation areas will comply with the Australian Standard 2890.1 and the City’s Design Specification D12 - Property Development Design Guidelines (DS D12) where applicable. It is considered that suitable provision has been made in the design of the development for efficient vehicular circulation within the lot in accordance with
relevant provisions of the City’s Building & Development Standards - Residential Zones (POL-TP-128) Local Planning Policy.

A Traffic Impact Statement has been prepared for the site and reviewed by City staff, who concluded that the volumes of traffic generated by the development are acceptable and can be accommodated safely on Spring Avenue and relevant road intersections.

3.2 Refuse Collection and Storage:

A Waste Management Plan has been prepared for the site to outline the proposed waste management strategy for the proposed development. A communal bin storage area will be provided for the development and will be secured and screened from view from the street. The proposed waste management and storage area complies with the City’s Waste Management Operational Guidelines.

Due to the scale of development and number of dwellings proposed, City staff have indicated a preference for waste collection vehicles to access the development site to service the proposed bin storage area rather than standard verge collection methods. This option is subject to the owner of the land entering into a deed of agreement with the City of Swan whereby the owner indemnifies the City against any loss or damage caused to any road reserve or other property during waste collection from the site.

In any case, City staff note that there is sufficient verge space available to the development to accommodate the placement of the required number of bins for collection should this option be necessary.

3.3 Stormwater Drainage:

A Stormwater Management Plan has been prepared by Construction Hydraulic Design for the subject site. The proposed stormwater management system for the site has been reviewed and endorsed by City staff. In accordance with Local Planning Policy (POL-C-040) Midland District Drainage Development Reserve Fund, the City recommends a condition requiring the applicant to make drainage contribution in accordance with the policy to contribute towards the upgrade and supply of an adequate drainage service within the Midland area should the application be approved.

3.4 Public Art:
In accordance with Local Planning Policy (POL-LP-1.10) Provision of Public Art, the City recommends a condition requiring the applicant to make a contribution to public art, either monetarily or via development on the subject site. The policy aims to ensure that proposals for development in excess of $1 million construction cost contributes toward public artworks that promote and recognise the identity of the local community.

The intention of the policy is to accept contributions towards public art or encourage landowners to develop public art on their property. As this is not always feasible, the applicant is permitted discretion as to which option they would prefer. Should public
art be constructed on the property, a notification on title is required to flag to future landowners of the need to maintain the artwork.

Options/Alternatives

Option 1:

Is conditional approval as per the report recommendation.

Implication: The applicant will be able to proceed with the proposed development.

Option 2: Refuse DAP application reference DAP/15/00822 and accompanying plans prepared by Ionic Projects Plans (DA01-Rev E; DA02-Rev D; DA03-Rev D; DA04-Rev E; DA05-Rev C; DA06-Rev C; DA07-Rev C) and the Stormwater Management Plan prepared by Construction Hydraulic Design (Project No. 15-076) on the following grounds:

a. The proposed development will not satisfy the relevant Design Principles of the Residential Design Codes for Western Australia pertaining to building size, street setbacks, lot boundary setbacks, and the provision of visitor parking, landscaping and outdoor living areas.

This is not the recommended option.

Implication: The owner/applicant would have a right of review to the State Administrative Tribunal if aggrieved by this decision.

Conclusion:
The proposed development for 38 Multiple Dwellings on Lot 3 (No. 7) Spring Avenue, Midland, is supported for the following reasons:

- The development is consistent with the applicable 'Residential' zone for the subject land;
- The development generally complies with the Deemed-to-Comply requirements of the Residential Design Codes of Western Australia (R-Codes), and where variations are proposed the development will satisfy the relevant Design Principles of the R-Codes; and,
- The development will be compliant with the local planning framework, including the City's various policies, design specifications, and guidelines relating to residential development.

In light of the above, it is recommended that the Metro-East Development Assessment Panel approve the application subject to conditions.
Dear Mr Joseet

Metro East JDAP – City of Swan – DAP Application DA-412/2015
Lot 3 (7) Spring Avenue, Midland
38 Multiple Dwellings

Thank you for your application and plans submitted to the City of Swan on 9 June 2015 for the above development at the abovementioned site.

This application was considered by the Metro East Joint Development Assessment Panel at its meeting held on 9 September 2015, where in accordance with the provisions of the City of Swan Local Planning Scheme No.17, it was resolved to approve the application as per the attached notice of determination.

Should the applicant not be satisfied by this decision, a DAP Form 2 application may be made to amend or cancel this planning approval in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011.

Please also be advised that there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. Such an application must be made within 28 days of the determination, in accordance with the State Administrative Tribunal Act 2004.

Should you have any queries with respect to the conditions of approval, please contact Ms Asha Logan at the City of Swan on (08) 9267 9368.

Yours sincerely,

Joe Hendry

DAP Secretariat

16/09/2015

Encl. DAP Determination Notice
Approved plans

Cc: Ms Asha Logan
City of Swan
Planning and Development Act 2005
City of Swan Local Planning Scheme No.17
Metro East Joint Development Assessment Panel
Determination on Development Assessment Panel Application for Planning Approval

Location: Lot 3 (7) Spring Avenue, Midland
Description of proposed Development: Multi-Residential Development

In accordance with regulation 8 of the Planning and Development (Development Assessment Panels) Regulations 2011, the above application for planning approval was granted on 9 September 2015, subject to the following:

Approve DAP Application reference DAP/15/00822 and accompanying attached plans prepared by Ionic Projects (ie. DA01-Rev E; DA02-Rev D; DA03-Rev D; DA04-Rev E; DA05-Rev C; DA06-Rev C; DA07-Rev C) and the Stormwater Management Plan prepared by Construction Hydraulic Design (Project No. 15-076) in accordance with Part 4.2.24 and Part 10.3 of the City of Swan Local Planning Scheme No. 17, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.

2. This approval is for "Multiple Dwellings" as defined in the City of Swan Local Planning Scheme No 17 and the subject land may not be used for any other use without the prior approval of the City.

3. Use of the site for the purpose approved shall not commence until an Occupancy Permit is issued.

4. In order to comply with the City of Swan Provision of Public Art Policy POL- LP-1.10, the owner(s) or applicant on behalf of the owner(s) shall within 28 days of the grant of this approval elect either;

   a) To pay the City the sum of $40,000 which equates to 1% of the Construction Cost of the Development, in lieu of providing on-site Public Art (option 1); or

   b) Seek approval from the City for an artist to provide Public Art on the development site to a minimum value of $40,000 (option 2)

If the election is Option 1, the cash-in-lieu amount must be paid to the City on the earlier of the date specified in an invoice issued by the City, or when an application is made for a building permit for the development the subject of the approval.
If the election is Option 2:

a) the owner(s) or applicant on behalf of the owner(s) within a further 28 days following the election (or such longer period agreed by the City) must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work. The City may apply further conditions regarding the proposed Public Art.

b) No part of the development may be occupied or used unless the Public Art has been installed in accordance with an approval granted by the City;

c) The Public Art approved must be maintained during the continuance of the development; and

d) Prior to the lodgment of a building permit application a Notification pursuant to section 70A of the *Transfer of Land Act* must be lodged against the certificate of title to the land on which the development is to be carried out, to make the proprietors and prospective purchasers aware of the preceding condition.

5. Prior to the lodgement of a Building Permit application for the proposed development, the owner of the land shall enter into a deed of agreement with the City of Swan whereby the owner:

a) Indemnifies the City against any loss or damage caused to any road reserve or other property during Waste Collection.

6. All stormwater produced from this property including subsoil drainage is to be collected and disposed into the City's drainage system via a silt trap and in accordance with the City’s requirements.

7. As the development is within the Midland District Drainage Contribution Area, a drainage contribution of $25,698.45 is required. This fee is to contribute towards the upgrade and supply of an adequate drainage service within the area. Payment shall be made prior to the clearance of subdivision conditions or prior to the lodgement of a Building Permit application and prior to any work commencing on the site.

8. All parapet walls and footings shall be constructed inside the allotment.

9. The surface of parapet walls built up to the lot boundary shall be finished to a professional standard (i.e. have raked/rolled joints or an even render finish) to the satisfaction of the Chief Executive Officer.

10. Earthworks, footings and/or structures are not to extend over any lot boundaries.

11. Provision must be made for access and facilities for use by people with disabilities in accordance with provisions of the Building Code of Australia and AS1428.1.
12. The swimming pool must have suitable barrier to restrict access by young children to the immediate pool surrounds in accordance with AS 1926 (or equivalent).

13. A total of fifty (50) off-street vehicle parking bays, including nine (9) visitor parking bays, shall be provided in accordance with the approved plan. Vehicle parking bays shall be clearly line-marked on the ground and designed in accordance with the Australian Standard AS 2890.1 (or equivalent).

14. A minimum of seventeen (17) bicycle spaces shall be provided within the proposed development site, including at least four (4) bicycle space for the exclusive use of visitors, to the satisfaction of the Chief Executive Officer. Bicycle spaces shall be designed in accordance with AS2890.3 (or equivalent).

15. Vehicle access onto the site shall be restricted to that shown on the approved site plan.

16. Any existing vehicle crossover not included as part of the proposed development on the approved plan shall be removed, and the verge and kerb reinstated prior to the practical completion of the development to the City's satisfaction.

17. All construction works within the road reserve including crossovers, drainage infrastructure, service adjustment, landscaping and footpath placement or reinstatement, must be built and maintained in accordance with the City's specifications. Failure to do so may result in these works being removed and reinstated by the City at the applicant's expense.

18. All pavement on the site must be capable of accepting anticipated loadings (including access ways, circulation and parking areas, storage and hardstands). The city will not accept responsibility for subsequent failure of any pavement.

19. Vehicle parking, access and circulation areas as depicted on the approved plans are to be sealed, kerbed, line-marked and drained to the satisfaction of the City.

20. All designated pedestrian access ways are to be brick paved and distinguishable in appearance from vehicle access ways so as to give clear direction to all users and protect against vehicle access, to the satisfaction of the City.

21. Drainage, parking areas, pavement, kerbing, and line marking as depicted on the approved plans shall be maintained at all times to the satisfaction of the City of Swan.

22. Prior to the lodgement of a Building Permit Application, a landscape plan must be submitted to the City for approval. For the purposes of these conditions a detailed landscape plan is to be drawn to a scale of 1:100. Guidelines are available from the City.
23. All landscaping must be completed in accordance with the approved detailed landscape plan prior to the occupation of any building, and all landscaping is to be maintained onsite to the satisfaction of the Chief Executive Officer.

At occupancy, the owner is responsible for the maintenance of the crossover, landscaping and reticulation in the verge.

24. No wall, fence or landscaping greater than 0.75 metres in height shall be constructed within 1.5 metres of where the driveway meets the public road reserve.

25. All privacy screening as depicted on the approved plans shall be at least 75 per cent obscure, permanently fixed, and constructed of a durable material to restrict views in the direction of adjoining properties to the satisfaction of the City of Swan.

The approved privacy screening shall be maintained in good condition and shall be replaced to meet the same specification as approved in the event of damage or breakage. The privacy screening shall otherwise not be removed or altered unless the replacement screening and / or alterations meet the same specification as approved to the satisfaction of the City of Swan.

26. A refuse bin storage area adequate to service the development shall be provided to the satisfaction of the City’s Principal Environmental Health Officer before the development is occupied or used.

27. The development shall be connected to the Water Corporation’s sewer.

28. External lighting shall comply with the requirements of AS4282 – Control of Obtrusive Effects of Outdoor Lighting (or equivalent).

29. The applicant is to ascertain the location and depth of any services that may interfere with this development. Any adjustment to these services required as part of this approval, must be arranged by the applicant prior to these works commencing on the site. Any adjustment must be approved by the relevant service authorities and will be at the applicant’s expense.

30. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.

ADVICE NOTES

a) This is a Development Approval of the City of Swan under its Local Planning Scheme No. 17. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.

b) Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
c) This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City’s attention.

d) Take notice that it is the responsibility of the applicant to advise the landowner(s) and/or builder(s) of the need to satisfy the requirements of the conditions of the planning approval for the subject lot, prior to or on lodgement of Building Applications. The City will not issue a Building Permit until all the condition of planning approval and any other requirements pertaining to this planning approval have been met (including payment of fees and charges).

e) In accordance with the Building Act 2011 and Building Regulations 2012, a Building Permit application must be submitted to, and approved by the City’s Principle Building Surveyor prior to any construction or earthworks commencing on site.

f) The proposed development is required to comply in all respects with the Building Code of Australia. Plans and specifications that reflect these requirements are required to be submitted with the Building Permit application.

g) To enable your Building Permit Application to be assessed promptly, please ensure a complete application is submitted to the City.

To assist in preparing a complete Building Permit Application refer to the City of Swan Website (www.swan.wa.gov.au) and follow the links to Building Services Applicant Checklists.

If you require assistance, please contact Customer Services on 9267 9267.

h) A Demolition Permit must be issued before any demolition work commences on the site.

i) The developer must ensure that compliance with the access and facilities for disabled requirements of the Building Code of Australia and all other relevant Australian Standards in respect of access and facilities for the disabled are met.

j) The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental Protection (Noise) Regulations 1997.

All development works are to be carried out in accordance with control of noise practices set out in Section 6 of AS 2436-1981 or the equivalent current Australian Standard.

No works shall commence prior to 7.00 am without the City’s approval

k) It is recommended that consideration be given to the incorporation of noise attenuation measures as detailed in AS 2021.
l) The swimming pool/spa is to be approved by the Department of Health WA.

m) The carrying on of the development must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, use of water tanks, mulching or other land management systems should be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and in the manner directed by the City’s Principal Environmental Health Officer if it is considered that a dust nuisance exists.

n) Public Swimming Pools
   a. To comply in all respects with the Health (Aquatic Facilities) Regulations 1997, and
   b. Prior to commencement of any works, plans and specifications must be submitted to the department of Health and written approval received from the Executive Director of Public Health, and
   c. Plans and specifications which reflect these requirements (a and b) are to accompany the Building Permit application.

o) The applicant is required to ensure the development enables the placement of the required number of refuse and recycling mobile garage bins on the nominated collection day in a manner accessible to the City’s Waste Services. The applicant should seek advice from the City’s Waste Services as to its operational requirements.

p) Kerbs, roadways, footpaths, open drainage, stormwater pits, service authority pits, and nature strips must be adequately protected during construction of the development.

q) The City of Swan is authorised and liable for the maintenance and repair of roads under its control within its boundary and pursuant to Section 84 of the Road Traffic Act. The City is authorised to recover costs from the applicant for the repair and maintenance of these roads if any damage is caused as part of this development to the kerb, footpath, drainage pits, stormwater system, landscaping or signs located within the road reserve.

r) This approval does not constitute approval from other service authorities to construct the crossover as shown on the plan. It is recommended that the applicant ascertain the location and depth of any services that may interfere with crossover and associated building construction. Any adjustment to affected services is to be arranged by the applicant at their expense with the appropriate service authority, prior to works commencing on the site.

Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) of the Planning and Development (Development Assessment Panels) Regulations 2011.