

9.3 PROPOSED AMENDMENT NO. 9 TO LOCAL PLANNING SCHEME NO. 2 - NO. 21 (LOT: 373; D/P: 1939) EUCLA STREET, MOUNT HAWTHORN

Ward: North

Attachments:

1. Location Map
2. Proposed Scheme Amendment Map
3. Applicant's Scheme Amendment Report and Justification

RECOMMENDATION:

That Council:

1. **ADOPTS** Amendment No. 9 to Local Planning Scheme No. 2, included as Attachment 2, pursuant to Section 75 of the *Planning and Development Act 2005*;
2. **ADVISES** the Western Australian Planning Commission that Amendment No. 9 to Local Planning Scheme No. 2 is considered a standard amendment pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the amendment:
 - Is consistent with the City's Local Planning Strategy on the basis that it does not represent an expansion of the commercial area into the residential area given that it provides consistent zoning over the entire landholding and better reflects the long-standing approved commercial use of the subject site;
 - Is consistent with the intent of the Urban zone under the Metropolitan Region Scheme to provide for a range of commercial and residential activities;
 - Would have minimal impact on land in the scheme area that is not the subject of the amendment as a future commercial development would be assessed against the relevant planning framework to ensure that it responds to the surrounding context appropriately;
 - Does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - Is not a complex or basic amendment;
3. **REFERS** Amendment No. 9 to Local Planning Scheme No. 2 to the Environmental Protection Authority, pursuant to Section 81 of the *Planning and Development Act 2005*; and
4. **Subject to the approval of the Environmental Protection Authority, ADVERTISES** Amendment No. 9 to Local Planning Scheme No. 2 for public comment for a period of 42 days, pursuant to Regulation 47(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*

PURPOSE OF REPORT:

To consider the adoption of proposed Amendment No. 9 to the Local Planning Scheme No. 2 (LPS2) for the purposes of advertising in accordance with Section 75 of the *Planning and Development Act 2005*.

PROPOSAL:

The local planning scheme sets out the way land is to be used and developed. When a change is made to the local planning scheme, it is known as a scheme amendment.

Scheme amendments occur for different reasons. This scheme amendment would change the zoning of the land to accommodate development.

The scheme amendment that is the subject of this report proposes to rezone No. 21 Eucla Street, Mount Hawthorn (the subject site) from Residential R30 to Commercial under LPS2. It is being requested by the landowner.

BACKGROUND:

Landowner:	Carlo Diego Nominees Pty Ltd
Applicant:	Rowe Group
Date of Application:	10 February 2022
Zoning:	MRS: Urban LPS2: Zone: Residential R Code: R30
Built Form Area:	Residential
Existing Land Use:	Car Park (Non-Conforming Use)
Lot Area:	564m ²
Right of Way (ROW):	No
Heritage List:	No

Site Context and Zoning

The subject site and the adjoining property to the north at Nos. 251-257 Scarborough Beach Road are both under the same ownership and operated by an information and communications technology (ICT) infrastructure and services company called CDM Australia. The subject site was purchased by the current owner on 25 July 1983 and has been utilised by CDM Australia for car parking purposes since then and associated with the development on the adjoining property to the north.

The subject site is 12.2 metres wide and has a depth of 46.4 metres.

The subject site is bound by Eucla Street to the east, a commercial warehouse to the north (CDM Australia) and single houses to the west and south. The property on the opposite side of Eucla Street to the east are single storey consulting rooms (Urology Services) with on-site car parking at the rear accessed via Eucla Street.

The subject site and adjoining properties to the west and south are zoned Residential R30 under LPS2 and the adjoining property to the north is zoned Commercial under LPS2. The property on the opposite side of Eucla Street to the east is zoned Mixed Use R80 under LPS2.

The subject site and adjoining properties to the west and south are located within the Residential built form area and have a permitted building height of two storeys under the City's Policy No. 7.1.1 – Built Form (Built Form Policy). The adjoining property to the north and the property on the opposite side of Eucla Street to the east are located within the Activity Corridor built form area and have a permitted building height of four storeys under the Built Form Policy.

The subject site was part of the City of Perth until the creation of the Town of Vincent on 1 July 1994.

A location plan is included as **Attachment 1**.

Previous Approvals & Compliance Matters

The table below details the previous approvals and compliance history for the subject site and Nos. 251-257 Scarborough Beach Road.

Date	Details
28 February 1991	<p>The (former) City of Perth Council resolved to forward a development application for a Car Park at the subject site to the Minister of Planning, seeking written consent to approve the land use.</p> <p>Car Park was an 'X' use (prohibited) within the Residential Zone but Clause 26(2) of the operative Planning Scheme provided the ability for the (former) City of Perth Council to approve an 'X' use in the instance that prior written authority was given by the Minister for Planning.</p>

Date	Details
31 May 1991	<p>The Minister for Planning wrote to the (former) City of Perth advising that the request for consent to approve the Car Park 'X' use was refused on four grounds:</p> <ol style="list-style-type: none"> 1. Detraction from residential amenity. 2. Commercial encroachment into residential area. 3. De facto rezoning from residential to commercial. 4. Increasing development potential.
1 July 1991	The (former) City of Perth Council resolved to request that the Minister for Planning reconsider the refusal dated 31 May 1991.
10 October 1991	The Minister for Planning wrote to the (former) City of Perth advising that the request has been reconsidered and written consent granted to approve.
18 November 1991	The (former) City of Perth Council resolved to approve the development application for a Car Park at the subject site.
15 November 1993	<p>The (former) City of Perth Council resolved to grant conditional approval for alterations and additions to the existing showroom and warehouse at the subject site and Nos. 251-257 Scarborough Beach Road. The addition was a single storey extension to the building.</p> <p>The conditions of the approval required the three lots (Lots 1, 372 and 373) to be amalgamated into one lot.</p>
8 September 1994	The State Planning Commission granted conditional approval for the amalgamation of the subject site and Nos. 251-257 Scarborough Beach Road. The conditional approval was never enacted.
15 November 1995	The 1993 approval for alterations and additions which was valid for a period of two years expired. No works had commenced prior to the expiration.
February 2000	Unauthorised construction works commenced at the subject site and Nos. 251-257 Scarborough Beach Road. The works were for alterations and additions as set out in the 1993 development approval.
24 December 2006	Shipping containers for storage purposes first appear on the subject site in aerial imagery.
16 May 2018	<p>The City's LPS2 is gazetted.</p> <p>The subject site remains Residential Zone with a density coding of R30.</p> <p>Non-conforming use rights under Clause 22 of LPS2 is applicable to the site. This allows for the continued operation of the previously approved car park land use.</p>
4 January 2021	<p>A compliance investigation into the subject site was commenced by the City as a result of concerns raised by local residents.</p> <p>The concern raised was that the car parking bays at the subject site were being used for storage purposes.</p> <p>During the course of the investigation the City also identified that the February 2000 construction works were not undertaken in accordance with the 1993 approval plans.</p>
25 June 2021	<p>The City sent the letter to the business operator, requesting that the following actions be undertaken to resolve the following non-compliances at the subject site:</p> <ul style="list-style-type: none"> • Lodgement of a development application for retrospective approval of the unauthorised works undertaken in February 2000. • Lodgement of an application with the Western Australian Planning Commission (WAPC) for the amalgamation of the subject site and Nos. 251-257 Scarborough Beach Road. • Lodgement of a Scheme amendment to rezone the subject site from Residential R30 to Commercial under LPS2.
30 September 2021	The City approved a development application for the unauthorised alterations and additions constructed in February 2000.
10 November 2021	The WAPC granted conditional approval for the amalgamation of the subject site and Nos. 251-257 Scarborough Beach Road. The conditional approval did not include any conditions that require clearance by the City.

DETAILS:

Amendment No. 9 to LPS2 proposes to rezone the subject site from Residential R30 to Commercial to match the existing zoning and density of the adjoining land to the north at Nos. 251-257 Scarborough Beach Road.

The applicant has advised that the intent of the proposal is to better reflect the historical and continued use of the subject site for commercial purposes and to facilitate the resolution of the ongoing compliance matter in accordance with the City's letter dated 25 June 2021.

The applicant has advised that the property owner has no plans to redevelop the site at this stage.

A copy of the Amendment No. 9 to LPS2 map is included as **Attachment 2**.

Applicant's Written Justification

The applicant has submitted written justification in support of the proposed scheme amendment which is included in **Attachment 3**. The applicant's written justification outlines that the proposal would be consistent with the City's Local Planning Strategy (Strategy) and the objectives of the Commercial Zone under LPS2.

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

- The subject site has been used as a private carpark associated with the commercial premises at Nos. 251-257 Scarborough Beach Road since at least March 1965. Some of the land uses that have operated from the site in this time include service station, shop, showroom, warehouse and office.
- The amendment would provide consistent zoning over the entire landholding and would better reflect the long-standing approved commercial use of the subject site.
- The amendment would make it permissible for the property owner to continue to use a portion of the subject site for the purposes of storage which would support the existing business, CDM Australia.
- The amendment would be consistent with the City's Local Planning Strategy for the following reasons, it would:
 - be consistent with the strategic intent for Scarborough Beach Road to develop as an Activity Corridor with a concentration of mixed use and commercial developments.
 - not adversely impact or change the existing low density Residential zoned land to the south of the subject site.
 - be consistent with the strategic intent to provide commercial development nodes along Scarborough Beach Road.
- The amendment would not result in any significant environmental, social, economic or governance impacts on the surrounding properties or area.
- The amendment does not propose to change the current operations at the subject site. The continued operation of the commercial use at the subject site would not detrimentally affect the amenity of the surrounding area with respect to traffic, parking or noise.
- The amendment has been requested by the City as an aspect of the resolution to the ongoing compliance matter.

The applicant is of the view for the abovementioned reasons that the proposed scheme amendment would be a standard amendment as defined under Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CONSULTATION/ADVERTISING:

If Council resolves that Amendment No. 9 to LPS2 is a standard amendment, the proposal must be advertised for public consultation in accordance with Regulation 47(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The amendment would also need to be referred to the Environmental Protection Authority (EPA) to assess the environmental impacts of the proposal and to determine whether any formal environmental assessment is necessary.

The standard amendment must be advertised for public comment for a period of 42 days. Advertising is to occur in the following manner, consistent with the requirements of Appendix 2 of the City's Community and Stakeholder Engagement Policy and the *Planning and Development (Local Planning Schemes) Regulations 2015*:

- Advertisement in the Eastern Reporter or Perth Voice local newspapers;

- Letters being sent to all relevant stakeholders which has been determined to be landowners and occupiers within a 200 metre radius of the subject site;
- Display on the City's website and in the City's offices; and
- Placement of a sign on site, giving notice of the proposal.

Following the 42 day advertising period, a summary of submissions received and Administration's responses to those submissions would be included in a report to Council for consideration of whether to support or not support the amendment.

Design Review Panel (DRP):

Referred to DRP: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Local Planning Scheme No. 2;
- Community and Stakeholder Engagement Policy; and
- Policy No. 7.1.1 – Built Form.

Planning and Development Act 2005 & Planning and Development (Local Planning Schemes) Regulations 2015

Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.

Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a resolution of a local government to adopt an amendment to a local planning scheme which must specify if the amendment is a basic, standard or complex amendment. This is discussed later in the report.

If Council resolves to adopt the amendment for the purposes of advertising:

- The City would advise the Western Australian Planning Commission (WAPC) what type of amendment it is considered to be in accordance with Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and would forward the amendment documentation to the EPA in accordance with for its consideration in accordance Section 81 of the *Planning and Development Act 2005*. Advertising then commences.
- After the close of the advertising period, Administration will summarise all submissions received and prepare a report for Council's consideration at a future Council meeting. Council can determine to either adopt the scheme amendment for final approval, with or without modifications, or resolve to not support the amendment. Council's decision is then forwarded to the WAPC which considers the proposal and submissions before making a final recommendation to the Minister for Planning. The Minister may grant final approval to the scheme amendment, with or without modifications, or may refuse to approve the scheme amendment. The final decision rests with the Minister. If the Minister agrees to grant final approval, the City will then arrange for the scheme amendment to be published in the Government Gazette, at which point it legally comes into effect. A scheme amendment can take up to 12 months to complete.
- Initiation of the amendment does not bind Council to support final adoption of the amendment following advertising.

If Council resolves not to adopt the amendment for the purposes of advertising, the scheme amendment process would not proceed any further and there would be no State Administrative Tribunal (SAT) appeal rights available to the applicant. In this instance, it would be possible for the applicant to separately request that the Minister for Planning, Lands and Heritage order the City to adopt the scheme amendment in accordance with Section 76 of the *Planning and Development Act 2005*.

RISK MANAGEMENT IMPLICATIONS:

There are minimal risks to Council and the City's business function to consider adopting Amendment No. 9 to LPS2 for the purposes of public consultation.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Community Plan 2018-2028:

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

The Environmentally Sustainable Design (ESD) provisions of the City's Built Form Policy, which is informed by the key sustainability outcomes of the City's Sustainable Environment Strategy 2019-2024 is not applicable to this proposal.

Any future development applications lodged in relation to the subject site would be assessed against the relevant ESD standards of the City's Built Form Policy.

PUBLIC HEALTH IMPLICATIONS:

This report has no implication on the priority health outcomes of the City's *Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

There are no finance or budget implications from this report.

COMMENTS:Acceptability of Proposal

In considering Amendment No. 9 to LPS2, Council is to consider its acceptability with respect to consistency with the City's Local Planning Strategy, objectives of the Commercial zone under LPS2, the existing Urban zoning under the Metropolitan Region Scheme (MRS), and the extent it would have a minimal impact on the surrounding area and would not result in any significant environmental, social, economic or governance impacts on the subject site or surrounding area. This is detailed below.

Local Planning Strategy

The City's Local Planning Strategy outlines that the Commercial zoning for the existing commercial area between Brady and Eucla Streets is appropriate for that purpose and the expansion of the commercial area into residential areas is not appropriate.

The amendment would not represent an expansion of the commercial area into residential areas because:

- The site was approved for use as and continues to operate as a commercial car park since 1991;
- The amendment would provide consistent zoning over the entire landholding and would better reflect the long-standing approved commercial use of the subject site;
- The subject site has never been used for residential purposes;
- Commercial development is already permissible, existing and extends further south along Eucla Street than the subject site. The adjacent property on the opposite side of Eucla Street to the east at No. 249 Scarborough Beach Road has operated as approved consulting rooms since 1988. This property extends further south than the subject site and could be redeveloped under the current planning framework to accommodate a four storey mixed use development with commercial uses; and
- The proposed extent of Commercial zoning would mirror a similar extension of the Commercial zone along Brady Street to the west and that similarly accommodates car parking associated with a commercial development located towards Scarborough Beach Road.

Objectives of the Commercial Zone under LPS2

Amendment No. 9 would be consistent with the objectives of the Commercial Zone under LPS2 because:

- It would facilitate a wide range of compatible commercial uses that support sustainable economic development within the City;

- Any future commercial development at the subject site would be assessed to ensure that it incorporates sustainability principles in accordance with the ESD standards of the City's Built Form Policy;
- It would not impact on the existing streetscape as the current approved car park land use would be retained. Any future commercial development would be assessed to ensure that the built form outcome responds to the surrounding context appropriately with respect to scale, height, style, materials, street alignment and design of facades; and
- It would not be detrimental to the amenity of adjoining owners or residential properties in the locality because the scale and intensity of any future commercial development at the subject site could be effectively moderated through the development application process.

Urban Zone under the MRS

The MRS Urban Zone is an area in which a range of activities are undertaken, including residential, commercial, recreational and light industry. Amendment No. 9 would be consistent with the purpose of the MRS Urban Zone as it would allow for commercial activities at the subject site.

Land Use Permissibility

The scheme amendment from Residential R30 to Commercial would enable additional permissible land uses (permitted 'P', discretionary 'D' or advertising 'A' uses) at the subject site under the LPS2 Zoning Table.

The land use opportunities at the subject site would be acceptable for the following reasons:

- The works component for any future commercial development at the subject site would require a development application to be approved by the City prior to commencement. The built form of any future development would be assessed against the City's Built Form Policy to ensure that it responds to the surrounding context. There are 21 additional land uses that could be contemplated and that would form part of any such development application for works. All but three of these uses would need the City to exercise its discretion in approving the land use. The three 'P' permitted land uses are bulky good showroom, lunch bar and trade display;
- All of the additional land uses that could be contemplated are already permissible at the adjoining property to the north. The potential additional impact of the current proposal on the streetscape and surrounding area would not be significant in this way; and
- The property owner has indicated that the intent of the proposed amendment is to facilitate to continued operation of CDM Australia from the adjoining property to the north and the subject site by allowing the consideration of a warehouse/storage land use at the subject site.

Orderly and Proper Planning

In the instance that the property owner had fulfilled the terms of the 1993 development approval and amalgamated the subject site with Nos. 251-257 Scarborough Beach Road, it would have created one lot. It is likely that the subject site would have been rezoned from Residential R30 to Commercial when LPS2 was gazetted in 2018, as it would have formed one landholding with the Commercial zoned portion to the north. This means that the entire amalgamated lot would have been zoned Commercial.

Standard Amendment

Under the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council is required to consider whether the amendment is basic, standard or complex. A standard amendment is the default amendment process for scheme amendments.

The amendment should be a standard amendment for the following reasons:

- The amendment would be consistent with the City's Local Planning Strategy and the objectives of the Commercial zone under LPS2 for the reasons outlined earlier in this report;
- The amendment is consistent with and does not propose to alter the Urban zoning under the MRS;
- The amendment would have minimal impact on the existing residential properties to the south in relation to future development outcomes. The subject site would continue to be located within the Residential built form area with a two storey building height limit under the City's Built Form Policy and the built form of any future redevelopment of the subject site would be assessed to ensure that it responds to the surrounding context;

- The amendment would not result in any significant environmental, social, economic or governance impacts; and
- The amendment is not considered to be a basic or complex amendment, as defined within the *Planning and Development (Local Planning Schemes) Regulations 2015*:
 - A basic amendment would be one that is administrative such as the correction of an error in the LPS or the creation of consistency between LPS2 and other planning legislation including the *Planning and Development (Local Planning Schemes) Regulations 2015*, a State Planning Policy, a structure plan or a local development plan; and
 - A complex amendment would be one that is not consistent with the City's Local Planning Strategy or would have a significant impact relative to the development in locality.

Built Form Policy

If ultimately approved by the Minister, the subject site would be zoned Commercial. It would remain within the Residential built form area while the adjoining properties to the north would be within the Activity Corridor built form area.

It would be appropriate for the subject site to continue to be located within the Residential built form area with a two storey height limit. This is because it would facilitate a sensitive transition between the Commercial Zone and Residential Zone in the instance that the subject site is redeveloped in the future.

Ongoing Compliance Matter - Shipping Containers

Shipping containers first appeared on the subject site in aerial imagery in December 2006.

In January 2021 the City was made aware of concerns raised by local residents that some of the car parking bays at the subject site were being used for storage purposes. The City investigated these concerns and determined that there were a total of four shipping containers located on the subject site. Two of these containers were removed from the subject site in May 2021 following discussions between the City and the business operator.

During discussions with the City the business operator advised that the two remaining containers were used to store pallets of computers before they are taken into the adjacent buildings at Nos. 251-257 Scarborough Beach Road for assembly, with deliveries occurring once a month. It was advised that removal of the two remaining containers would result in increased use of off-site storage which would require an additional four to five deliveries to the site per day.

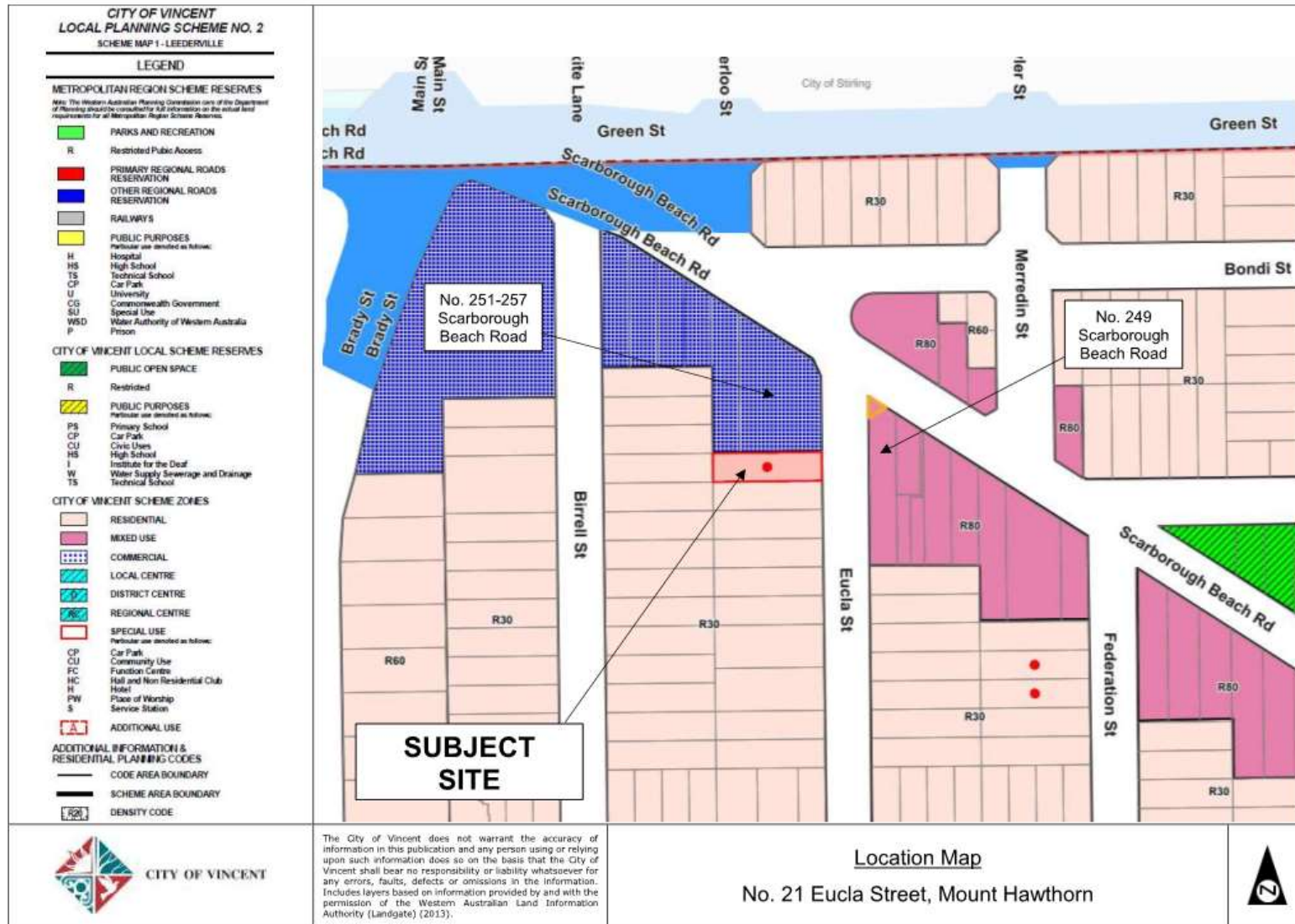
The City's letter to the business operator dated 25 June 2021 advised that no further compliance action would be taken in relation to the two remaining containers at that stage. This was provided that the use of the subject site for staff car parking continued to be maximised and that a scheme amendment be lodged to rezone the subject site from Residential R30 to Commercial.

A warehouse/storage use class is an 'X' use in the Residential zone under the City's LPS2. This means that it is not permitted.

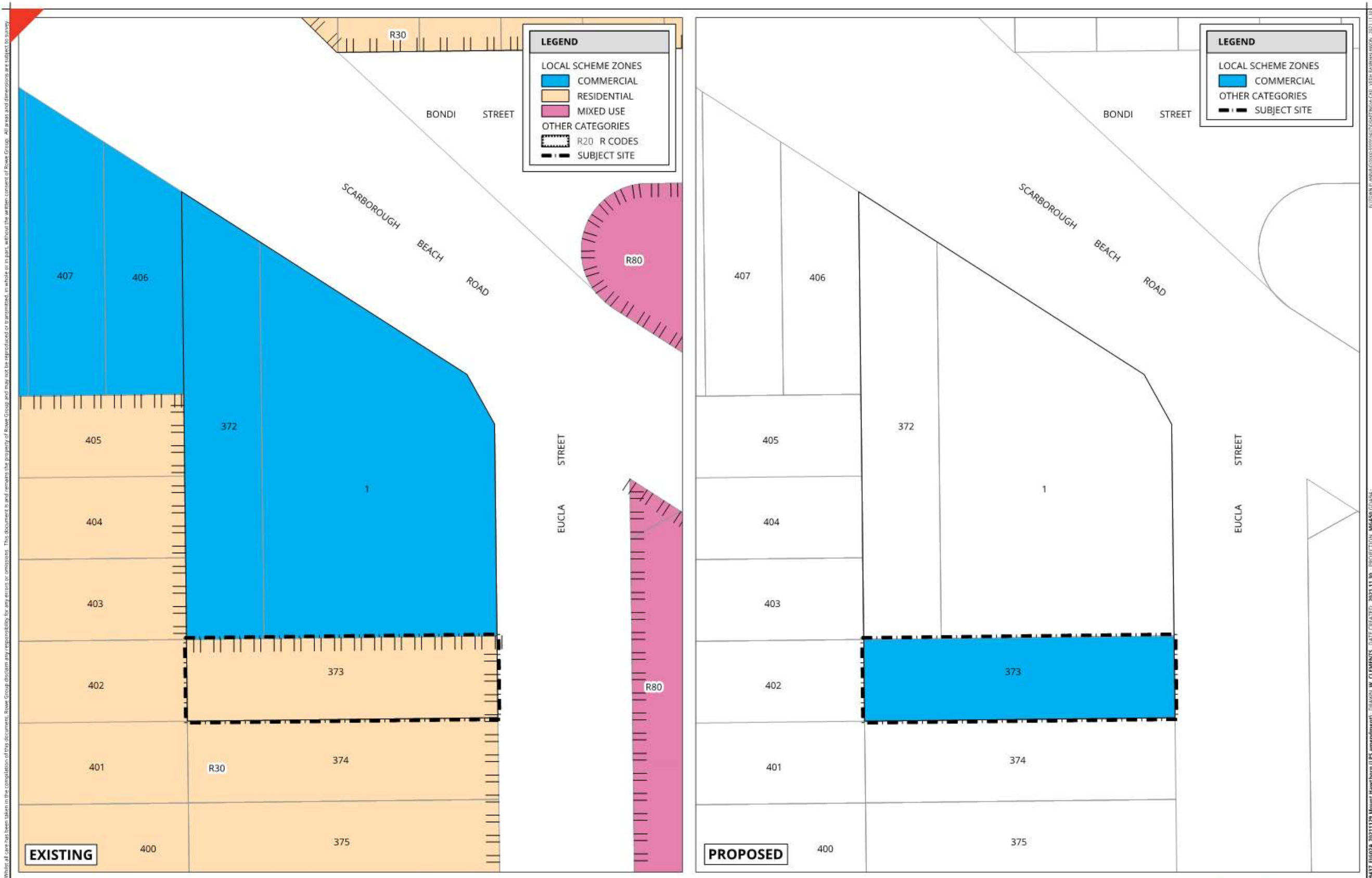
A warehouse/storage use class is a 'D' use in the Commercial zone which means that it is permissible but requires the exercise of discretion and development approval from the City.

In the instance that the applicant is successful in having the site rezoned to Commercial, the property owner would then be required to submit a development application to the City for consideration of approval of the two remaining containers. Any future development application would be assessed against the relevant standards of the City's Built Form Policy including street setback, landscaping and façade design. Modifications to the containers could be sought if deemed necessary through the City's assessment of any such application or through the imposition of conditions in the instance that the City granted approval.

In the instance that Council resolve not to initiate the amendment and the applicant does not separately request that the Minister for Planning, Lands and Heritage order the City to adopt the scheme amendment then the scheme amendment process would not proceed any further. If this were the case, the City would continue to work with the property owner and business operator to resolve the compliance matter relating to the containers. The most likely outcome being the removal of the containers from the subject site.







LOCAL PLANNING SCHEME NO. 2 AMENDMENT
 LOT 373 EUCLA STREET
 MOUNT HAWTHORN



0 50 m
 SCALE @ A3: 1:500
 9437-FIG-02-A



Job Ref: 9437
30 November 2021

Chief Executive Officer
City of Vincent
244 Vincent Street
LEEDERVILLE WA 6007

Attention: Planning Services

Dear Sir/Madam

**Scheme Amendment Request – Rezoning
Lot 373 (No.21) Eucla Street, Mount Hawthorn**

Rowe Group acts on behalf of the landowner of Lot 373 (No. 21) Eucla Street, Mount Hawthorn (the 'subject site') with respect to the above. We have been requested to lodge a Scheme Amendment Request with the City of Vincent to rezone the southern portion of the lot from 'Residential' to 'Commercial' at the subject property. Further information in support of our request is detailed below.

The subject site is legally described as:

- Lot 373 on Plan 1939 Certificate of Title Volume 1036 Folio 373.

Refer **Attachment 1 – Certificate of Title**

BACKGROUND

History prior to 1991

The subject lot forms part of an overall landholding together with the following:

- Lot 1 (formerly Lots 369, 370 and 371) Scarborough Beach Road
- Lot 372 Scarborough Beach Road

The subject site has a total area of 1,652m². The subject site is occupied by an existing commercial premises, comprising office, warehouse and showroom land uses. The commercial premises consists of several interconnected warehouses and office buildings, together with associated car parking.

A review of historical information and aerial imagery for the site outlines that the use of the subject site as a car park associated with commercial premises on the above lots dates back to at least March 1965. Approvals granted



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between 1972 and 1981 indicates that the above lots were used for various commercial activities including a Service Station, Retail Store, Showroom, Warehouse and Office.

1991 approval to use of Lot 373 as a car park

An application was submitted on 30th October 1990 for the use of the subject site as a car park. The application was lodged with the (former) City of Perth, which was the operative Local Authority for the site at the time.

A report was prepared for consideration by Council at its February 1991 meeting. An extract from the staff report to Council stated as follows:

"It seems that the site has never been used for residential purposes. The Council's land use records indicate that at least since 1967 the property has been used for service industry, industry, car park and entrance to Scarborough Beach Road properties. Furthermore, should the property be used in future (after approval for any purpose other than car parking, a new application would be required. It would seem that approval of this situation would rationalise a long standing on-site situation."

Within the report, it was noted that a 'car park' was an 'X' use within the Residential zone, however Clause 26 of the operative Planning Scheme provided the ability for Council to approve an 'X' use subject to the prior written authority of the Minister for Planning. At the meeting, Council resolved to forward the application to the Hon. Minister to seek his written consent to determine the application.

In response, the Hon. Minister refused to grant consent and following consideration of this at its July 1991 meeting, Council resolved to request that the Hon. Minister reconsider his decision.

The Minister subsequently responded that he had "...reconsidered his previous decision and was now prepared to give consent to Council to approve the use of Lot 373 Eucla Street, Mount Hawthorn for car parking." The advice was presented to Council's October 1991 Council meeting, where it resolved to grant approval to the application.

Historical material associated with the 1991 approval to the use of the subject site as a car park, including the submitted application and extracts from Council minutes referenced above, is included at Attachment 2.

1993 approval for expansion of Showroom and Warehouse activities

A further application was submitted to the City of Perth in 1993 for the expansion of the existing showroom and warehouse on Lots 1 and 372. Approval was granted by the City of Perth on 25 November 1993 ('1993 Approval').

Aerial imagery indicates that construction works were undertaken between 6 February 1995 and 24 February 2000. The constructed extension departed from the 1993 Approval, with a nil setback to Eucla Street and a setback of approximately 2.5m to the southern boundary.



Recent communication with City of Vincent

The property owner was contacted by the City's Compliance team in March 2021 regarding the positioning of sea containers within the subject site for storage purposes, which displaced car parking bays within this space. As part of this process it was also identified that the development at Lots 1 and 372 was constructed in a form which departed from the 1993 approval. Following communication involving the City's Executive Director, written advice from the City dated 25th June 2021 instructed the property owner to undertake the following:

- 1) Lodgement of an application for retrospective approval for unauthorised works;
- 2) Lodgement of an application to amalgamate Lots 1, 372 and 373 into a single lot; and
- 3) Lodgement of a request to amend the City of Vincent Local Planning Scheme No.2 as it relates to the subject Lot 373.

With respect to the above:

- The application for retrospective approval was submitted, with the City issuing its approval in correspondence dated 30th September 2021; and
- An application to amalgamate the identified lots was lodged with the WA Planning Commission and approved in correspondence dated 10th November 2021.

Accordingly, the proposed amendment to the City's LPS2 to rezone Lot 373 to 'Commercial' represents the final component of the City's instruction and will reflect the long standing use of the lot.

Refer **Attachment 2 – Historical material associated with the 1991 approval to the use of the subject site as a car park.**

TOWN PLANNING CONSIDERATIONS

Metropolitan Region Scheme

The subject site is zoned 'Urban' under the provisions of the Metropolitan Region Scheme ('MRS').

City of Vincent Local Planning Scheme No.2

Under the provisions of the City of Vincent Local Planning Scheme No.2 ('LPS 2'), the subject site is zoned 'Commercial' and 'Residential' with a density coding of R30.

The objectives of the 'Commercial' Zone as outlined in LPS 2 are as follows (underlined for emphasis):

- *To facilitate a wide range of compatible commercial uses that support sustainable economic development within the City.*
- *To ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design energy efficiency and water conservation.*



- To maintain compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
- To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.

The zoning table within LPS 2 identifies the current use 'warehouse' as a 'D' use within the 'Commercial' zone but is a 'X' use under the 'Residential' zone. The proposed Scheme Amendment is to ensure formality of the approved use at the subject site within the LPS2.

PROPOSED SCHEME AMENDMENT

This Scheme Amendment seeks to rezone Lot 373 (No. 21) Eucla Street, Mount Hawthorn from 'Residential' to 'Commercial' in LPS 2. Should the amendment be finalised as proposed, it would result in a consistent zoning over the entire landholding which reflects the long-standing commercial use of the premises.

The amendment consists of a modification to the Scheme Map to remove the 'Residential' zoning and associated R30 density coding, which is to be replaced with the 'Commercial' zoning as depicted in Figure 1. No further amendments to the text within the City's LPS 2 are proposed.

Refer **Figure 1 - Plan showing existing and proposed zoning**

RATIONALE, PLANNING JUSTIFICATION AND ASSESSMENT

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations') sets out what constitutes a basic, standard and complex Scheme Amendment.

For amendments to a local planning scheme, the Regulations (refer Regulation 35(2) Part 5 Division 1) require the resolution of the local government to specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment and include an explanation for forming that opinion.

To assist the City of Vincent, the Applicant is of the view that the proposed Scheme Amendment is a standard amendment for the following reasons:

- The amendment is consistent with the City of Vincent Local Planning Strategy.
- The amendment would have minimal impact on land in the scheme area that is not the subject of this amendment.
- The amendment does not result in any significant environmental, social, economic or governance impacts on the land in the scheme area.

City of Vincent Local Planning Strategy

The Local Planning Strategy was endorsed by the Western Australian Planning Commission on 8 November 2016. The Strategy sets out the long-term strategic direction and rationale for the zones and other provisions



outlined within LPS 2. The Strategy should be considered throughout the review of the scheme amendment request as it provides the planning context for the zones, reservations and statutory provisions contained in the Scheme.

The commercially zoned land identified at the site is subject to the Scarborough Beach Road Activity Corridor ('Corridor'). The Corridor project is an overarching transport and land use concept to be implemented overtime to improve the form and function of Scarborough Beach Road and its surrounds into the future. The scheme amendment to rezone the proposed use from residential to commercial is consistent with the following recommendation outlined within the Strategy.

Ensure that uses along Scarborough Beach Road are consistent with the principles of an Activity Corridor / Urban Corridor, with the concentration of mixed use and commercial development on the key nodes, and compatible commercial and residential use outside of the key nodes;

The subject site is located along Scarborough Beach Road east of the Mount Hawthorn Town Centre area. Mount Hawthorn is mostly characterised by low to medium density homes. The residential area located to the south of the subject is envisioned to be retained and remain the main dwelling type within Mount Hawthorn area. The larger lots which can accommodate additional housing and infill will be considered. The vision for housing density and urban design for Mount Hawthorn is outlined as;

'Mount Hawthorn has retained its family-friendly feel and has maintained and enhanced its existing housing stock, density and streetscapes. New developments respect the current buildings and built forms, whilst embracing the principles of sustainability. Carefully designed, higher density residential developments in the town centre offers additional housing choices. Climate-sensitive designs combine with appropriate landscaping to provide award-winning, sustainable urban design.'

It is therefore noted that the proposed scheme amendment does not adversely impact and change the intent of the residential zoned land to the south of the subject site as outlined within Strategy. The proposed scheme is consistent with the intent of the commercial development nodes along Scarborough Beach Road.

Objectives of the Zone

As outlined above the subject site is currently used for car parking in association with commercial activities within a broader landholding. The 'Commercial' zone under LPS 2 reads as follows (underlined for emphasis):

- *To facilitate a wide range of compatible commercial uses that support sustainable economic development within the City.*
- *To ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design energy efficiency and water conservation.*
- *To maintain compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*
- *To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.*



The Scheme Amendment for the rezoning of the 'Residential' land to 'Commercial' is consistent with the objectives described above for the following reasons:

- The inclusion of the use would be consistent with the objective of the current operating business and use within the zone;
- The continued operation of the 'Commercial' use does not detrimentally affect the amenity of the area through aspects such as vehicle traffic, noise or parking.
- The amendment does not change the current operations of the subject site.
- The amendment ensures compliance with the City's LPS 2.

Suitability of Use

As previously noted, the Scheme Amendment was requested by the City. The Scheme Amendment will provide consistency with the prior approval to the use of the site, the current operating and ongoing operations of the subject site. The proposed amendment will assist in formalising the commercial activities occurring within the landholding which are to be amalgamated into one (1) green title lot.

CONCLUSION

This Scheme Amendment Request seeks approval to rezone the portion of 'Residential' zoned land at Lot 373 (No. 21) Eucla Street, Mount Hawthorn from 'Residential' to 'Commercial'. The proposed Scheme Amendment is considered to be consistent with the objectives of the 'Commercial' zone of City of Vincent Local Planning Scheme No.2 and the City of Vincent Local Planning Strategy and will not adversely impact upon the amenity of the surrounding residential land.

On the basis of the information provided it is requested that the City of Vincent give support to the initiation of the Scheme Amendment, where it will be subject to public consultation prior to further consideration by the Council.

Should you require any further information or clarification in relation to this matter, please contact the undersigned or Mr Jake Spiteri on 9221 1991.

Yours faithfully,

Jeremy Hofland
Rowe Group



Attachment Two

Historical material associated with the 1991 approval to the use of the subject site as a car park

30 October 1990

Officer-in-Charge
Planning Services
City of Perth
P O Box C120
PERTH W A 6001

Dear Sir/Madam

Re: LOT 373 EUCLA STREET, MT HAWTHORN

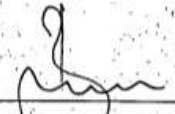
I am writing this letter of behalf of the owners of 372 Scarborough Beach Road, Lot 1 Cnr. Scarborough Beach Road and Eucla Street and Lot 373 Eucla Street, Mt Hawthorn.

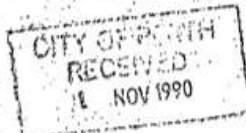
They request that Lot 373 be approved for carparking only. The owners would also like to eventually have this site amalgamated with lots 1 and 372 so as to give these lots more building area for future development.

Since procuring this site in 1982 they have been using it for carparking and some occasional storage. They had a 1.800M high brick wall erected on the front boundary line so as to screen the parking from the street.

The two carpark areas on Lot 1 & Lot 372 Scarborough Beach Road are rarely used as exiting on to this busy road over the brow of a hill is hazardous and is avoided by most employees.

Yours sincerely


B M JACKSON
Managing Director



B.J.
SERVICE
DRAFTING

DESIGN AND
DRAFTING
CONSULTANT

SUITE NINE
20 GIBBERD RD.
BALCATT A 6021
WESTERN
AUSTRALIA
TEL: 345 4540
FAX: 345 4108

**TOWN
PLANNING**

**28 FEBRUARY
1991**

WPADPLAN/3611

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In view of the above comments, it is considered that the application can be supported on planning grounds. The discretion of the Council is required to approve of a change of a non-conforming use.

DISCUSSION:

During discussion at the Town Planning Committee meeting held on 28 February 1991 members agreed to defer consideration of the matter to the next Ordinary Committee meeting to enable the City Planner to consult adjoining residents.

Resolved that consideration of the following recommendation:-

"That in accordance with the provisions of the City Planning Scheme and the Metropolitan Region Scheme the Council approves the application submitted by D Beetson on behalf of Andrew Chivers to convert an existing warehouse to a residence with associated plaster moulding studio at Lot 3 (No. 264) Charles Street, North Perth, as shown on plans dated 21 January 1991 subject to details of the proposed screening on the upper level of the residence to the Council's satisfaction being submitted at working drawing stage."

be deferred to the next Ordinary meeting of the Town Planning Committee.

(Cr Franchina declared an interest and retired from the meeting during discussion of the item).

SUBURB/LOCATION: Western side of Eucla Street south of Scarborough Beach Road
 WARD: North Perth
 FILE REF: KB/wr; CP 5.4; B/Eucla
 REPORTING OFFICER: K Baguley
 DEPARTMENT: Planning
 DATE: 22 February 1991

DEVELOPMENT APPLICATION - USE OF VACANT LAND FOR CAR PARKING AT LOT 373 (NO. 21) EUCLA STREET, MOUNT HAWTHORN (90/1627)

BACKGROUND:

The City Planner reports as follows in regard to the abovementioned application.

LANDOWNER: C Della-Maddalena

**TOWN
PLANNING****28 FEBRUARY
1991**

WPADPLAN/3611

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APPLICANT: B J Drafting Service

ZONING: Metropolitan Region Scheme - Urban
City Planning Scheme - Residential R30

DETAILS:

An application has been submitted seeking approval to use a vacant lot for car parking.

The car park is located next to a General Commercial zone which fronts Scarborough Beach Road. It will provide parking for 15 vehicles. In support of the proposed car park, the applicant has stated:-

"The two carpark areas on Lot 1 and Lot 372 Scarborough Beach Road are rarely used as exiting onto this busy road over the brow of a hill is hazardous and is avoided by most employees.

Since procuring this site in 1982, they (the owners) have been using it for car parking and some occasional storage. They had a 1.800 metre high brick wall erected on the front boundary line so as to screen the parking from the street.

They (the owners) request that Lot 373 be approved for car parking only. The owners would also like to eventually have this site amalgamated with Lots 1 and 372 so as to give these lots more building area for future development."

To the south of the property is a single residence with a 'super-six' fence constructed along the common boundary. Opposite the site is a consulting room and unit. The remainder of the area (apart from the commercial properties fronting Scarborough Beach Road) is characterised by single residential development.

COMMENTS:

Table No. 1 of the Scheme shows that a car park is an 'X' use in a Residential zone, that is, it is not permitted. It is, however, possible to approve of 'X' uses. Under Clause 26 of the Scheme, the Council may, with the prior written authority of the Minister and subject to the requirements of Clause 37 having been first complied with, approve an 'X' use if it is satisfied by an absolute majority that:-

- (a) the proposal will be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the use will not have any adverse effect upon the occupiers or users of the development or upon property in or the inhabitants of the locality or the likely future development of the locality.

**TOWN
PLANNING****28 FEBRUARY
1991**

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The applicant has successfully undertaken the advertising procedure in accordance with Clause 37 of the Scheme. The closing date for submissions is 26 February 1991. To date two written submissions have been received from the public. Any others received will be tabled at the Town Planning Committee meeting. One submission received objected to the proposal on the grounds that it should remain residential and would be used in the future for the expansion of the Scarborough Beach Road businesses. The other submission stated that although there were no real objections to the proposal, street parking in the area was a problem. The submission also raised other matters which are not related to this specific site but rather to the commercial properties on Scarborough Beach Road.

It seems that the site has never been used for residential purposes. The Council's land use records indicate that since at least 1967 the property has been used for service industry, industry, car park and entrance to Scarborough Beach Road properties. Furthermore, should the property be used in future (after approval) for any purpose other than car parking, a new application would be required. It would seem that approval of this application would rationalise a long standing on-site situation.

In view of the above, the Town Planning Committee is requested to give consideration to the course of action outlined in the recommendations of this report.

The City Planner therefore recommended that:-

- (i) the report of the City Planner dated 22 February 1991 regarding the application submitted by B J Drafting Service on behalf of C Della-Maddalena to use vacant land for a car park at Lot 373 (No. 21) Eucla Street, Mount Hawthorn, as shown on plans dated 1 November 1990, be received;
 - (ii) consideration be given to the following alternative recommendations:-
 - (a) that the application be forwarded to the Hon Minister for his written consent to the proposal;
- OR
- (b) that the application be refused.

DISCUSSION:

During discussion at the Town Planning Committee meeting held on 28 February 1991 members agreed to seek the Hon Minister's authority to determine the application.

**TOWN
PLANNING**

**28 FEBRUARY
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WPADPLAN/3611

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Resolved that:-

- (i) *the report of the City Planner dated 22 February 1991 regarding the application submitted by B J Drafting Service on behalf of C Della-Maddalena to use vacant land for a car park at Lot 373 (No. 21) Eucla Street, Mount Hawthorn, as shown on plans dated 1 November 1990, be received.*
- (ii) *the application be forwarded to the Hon Minister for his written consent to determine the proposal.*

SUBURB/LOCATION: Eastern side of Joel Terrace,
between Pakenham and Leslie
Streets, Mount Lawley
WARD: Heirisson (n)
FILE REF: TP/jm; CP 3.1; B/Joel
REPORTING OFFICER: T Paduano
DEPARTMENT: Planning
DATE: 26 February 1991

**DEVELOPMENT APPLICATION - LOCAL SHOP AND ASSOCIATED
OUTDOOR/INDOOR SEATING FACILITIES - LOT 39 (NO. 102) JOEL
TERRACE, MOUNT LAWLEY**

BACKGROUND:

The City Planner reports as follows in regard to the abovementioned application.

LANDOWNER: P R Kierath
APPLICANT: W E Kierath
ZONING: Metropolitan Region Scheme - Urban
City Planning Scheme - Residential R60

- NOTE: (i) The property falls within the "Joel Terrace Precinct".
- (ii) The property abuts an Metropolitan Region Scheme Reserve - Parks and Recreation

The subject property is a battleaxe lot which adjoins regional open space (Parks Reserve); vehicle access to the lot is attained via Joel Terrace. The immediate locality is characterised by low density residential housing; a Scout Hall and associated car parking facilities is located to the south of the site.

DETAILS:

An application has been received for the establishment of a local shop (kiosk) and associated outdoor seating

ALL CORRESPONDENCE
SHOULD BE ADDRESSED TO
CHIEF EXECUTIVE

PLEASE QUOTE

YOUR REF

OUR REF

853-2-1-2
CP 5.4
Ms L Baxter:CS

DEPARTMENT OF
PLANNING AND URBAN DEVELOPMENT



May 31, 1991

Town Clerk
City of Perth
27-29 St Georges Terrace
PERTH WA 6000

CITY OF PERTH
CENTRAL RECORDS
RECEIVED
- 5 JUN 1991

C.P.

B/EUCLA

Dear Sir

REQUEST FOR MINISTERIAL AUTHORITY TO DETERMINE DEVELOPMENT APPLICATION
- USE OF VACANT LAND FOR CAR PARK AT LOT 373 (NO 21) EUCLA STREET,
MOUNT HAWTHORN

I refer to your letter dated March 7, 1991 and advise that the Hon Minister for Planning has resolved that permission pursuant to Clause 26(2) of the City of Perth City Planning Scheme, to the proposed use of Lot 373 Eucla Street, Mount Hawthorn as car parking serving adjoining commercial premises, be refused for the following reasons:

1. The lot concerned is within a residential zone having frontage to a street servicing predominantly residential properties and the proposed use for car parking would continue to detract from the residential amenity and character of the street and other surrounding residential properties.
2. The proposal if permitted, would result in a precedent for the further encroachment of commercial activities from Scarborough Beach Road, a major regional road, into residential side streets which compound the problems of concentrated commercial development alongside major traffic routes.
3. The proposal is expressed to be with the ultimate intention of amalgamating the lot with other adjoining commercial zoned lots to increase redevelopment potential of the land with the adverse results described in the foregoing reasons 1 and 2.
4. Approval to the proposal would result in a de facto rezoning of the land for commercial purposes which will impact adversely on the amenity of the nearby residential properties.

Yours faithfully

Sarah Arthur
SARAH ARTHUR
SECRETARY

COMMITTEE FOR STATUTORY PROCEDURES

**TOWN
PLANNING****1 JULY
1991**

WPADPLAN/4046

- 30 -

SUBURB/LOCATION: Near western corner of Eucla Street
and Scarborough Beach Road, Mount
Hawthorn
WARD: North Perth
FILE REF: KB/wr; CP 5.4; B/Eucla
REPORTING OFFICER: K Baguley
DEPARTMENT: Planning
DATE: 26 June 1991

**TP68/91 DEVELOPMENT APPLICATION - USE OF VACANT LAND
FOR CAR PARKING AT LOT 373 (NO. 21) EUCLA
STREET, MOUNT HAWTHORN (90/1627) (NORTH PERTH)****BACKGROUND:**

The City Planner reports as follows in regard to the
abovementioned application.

LANDOWNER: C Della-Maddalena
APPLICANT: BJ Drafting Service
ZONING: Metropolitan Region Scheme - Urban
City Planning Scheme - Residential R30

In November 1990, an application was submitted to the
Council seeking approval to use a vacant lot adjoining
commercial premises for car parking.

According to Table No. 1 of the City Planning Scheme, a
car park is an 'X' use (not permitted) in a Residential
zone. Under Clause 26 of the Scheme however, 'X' uses
may be approved by the Council if an advertising
procedure is undertaken and written authority from the
Minister for Planning is received.

The proposal was advertised in accordance with Clause 37
of the Scheme and was considered by the Town Planning
Committee at its meeting held on 28 February 1991. The
Committee resolved that the Minister's written authority
to approve the application should be sought.

DETAILS:

As a result the Planning Department wrote to the Minister
to request authority for the Council to determine the
application. On 5 June 1991, a response from the
Minister was received. The letter stated:-

**TOWN
PLANNING****1 JULY
1991**

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"...the Hon Minister for Planning has resolved that permission pursuant to Clause 26(2) of the City of Perth City Planning Scheme, to the proposed use of Lot 373 Eucla Street, Mount Hawthorn as car parking serving adjoining commercial premises, be refused for the following reasons:

1. The lot concerned is within a residential zone having frontage to a street servicing predominantly residential properties and the proposed use for car parking would continue to detract from the residential amenity and character of the street and other surrounding residential properties.
2. The proposal if permitted, would result in a precedent for the further encroachment of commercial activities from Scarborough Beach Road, a major regional road, into residential side streets which compound the problems of concentrated commercial development alongside major traffic routes.
3. The proposal is expressed to be with the ultimate intention of amalgamating the lot with other adjoining commercial zoned lots to increase redevelopment potential of the land with the adverse results described in the foregoing reasons 1 and 2.
4. Approval to the proposal would result in a de facto rezoning of the land for commercial purposes which will impact adversely on the amenity of the nearby residential properties."

COMMENTS:

When the application was assessed by the Planning Department, it was considered that the proposal could be supported. The Council's records indicate that the site has never been used for residential purposes and since at least 1967, has been used for service industry, industry, car park and entrance to adjoining Scarborough Beach Road properties. Approval of the application would rationalise a long-standing situation.

The Minister's decision is disappointing and his letter raises a number of issues which require clarification. The Minister's letter states that approval of the car park would continue to detract from the residential amenity and character of street. It is considered that by approving the car park, it would be possible to impose conditions, such as landscaping and screening, which would improve the existing situation. The car parking would act as a buffer between the commercial uses and adjacent residences.

**TOWN
PLANNING****1 JULY
1991**

WPADPLAN/4046

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The letter from the Minister further states that if the car park was permitted, it would create a precedent for further encroachment of commercial activities into residential side streets. The subject lot adjoins a commercial property which, like many properties fronting Scarborough Beach Road, has vehicular access from a side street. Therefore, Eucla Street, near Scarborough Beach Road, already has non-residential traffic entering it. In addition, that commercial building has doors which open directly onto the subject lot. Approving an existing car park could in no way be considered as setting a precedent for commercial encroachment.

The applicants stated in their application that it was intended to amalgamate this lot with the adjoining lots to allow for future development. It is unlikely that the amalgamation of this lot with the commercial land on Scarborough Beach Road would have any adverse impacts. Given the situation on-site, the amalgamation should possibly have been undertaken several years ago when extensions were approved. Amalgamating the subject lot with the adjoining property does not change the zoning or the approved use of the land.

Approval of an 'X' use under Clause 26 of the Scheme is not a de facto rezoning. If anything, it is more akin to the creation of a non-conforming use. The car park, which has been in existence for at least 24 years, does not appear to have had an adverse impact on the amenity of nearby residential properties. The Council's records do not reveal any complaints concerning the car park.

If approved, the use of the property, like the adjoining land would be subject to all the normal planning controls. Therefore, the amenity of the area could be protected from any other undesirable uses of the property.

In view of the Minister's stated reasons to refuse the Council the authority to approve the application and given the above comments, it is therefore recommended that the Minister be requested to reconsider the application. The Minister's attention should also be drawn to the points raised in this report.

Resolved that the Hon Minister for Planning be:-

- (i) ***advised of the Committee's disappointment concerning his decision to refuse the Council the authority to approve the application submitted by B J Drafting Services on behalf of C Della-Maddalena for the use of vacant land as a car park at Lot 373 (No. 21) Eucla Street, Mount Hawthorn, as shown on plans dated 1 November 1990;***
- (ii) ***requested to reconsider his decision regarding the above application in view of the comments contained in the report of the City Planner dated 26 June 1991.***

**COUNCIL
MINUTES****18 NOVEMBER
1991**

NPADPLAN/4556

TP - 13 -

Moved by Cr Torre, seconded by Cr Pelczar

SUBURB/LOCATION: Western corner of Eucla Street and
Scarborough Beach Road, Mount
Hawthorn
WARD: North Perth
FILE REF: KB/wr; CP 5.4; B.Eucla
DEPARTMENT: Planning
DATE: 31 October 1991

**1682/91 DEVELOPMENT APPLICATION - USE OF VACANT LAND
FOR CAR PARKING AT LOT 373 (NO. 21) EUCLA
STREET, MOUNT HAWTHORN (90/1627) (NORTH PERTH)****BACKGROUND:**

The City Planner reports as follows in regard to the abovementioned application.

LANDOWNER: C Della-Maddalena
APPLICANT: CDM Australia Pty Ltd
ZONING: Metropolitan Region Scheme - Urban
City Planning Scheme - Residential R30

DETAILS:

In November 1990, an application was submitted to the Council seeking approval to use a vacant lot adjoining commercial premises for car parking.

According to Table No. 1 of the City Planning Scheme, a car park is an 'X' use (not permitted) in a Residential zone. Under Clause 26 of the Scheme however, 'X' uses may be approved by the Council if first an advertising procedure is undertaken and written authority from the Minister for Planning is received. The proposal was advertised in accordance with Clause 37 of the Scheme and was considered by the Town Planning Committee at its 28 February 1991 meeting. The Committee resolved that the Minister's written authority to approve the application should be sought.

As a result of the 28 February 1991 meeting, the Planning Department wrote to the Minister to request authority for the Council to determine the application. On 5 June 1991, a response from the Minister was received. The request was refused on four grounds including detracting from residential amenity, encroachment into residential area, de facto rezoning and increasing redevelopment potential.

**COUNCIL
MINUTES****18 NOVEMBER
1991**

WPADPLAN/4556

TP - 14 -

The Minister's decision was reported to the Town Planning Committee meeting held on 1 July 1991. It was considered that a number of issues raised in the Minister's letter required clarification and that the decision was disappointing. Approval of the application would have rationalised a long-standing situation. In view of this, the Town Planning Committee resolved to request that the Minister reconsider his decision and draw attention to the issues disputed by the Council.

COMMENTS:

On 10 October 1991, the Planning Department received a response from the Minister. The letter stated:-

"...It is advised that the Hon Minister for Planning has reconsidered his previous decision and is now prepared to give consent to Council to approve the use of Lot 373 Eucla Street, Mount Hawthorn for car parking."

It is considered that the car park (for 15 vehicles) will not have any adverse impact on the amenity of the adjoining residential properties and would be consistent with the orderly and proper planning of the locality. The Council's land use records indicate that the site has never been used for residential purposes and since at least 1967, has been used for service industry, industry, car park and entrance to adjoining Scarborough Beach Road properties.

The City Planner therefore recommended that in accordance with the provisions of the City Planning Scheme and the Metropolitan Region Scheme the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by CDM Australia Pty Ltd on behalf of C Della-Maddalena for the use of vacant land as a car park at Lot 373 (No. 21) Eucla Street, Mount Hawthorn, as shown on plans dated 1 November 1990, subject to the submission of a detailed landscaping plan to the Council's satisfaction.

DISCUSSION:

During discussion at the Town Planning Committee meeting held on 4 November 1991 members considered that the requirement for landscaping was excessively onerous and unnecessary.

That in accordance with the provisions of the City Planning Scheme and the Metropolitan Region Scheme the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by CDM Australia Pty Ltd on behalf of C Della-Maddalena for the use of vacant land as a car park at Lot 373 (No. 21) Eucla Street, Mount Hawthorn, as shown on plans dated 1 November 1990.

**COUNCIL
MINUTES**

**18 NOVEMBER
1991**

WPADPLAN/4556

TP - 15 -

Carried by an absolute majority