

5.3 ADVERTISING OF AMENDED LOCAL PLANNING POLICY NO. 7.5.22 - CONSULTING ROOMS

- Attachments:**
1. **Draft Amended Local Planning Policy: Consulting Rooms and Medical Centres Policy**
 2. **Comparison Table: Existing Policy and Draft Amended Policy Modifications**

RECOMMENDATION

That Council PREPARES amendments to Local Planning Policy: Consulting Rooms, included in Attachment 1, for the purpose of community consultation, pursuant to Schedule 2, Part 2, Clause 4(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

PURPOSE OF REPORT:

For Council to consider the proposed amendments to Local Planning Policy No. 7.5.22 - Consulting Rooms as detailed at **Attachment 1**, for the purpose of community consultation.

BACKGROUND:

At its 21 November 2006 Ordinary Meeting, Council adopted [Local Planning Policy No. 7.5.22 – Consulting Rooms](#) (Policy). The Policy was subsequently amended 12 March 2013.

The purpose of the Policy is to guide the application of discretion for ‘consulting rooms’ under the City’s Local Planning Scheme No. 2 (Scheme). The Policy guides the establishment of consulting rooms, and provides additional guidance on their operation, through the provision of different categories to define the type of medical advice and treatment being provided. The Policy includes detail on non-medical consulting rooms and the illegal operation of some consulting rooms that primarily function as a means of carrying out sexual based services.

DETAILS:

The Policy has been reviewed against the current planning framework as well as advice from the Department of Planning, Lands and Heritage (DPLH).

Following a review of the Policy against recent consulting room applications as well as against the existing planning framework, the key changes include:

- broadening the scope of the Policy to apply to both consulting rooms and medical centres;
- including location criteria to ensure uses are located in or abutting commercial zones only. Discretion may be sought depending on the extent of the business operations in other zones;
- provision of additional requirements to ensure consulting rooms and medical centres are not located on a ground floor of a premises;
- modified operating hours to reflect where a use is located near sensitive land uses (i.e. Residential);
- removal of the focus of the Policy on illegal land uses on the advice from the DPLH; and
- general updates for consistency within the local planning framework.

A comparison between the existing Policy and the proposed draft modifications is provided in **Attachment 2**.

DPLH advice regarding regulating illegal land uses

The Policy was created under the City’s previous local planning scheme, where land uses that included massage were considered a type of consulting room. To regulate sexually based services operating under the guise of massage businesses, the Policy included specific definitions and provisions relating to these. The *Planning and Development (Local Planning Schemes) Regulations 2015* changed state-wide definitions to include land uses that ‘provide a service of a personal nature’ (i.e. massage) to be within the definition of a ‘shop’. A shop is largely permitted without approval across the City.

During the Policy review process, opportunities to pursue changes to the Scheme, to separate the land use of massage parlour from shop were contemplated but not progressed. Under the *Prostitution Act 2000*, sexual services provided either as part of a massage parlour or brothel are illegal under Western Australian legislation. Advice from the DPLH confirmed that provisions relating to illegal uses should not be in planning policy, with the draft Policy amended to this effect.

CONSULTATION/ADVERTISING:

In accordance with the City's [Community and Stakeholder Engagement Policy](#), community consultation of all new and significantly amended policies must be provided for a period exceeding 21 days in the following ways:

- notice published on the City's website;
- notice posted to the City's social media;
- notice published in the local newspapers;
- notice exhibited on the notice board at the City's Administration and Library and Local History Centre; and
- letters distributed to relevant local businesses and community groups

LEGAL/POLICY:

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

The City's [Policy Development and Review Policy](#) sets out the process for the development and review of the City's policy documents.

The *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Cl. 4, includes the requirements to amend a local planning policy.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to undertake community consultation of the proposed amended Policy.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Sensitive Design

Our planning framework supports quality design, sustainable urban built form and is responsive to our community and local context.

Innovative and Accountable

We engage with our community so they are involved in what we are doing and how we are meeting our goals.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any environmental sustainability outcomes. This action/activity is environmentally neutral.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

Nil. Advertising of the amended Policy will be provided through the City's operational budget.

COMMENTS:

The existing version of the Policy has been in place for over 10 years. A number of key changes to the Policy are required to ensure it remains current and relevant to the growing needs of the City.

The draft amended Local Planning Policy: Consulting Rooms and Medical Centres balances the need for the protection of amenity for residential uses and the provision of clear guidance for small businesses looking to operate a consulting room or a medical centre within the City.

LOCAL PLANNING POLICY: CONSULTING ROOMS AND MEDICAL CENTRES



Legislation / local law requirements	This policy has been prepared under the provisions of clause 9(2) of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Relevant delegations	16.1.1 Determination of various applications for development approval under the City’s Local Planning Scheme
Related policies, procedures and supporting documentation	City of Vincent Local Planning Scheme No.2 Local Planning Policy 7.1.1 Built Form Local Planning Policy 7.7.1 Non - Residential Parking Requirements Local Planning Policy: Signs and Advertising

PART 1 - PRELIMINARY

INTRODUCTION

The City of Vincent (City) Local Planning Scheme No.2 (Scheme) guides the land use permissibility of ‘consulting rooms’ and ‘medical centres’ but does not contain specific provisions relating to their operation. Without adequate guidance, the use of consulting rooms or medical centres may have adverse implications on adjacent land uses.

PURPOSE

The purpose of Local Planning Policy: Consulting Rooms and Medical Centres (Policy) is to provide guidance for the establishment and operation of consulting rooms and medical centres within the City, by providing development controls and objectives to enhance the function and operation of these premises.

OBJECTIVE

The objectives of this Policy are to:

- limit the activities associated with consulting rooms or medical centres so that there is no undue impact on the surrounding area; and
- ensure consulting rooms or medical centres maintain an active and engaging street frontage by means of clear sight lines and visual surveillance between the street and the business.

SCOPE

The provisions of this Policy apply to uses defined as ‘consulting rooms’ and ‘medical centre’ within the Scheme.

LOCAL PLANNING POLICY: CONSULTING ROOMS AND MEDICAL CENTRES



CITY OF VINCENT

RELATIONSHIP TO THE PLANNING FRAMEWORK

This Policy is made pursuant to Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), Part 1 of State Planning Policy 7.3 Residential Design Codes Volume 2 and Part 7 of State Planning Policy 7.3 Residential Design Codes Volume 1.

This Policy is to be read in conjunction with the Scheme and all relevant local planning policies including but not limited to the City's Local Planning Policy 7.1.1 Built Form (Built Form Policy), Local Planning Policy 7.7.1 Non-Residential Parking and Local Planning Policy: Signs and Advertising.

This Policy forms part of the City's local planning policy framework. Where this Policy is inconsistent with the Scheme, the Scheme prevails.

Where inconsistency exists between this Policy and a state planning policy or another local planning policy, this Policy prevails to the extent of the inconsistency.

PART 2 - POLICY PROVISIONS

DEFINITIONS

consulting rooms means the same as the City's operative Local Planning Scheme.

medical centre means the same as the City's operative Local Planning Scheme.

POLICY

1. Car parking and Vehicular Access

1.1 All car parking and vehicular access requirements are to be in accordance with the City's Built Form Policy and Non-Residential Parking Policy.

2. Signage

2.1 All signage requirements are to be in accordance with the City's Local Planning Policy: Signs and Advertising.

2.2 Doors, windows and adjacent areas located along the primary street frontage shall maintain uninterrupted views to and from the primary street, and an active/interactive relationship with the primary street, during the hours of operation to the satisfaction of the City. Darkened, obscured, mirror or tinted glass or the like is prohibited.

LOCAL PLANNING POLICY: CONSULTING ROOMS AND MEDICAL CENTRES



CITY OF VINCENT

3. Location

3.1 The preferred location for consulting rooms and medical centres is in or adjoining commercial and local centre zones.

Consideration shall be given to surrounding land uses and their compatibility with a consulting room or medical centre. Applicants are required to demonstrate that their proposal will not unduly impact or be impacted by surrounding areas.

In considering applications for consulting rooms or medical centres within residential areas, the location, siting and design of the use shall be taken into consideration to ensure the development does not have an adverse impact on the residential character and amenity of surrounding areas and additional traffic and parking are minimised.

3.2 Consulting rooms and medical centres are not permitted on the ground floor of a premises.

3.3 In relation to provision 3.2 above, where consulting rooms or medical centres are proposed on a ground floor, the City will assess the permissibility of the use against the objectives of this Policy and in reference to the following:

- a) Positive interaction with the streetscape, including visual and physical engagement between those in the street and those on the ground floors of buildings.
- b) An internal layout which locates reception areas or waiting rooms to adjoin the street.
- c) Signage and window treatments such as blinds and shutters are reduced as much as practical for the use.

4. Business Operations

4.1 The hours of operation for consulting rooms or medical centres in a non-residential zone and where not directly abutting a residential zone shall be limited to the following:

- 7:00am – 7:00pm, Monday – Friday
- 7:00am – 7:00pm, Saturday
- 11:00am – 5:00pm, Sunday and Public Holidays

4.2 The City may consider an increase in the above hours of operation for a consulting room or medical centre, provided that the amenity of the surrounding area is not unduly affected.

4.3 The hours of operation for a consulting room or medical centre in or directly abutting residential zones shall be limited to the following:

- 7:00am – 5:00pm, Monday – Saturday
- 11:00am – 5:00pm, Sunday and Public Holidays

4.4 A detailed Management Plan is required for consulting rooms or medical centres and is to be submitted as part of a development application. The Management Plan is to address the following:

LOCAL PLANNING POLICY: CONSULTING ROOMS AND MEDICAL CENTRES



CITY OF VINCENT

- 4.4.1 Noise control and management, with an assessment of operating hours against the use of land abutting the proposed consulting rooms or medical centre.
 - 4.4.2 The number of patrons in any week, number of staff and detail on how appointments are managed (i.e. number of patrons on site at any time, any overlap to appointments).
 - 4.4.3 Car parking and parking management.
 - 4.4.4 Rubbish collection and disposal.
- 5. Illegal Uses**
- 5.1 This Policy applies only to land uses that are consulting rooms or medical centres under the Scheme. Uses that are otherwise illegal within Western Australia that relate to sexual activities for financial or other benefit, are not considered by this Policy, as illegal land uses cannot be covered within the local planning framework.
- 6. Planning Application Process**
- 6.1 In addition to the standard information provided as part of the lodgement of a development application, an applicant is to provide copies of relevant consultants' certificates from a relevant, legitimate, and reputable association or organisation prior to the issue of Development Approval.

Note: Building work associated with consulting rooms and medical centres may require a building permit or occupancy permit prior to a business beginning operations. Please contact the City of Vincent's Building Services team on 9273 6000 for further assistance and information in this regard.

OFFICE USE ONLY	
Responsible Officer	Executive Manager Urban Design and Strategic Projects
Initial Council Adoption	21/11/2006
Previous Title	Local Planning Policy No.7.5.22 Consulting Rooms
Reviewed / Amended	12/03/2013; MM/YYYY
Next Review Date	MM/YYYY

Comparison Table: Existing Policy and Draft Amended Local Planning Policy: Consulting Rooms and Medical Centres Policy – Schedule of Modifications

Theme	Existing Policy	Modifications in Draft Amended Policy
Scope of the policy to apply to consulting rooms and medical centres.	<i>Consulting rooms provisions only.</i>	Modify title as follows: Consulting rooms and <u>medical centre provisions.</u>
Locational criteria.	<i>None.</i>	Include Objectives and new location Clause as follows: Objective: <ul style="list-style-type: none"> • limit the activities associated with consulting rooms or medical centres so that there is no undue impact on the surrounding area; and • ensure consulting rooms or medical centres maintain an active and engaging street frontage by means of clear sight lines and visual surveillance between the street and the business. 3. Location 3.1 The preferred location for consulting rooms and medical centres is in or adjoining commercial and local centre zones. Consideration shall be given to surrounding land uses and their compatibility with a consulting room or medical centre. Applicants are required to demonstrate that their proposal will not unduly impact or be impacted by surrounding areas. In considering applications for consulting rooms or medical centres within residential areas, the location, siting and design of the use shall be taken into consideration to ensure the development does not have an adverse impact on the residential character and amenity of surrounding areas and additional traffic and parking are minimised.

Comparison Table: Existing Policy and Draft Amended Local Planning Policy: Consulting Rooms and Medical Centres Policy – Schedule of Modifications

Theme	Existing Policy	Modifications in Draft Amended Policy
Ground floor provisions.	None.	<p>Include ground floor provisions as follows:</p> <p>3.2 Consulting rooms and medical centres are not permitted on the ground floor of a premises.</p> <p>3.3 In relation to provision 3.2 above, where consulting rooms or medical centres are proposed on a ground floor, the City will assess the permissibility of the use against the objectives of this Policy and in reference to the following:</p> <ul style="list-style-type: none"> a) Positive interaction with the streetscape, including visual and physical engagement between those in the street and those on the ground floors of buildings. b) An internal layout which locates reception areas or waiting rooms to adjoin the street. c) Signage and window treatments such as blinds and shutters are reduced as much as practical for the use.
Operating hours.	<p>4.1 <i>The hours of operation for a Consulting Room shall be limited to the following:</i></p> <ul style="list-style-type: none"> • 8:00am – 9:00pm, Monday – Friday • 8:00am – 5:00pm, Saturday • 11:00am – 5:00pm, Sunday and Public Holidays • CLOSED Christmas Day, Good Friday and Anzac Day. <p>4.2 <i>The City may consider an increase in the above hours of operation for a Medical Consulting Room only, provided that the amenity of the surrounding areas is not unduly affect.</i></p> <p>4.3 <i>The hours of operation may be limited for Consulting Rooms in Residential zones.</i></p>	<p>Clarify operating hours by modifying the following:</p> <p>4.1 The hours of operation for consulting rooms or medical centres in a non-residential zone and where not directly abutting a residential zone shall be limited to the following:</p> <ul style="list-style-type: none"> • 7:00am – 7:00pm, Monday – Friday • 7:00am – 7:00pm, Saturday • 11:00am – 5:00pm, Sunday and Public Holidays <p>4.2 The City may consider an increase in the above hours of operation for a consulting room or medical centre, provided that the amenity of the surrounding area is not unduly affected.</p> <p>4.3 The hours of operation for a consulting room or medical centre in or directly abutting residential zones shall be limited to the following:</p> <ul style="list-style-type: none"> • 7:00am – 5:00pm, Monday – Saturday • 11:00am – 5:00pm, Sunday and Public Holidays

Comparison Table: Existing Policy and Draft Amended Local Planning Policy: Consulting Rooms and Medical Centres Policy – Schedule of Modifications

Theme	Existing Policy	Modifications in Draft Amended Policy
<p>Illegal land uses.</p>	<p><i>Objectives</i></p> <p>3. <i>To ensure consulting rooms of a legitimate medical nature are not subject to controls to prevent the appearance of prostitution, brothel business, or an agency business associated with prostitution, escort agency business, and the like within the City of Vincent.</i></p> <p>4. <i>To ensure that consulting rooms of a sexual nature, for example prostitution, brothel business, agency business associated with prostitution, escort agency business, and the like are not issued with a planning approval under the auspices of consulting rooms as defined in the City of Vincent Town Planning Scheme.</i></p> <p>1. <i>Definitions</i></p> <p>Brothel – any place where a brothel business is carried on, whether or not any other business or activity is carried on at that place.</p> <p>Brothel Business – a business involving the provision of prostitution in the course of which acts of prostitution are performed at the place from which the business is carried on. Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.</p> <p>Escort Agency – any building or part thereof used to arrange contacts between sex workers and clients with the intention of sexual activity taking place off site and where sex workers do not live on the property.</p>	<p>Deletion of all previous reference to illegal land uses and include new Clause as follows:</p> <p>Illegal Uses</p> <p>5.1 This Policy applies only to land uses that are consulting rooms or medical centres under the Scheme. Uses that are otherwise illegal within Western Australia that relate to sexual activities for financial or other benefit, are not considered by this Policy as illegal land uses cannot be covered within the local planning framework.</p>

Comparison Table: Existing Policy and Draft Amended Local Planning Policy: Consulting Rooms and Medical Centres Policy – Schedule of Modifications

Theme	Existing Policy	Modifications in Draft Amended Policy
	<p>Massage Premises – are premises that provide therapeutic massage services and do not allow sexual activity to take place, be arranged, or be a public venue for sexual encounters.</p> <p>Prostitution – when payment is consideration for sexual stimulation of a person (the "client") by means of physical contact between the client and another person (the "prostitute"), and it is irrelevant whether payment is in money or another form.</p> <p>5.4.3 The subject property is not to be used for massage activity of a sexual nature, prostitution, as a brothel business, as an agency business associated with prostitution, as an escort agency business, or the like.</p>	
<p>General policy updates for consistency with the local planning framework</p>	<p>-</p>	<p>Modify by removing information that is repeated in other documents as follows:</p> <p>Removal of planning application process and written submission requirements.</p> <p>Various updates to legislation including residential design codes, local planning policy and the City's Local Planning Scheme.</p>