

Summary of Submissions:

The tables below summarise the comments received during the advertising period of the proposal, together with Administration's response to each comment.

Comments Received in Support:	Administration Comment
<u>General</u> The venue is a good addition to the area.	Noted.
Comments Received in Objection:	Administration Comment
<u>Noise – General</u> <ul style="list-style-type: none">When the business was operating unauthorised, music and noise can be clearly heard from the adjoining residential properties along Kaata Lane. Noise from the premises significantly impacts these properties as it's one of the few businesses in the area which operates this late, generates this level of noise and which has a public area which is not enclosed and is located at the rear of the premises instead of the front. Considering these noise impacts the proposal would not be consistent with the District Centre zone objectives as it would adversely impact on adjoining residential areas.The unauthorised patio area faces onto Kaata Lane and is enclosed only in shade cloth. Neighbours are then exposed visually and audibly to patrons and noise from the TVs used in this space. Additional noise is also created by cars associated with the business using Kaata Lane at night and creating excessive noise.The noise assessment is disputed, as when the business first opened music was played at excessively loud volumes until 3am and sometimes 7am. Alongside loud talking and noises from patrons, this impacts on the neighbours residences, particularly at night. Concerns raised that the business would go back to operating like this into the early morning.Concerns raised about the operating hours as the business can attract noisy people, loud music and anti-social behaviour which can be heard from neighbouring residential properties.	<p>The applicant has submitted an acoustic report which concludes that the premises would comply with the <i>Environmental Protection (Noise) Regulations 1997</i> (Noise Regulations) subject to recommended operational measures. This includes that music is only played at a low background level, and that signage is to be installed to remind patrons that the subject site is near residential premises, and to request that they minimise any noise on departures after 10pm.</p> <p>This report has been reviewed by the City's Health team who have advised that it is not acceptable and does not satisfy the standards of the City's Policy No. 7.5.21 – Sound Attenuation (Sound Attenuation Policy). It is advised that the acoustic report does not include evidence that it has been completed by a registered acoustic consultant, and that it doesn't address key requirements of the Sound Attenuation Policy. This includes details on all existing surrounding noise sensitive land uses and comments on how the building should be designed to ensure that sounds levels emitted do not exceed the assigned levels in the Noise Regulations.</p> <p>It is noted that the findings of the acoustic report do not align with the noise investigations and monitoring conducted by the City's Officers, which found that when the business had previously operated it exceeded the relevant assigned levels in the Noise Regulations. This demonstrates that the use may not be capable of operating in a manner where noise would be appropriately managed, and that it may adversely impact the amenity of the adjoining residential uses.</p>

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<ul style="list-style-type: none"> • The additions have not taken into consideration the noise that emanates from the premises - especially after 10pm. The shade cloth used does nothing to soften the noise. Ambient noise from other premises backing onto Kaata Lane is very quiet as they are all indoor facilities. The only noise that can be heard is from this business, as they are outside open to the environment. Prior to the business being closed, the music was loud enough to be heard clearly from Roy Street which is disturbing for residents. • Concerned about noise impacts late at night, particularly when the premises is close to residential homes on Kaata Lane and Roy Street. These houses are already built with a high density which calls for respect for noise management to ensure neighbours aren't impacted. Concerns that noise from music/patrons won't be able to be managed for a venue with 100 people and which would be open 24/7. • The noise and anti-social behaviour from the business disrupts nearby residents and contributes to sense of being unsafe. It would negatively impact on the neighbourhood community. 	<p>In addition, the lack of physical measures being recommended to limit noise is considered relevant given that the activities of the Unlisted Use (Shisha Lounge) would be concentrated within an unenclosed patio and outbuilding at the rear of the subject site that is located a minimum of between approximately 3.0 and 8.0 metres from the rear of the adjoining residential properties and between approximately 10 and 30 metres from a number of residential dwellings. This would be further exacerbated by the revised closing time of 12:00am from Thursday to Sunday, which the acoustic report does not account for. This would be further exacerbated by the revised closing time of 12:00am from Thursday to Sunday, which the acoustic report does not account for. Refer to additional comments under 'Land Use – General' and 'Anti-Social Behaviour' regarding impacts on the adjoining residential uses.</p> <p>The concerns are therefore supported, as the above demonstrates that the use may not be capable of operating in a manner where venue operations would be appropriately managed, and that it may adversely impact the amenity of the adjoining residential uses.</p> <p>It is noted that the acoustic report was not updated following community consultation.</p>
<p><u>Noise – Acoustic Report</u></p> <ul style="list-style-type: none"> • The noise measurements in the acoustic report are disputed and do not reflect how the business has operated for the following reasons: <ul style="list-style-type: none"> ○ The measurements do not outline the level of music that was being played or the number of patrons present. ○ At the time of measurement they were not permitted to play music after 10pm, but they now propose to be open 24 hours. The measurements therefore don't reflect what they propose. ○ The acoustic report notes that this area is impacted by high levels of ambient noise. This area should be considered more vulnerable for this reason and a more cautious approach should be taken to additional noise production. ○ The measurements were taken at ground level outside No. 23 Roy Street. Although this is standard, the noise would be reduced at ground level due to partial sheltering from walls and fences, and may not be reflective of the actual noise production. 	<p>Refer to the comments above under 'Noise'.</p>

Summary of Submissions:

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<ul style="list-style-type: none"> ○ In Clause 9 of the Noise Regulations, the adjustment for music is 10dB and is 15dB if impulsiveness is present. From observation, the music played meets the criteria for impulsiveness and this would alter the acceptability of the measurements. ○ The City has taken noise measurements from an adjoining residential property on two different occasions and the business has exceeded the Noise Regulations. ○ The use of the premises for tobacco related activities should not be an excuse to avoid implementing noise minimising structural works. ● There is a discrepancy in the report where it refers to the operating hours being more typically between 2pm and 5am, and later in the report where it says that typical operating hours are between 2pm and midnight. ● The acoustic report states that multiple screens playing music 24 hours a day would never be louder than surrounding ambient noise. This is disputed as from approximately 9pm onwards the local area is largely quiet, apart from the very occasional passing car, during the early hours of the morning. It's questioned whether sound levels were taken at the Walcott/Beaufort St intersection during peak hour, rather than in the area that would be directly affected by the noise from the business, being the adjacent residential premises along Kaata Lane. 	
<p><u>Operating Hours and Patron Numbers</u></p> <ul style="list-style-type: none"> ● Up to 100 people being in the outside area of the premises 24 hours a day will adversely affect the amenity of the area for neighbours and residents, particularly in terms of noise. ● The application requests to be open 24 hours a day, seven days a week and typically has operated until 5am. This would be out of place with the surrounding area and businesses in the District Centre zone along Beaufort Street. It operates similar to a nightclub and should not be permitted. Also, of the 11 businesses surrounding the premises on the same side of Beaufort Street, seven of these close at 10pm or earlier and three close at a latest time of 11:30pm on peak nights. ● The operating hours should be reduced as 24 hours a day would create excessive noise. ● There are a high risk of disturbances to residential properties in close proximity to the premises due to the proposed maximum patron numbers and the operating hours of 24 hours, 7 days a week. ● The excessive trading hours proposed are clearly inappropriate for the size of the site and the setting of the premises. It would add to the already present anti-social behaviour with the 24 hour operations likely to draw more people to the area in the early hours of the morning. This would adversely impact noise levels and adversely impact local resident and business community amenity. 	<p>Following community consultation, the maximum patron numbers proposed were reduced to 40 people and the operating hours proposed were reduced to:</p> <ul style="list-style-type: none"> ● 5:00pm to 10:00pm from Sunday to Wednesday; and ● 5:00pm to 12:00am from Thursday to Saturday. <p>The updated operating hours of the business, including its closing times of 10:00pm from Sunday to Wednesday and 12:00am from Thursday to Saturday, would also be similar to that of other business located along this District Centre zoned section of Beaufort Street, and in itself would not have an adverse impact on the locality. This includes The Elford which has a closing time of 11:00pm from Monday to Wednesday and of 12:00am from Thursday to Sunday, as well as the Hungry Jack's which operates to 12:00am everyday. Refer to the comments above and below under 'Noise' and 'Land Use – General'.</p>

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<ul style="list-style-type: none">• Concerns with the potential use and scale of the premises, once approved, beyond the patron and staff numbers specified. The City should not grant unconditional approval for the development for this reason, and concerns are raised with any conditional approval as this would be difficult to enforce given the past history of operations for the premises. The patron numbers and daily trading hours should be significantly reduced.• Operating 24 hours means late night noise and it invites people to the area late at night. This would adversely impact the homes which back onto Kaata Lane.• There are no 24/7 outlets in the immediate vicinity, with the majority closing around midnight. Further to this public transport doesn't operate past midnight and in the early hours of the morning. The information included in the application does not address the security and/or management of patrons upon leaving the premises, there is just a recommendation in the acoustic report that signage be installed to remind patrons of nearby residential premises and to minimise noise on departure. The hours of operation, particularly the closing time, should be reduced to be more in-line with surrounding businesses.• Issues have arisen already when the business has previously operated under reduced operating conditions, and these will only increase if it is allowed to have 100 patrons and operate 24 hours a day.• The operating hours are inappropriate and not consistent with other businesses in the area.• Object to the operating hours of 24 hours a day, 7 days a week.• The operating hours of 24/7 in a residential area is inappropriate. The nature of the business and it operating in the early morning would attract anti-social behaviour to the area and create unreasonable levels of noise. The business should not be located so close to a residential area.• The application claims that the main hours of operation will be between 2pm and midnight. If this is the case then it's questioned why permission is being sought for operations 24 hours a day. Even the main hours of operation are not consistent with the majority of businesses in the area, as the only venue nearby with similar operating hours is The Elford, which unlike the proposed business, is not immediately adjacent to residential properties. No other businesses operate until that late at night either.	

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<p><u>Parking</u></p> <ul style="list-style-type: none"> Object to the lack of parking. Public transport, if people were going to use it, does not run frequently enough to service this business 24 hours a day, 7 days a week. People will invariably drive and park around the surrounding laneways streets, increasing parking demands and traffic at all hours. The application states that one parking spot is sufficient, however people entering the business have previously parked in various nearby businesses along Kaata Lane. People are parking in other parking spots of businesses along Kaata Lane, and enforcement or monitoring of this won't be able to occur in the later operating hours of the business. Even if half of the patrons arrived via public transport, a significant number of car parking bays would still be needed for patrons. In winter it's more likely that people will park in the parking areas of adjacent businesses rather than walk up the laneway to the premises. During normal business hours, congested local traffic and parking in the locality along Beaufort Street and the surrounding residential laneways and streets is already strained and has been a significant problem for many years. The proposal should therefore be required to provide acceptable parking for the proposed use on, or near to, the premises. Concerns with the lack of parking for the business. There are often multiple cars parked at the business, and cars from staff of the business often overflow into other properties on Kaata Lane, creating parking issues. 	<p>Following community consultation, the maximum patron numbers and operating hours proposed were updated and reduced. Refer to comments above under 'Operating Hours and Patron Numbers'. Subsequently the parking provision is acceptable for the following reasons:</p> <ul style="list-style-type: none"> The subject site is located along Beaufort Street and is within the Mount Lawley/Highgate Town Centre. This is a high amenity area connected with pedestrian paths, public transport and the Perth bicycle network; The nature of surrounding area, being a District Centre zone and a town centre with a number of other nearby commercial land uses, would allow for multi-purpose trips that would reduce the overall parking demand within the area. The applicant has stated that typically patrons of shisha bars or lounges visit these premises before or after attending other venues such as restaurant/cafes or bars, of which there are a number surrounding subject site; A review of the on and off-street parking provided in the vicinity of the subject indicates that there is capacity to accommodate additional patron car parking. This includes the two hour ticked on-street parking bays along Beaufort Street, and the ticketed off-street parking bays available within the City's Barlee Street car park. The nature of the use is such that it is not expected that patrons would be attending the site for extended periods of time. This means that if patrons choose to drive their own cars to the premises, they would be able to use the two hour ticketed on-street car parking bays available and it ensures high turnover of these bays;
<ul style="list-style-type: none"> The business will result in increased traffic and parking congestion in the area. Since the business has started operating, Kaata Lane is filled with cars, including those parking illegally and blocking other cars. The additions to the premises have not allowed for parking at the rear which creates overflow into Kaata Lane and other parking areas of other businesses. Adequate parking should be provided, and more than one car has been observed at the premises. 	<ul style="list-style-type: none"> The subject site is located along Beaufort Street and is serviced by bus routes No. 67, 68 and 950 which provides high frequency services between the Morley, Mirrabooka and Perth Busport. The closest two bus stops associated with these services are located approximately 30 and 150 metres from the subject site. The subject site is also located a walking distance of approximately 1.3 kilometres from Mount Lawley Train Station which connects to the wider metropolitan area. The accessibility of these bus and train routes support travel to and from the subject site by means other than car.

Summary of Submissions:

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<ul style="list-style-type: none"> The application information states that one parking bay is sufficient, however no verified or impartial evidence is provided that patrons will not drive to the venue and cause increased pressure on surrounding street. It also states that the venue will operate 24 hours a day, 7 days a week and that therefore only one bay is required for staff, and it's questioned when these staff will be coming and going given these operating hours. The claim that patrons will not drive to the venue is disproven by the evidence of heavy patronage of all businesses in the surrounding area by people who arrive by car and park in the carparks and surrounding streets, often illegally. The claim that the one parking bay is sufficient for staff is also disputed as they would need to all arrive and leave in the same vehicle, which would not be possible if the venue is operating 24 hours a day. A transport impact statement should be provided. 	<ul style="list-style-type: none"> There are a number of existing publicly available bicycle parking spaces within the verge along Beaufort Street and the broader Mount Lawley/Highgate Town Centre in close proximity to the subject site that would be available for use by patrons. This includes 12 spaces within approximately 60 metres of the subject site within the verge on the same side of Beaufort Street. This would provide for conveniently located bicycle spaces for use by patrons and would support cycling as a convenient alternative to driving to the venue. The applicant has also stated that should additional bicycle parking be required onsite for patrons or staff, that there would be sufficient space available to accommodate this; and The proposal with the reduced maximum patron numbers of 40 people is classified as low impact under the Western Australian Planning Commission's Transport Impact Assessment Guidelines and doesn't require a transport impact statement to be submitted. This only needs to be submitted when developments meet the threshold for moderate impact, with this being an entertainment venue with a minimum 100 seats/patrons. <p>If the application were to be approved and unauthorised parking were to occur in Kaata Lane, it would be subject to investigation and action by the City's Rangers team.</p>
<p><u>Tobacco Use/Sale</u></p> <ul style="list-style-type: none"> Passive smoking impacts are a huge issue, and the City has a responsibility to protect people from these impacts. The relevant legislation for a tobacco licence requires that shisha only be smoked in areas where food or drink is not being consumed. Within the application they state that they will provide food, which wouldn't be compliant with this legislation. On-site sale of tobacco products (which are unhealthy) does not service the community and may attract smokers of illegal substances. 	<ul style="list-style-type: none"> Refer to the comments below under 'Land Use – Consistency with Local Planning Scheme No.2 (LPS2)' and 'Licence Requirements'. As the use and consumption of shisha is a legal activity and regulated under separate State legislation, including the <i>Tobacco Products Control Act 2006</i> and <i>Tobacco Advertising Prohibition Act 1992</i>, the associated broader public health impacts are not a material planning consideration. However, the compatibility of the proposal with its surrounding locality and its extent of impact on amenity are valid planning considerations, and are discussed in further detail below.

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<ul style="list-style-type: none">• The business is a risk to individual and public health. The use of tobacco products cause and contribute to significant risks of disease and death, and is the leading cause of preventable death and disease in Australia (attributed to 13% of all deaths in 2018). These risks are magnified when tobacco is smoked socially because of the serious harms associated with second-hand smoke. As with other tobacco products, use of shisha poses significant health risks. This practice is not safe and is associated with many of the same risks as smoking cigarettes (and may be worse), including direct negative health effects for users and serious second-hand smoke impacts for bystanders. Water pipe smoking is significantly associated with various cancers, diseases and illnesses. Water pipe smokers tend to smoke over a longer period than cigarette smokers, and it has been estimated that during a session of water pipe smoking of an hour, a person would inhale more than 100 times the volume of smoke produced by a single cigarette. This exposes users to nicotine and other harmful substances contained in the smoke. Waterpipe smoking can act as a gateway to cigarette initiation and emissions can harm non-smokers in the same way second-hand tobacco smoking does. In addition to the above health risks, there is documented evidence of acute health impacts from water pipe smoking.• The Department of Health (WA) summarises the requirements in relation to shisha in a guideline titled 'smoking and selling shisha'. It is unclear whether the proposed use is compliant with these legislative requirements and the Tobacco Control Branch of the Department of Health should be consulted for advice.• The business activity encourages people to ignore the intrinsic health risks associated with tobacco smoking. It is clearly not consistent with the established Council smoking policy objectives, nor the apparent local community views on this issue. Approval of this application would potentially create a detrimental and adverse precedent that others may also attempt to follow.	

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<ul style="list-style-type: none"> • The business activity should not be supported as a shisha lounge promotes smoking addiction and nicotine use. The novelty of shisha attracts and appeals to young patrons, including those who are non-smokers. Although the premises has an outdoor smoking area, there is nothing to prevent people from smoking indoors which would contradict State requirements. Studies have shown that the air in enclosed spaces where shisha is consumed contains high levels of air pollutants, such as carbon monoxide, and this second-hand smoke can than affect adjacent rooms separated from the shisha consumption area. The toxic agents in shisha and that it's consumption allows you to inhale a high level of smoke at one time can result in several severe health conditions, including various cancers, reduced organ function and heart and other diseases. Studies have shown that nicotine and carcinogen levels increase significantly in people who have spent one night consuming shisha at these types of businesses. • Concerns with smoking which is adverse to health. • The unauthorised patio area faces onto Kaata Lane and is enclosed only in shade cloth which exposes neighbours to shisha smoke. • Concerns with the impact of tobacco emissions in the air in close proximity to residential homes on Kaata Lane and Roy Street. The risks and impacts of tobacco smoke on young people are well documented and researched, and there is a social impact of perceived encouragement of smoking habits within the area. • Shisha smoking creates an unacceptable level of acrid smoke. As it's consumed in outdoor areas and with this site backing onto businesses and residential properties, the emissions will adversely impact surrounding residents and businesses. • The City's proposal to create smoke free town centres, including this section of Beaufort Street, is supported. The area is a busy section of road and is frequented by many children and young people. Allowing easy access to the sale and promotion of tobacco products is a concern, particularly as shisha is 	<ul style="list-style-type: none"> • During the assessment of the application Administration liaised with the Tobacco Compliance Branch of the Department of Health. Administration referred the business to the Tobacco Control Branch of the Department of Health, who advised the following: <ul style="list-style-type: none"> ○ Premises such as shisha bars or lounges may apply for a retail tobacco licence under the <i>Tobacco Products Control Act 2006</i> in order to sell tobacco products including shisha; ○ The use of the tobacco product in or near enclosed public places is governed by the <i>Tobacco Products Control Regulations 2006</i> and is not linked to the licensing process. There is no process within the tobacco products legislation for approval or assessment of smoking areas within the retail tobacco licensed premises; and ○ Tobacco licensed premises are inspected routinely and where written complaints are received alleging a breach of the tobaccos products legislation. The Tobacco Control Branch would investigate allegations relating to smoking in enclosed public places, and any areas where smoking was found to be taking place would be assessed for compliance with the tobacco products legislation. <p>It would be the business operator's responsibility to comply with this applicable legislation, including not smoking in an enclosed public place, with the responsible authority for monitoring compliance then being the Department of Health. These responsibilities are separate to the consideration of the application under the planning framework.</p> • The nature of the use involving the consumption of shisha in a ready-to-smoke form onsite within an unenclosed patio, would inherently result in smoke, vapour and odour being emitted outward from the premises. The applicant has not submitted any details or included any physical measures that would control or filter emissions from the premises. They have stated in their response to submissions that the impact of hazardous emissions from the high volume of vehicles using Beaufort Street would exceed the impact from any flavoured shisha smoke emitted from the premises. Noting that it is accepted that the emission of smoke and vapour can be harmful to health, and that the emission of odour can be a nuisance, the lack of details and physical measures on how emissions would be controlled or filtered is considered particularly relevant for this application. This is given that the patio area and outbuilding would be either fully or partially unenclosed to the east where in this direction there are sensitive uses in the form of single residential dwellings. The patio and outbuilding are located a minimum of between approximately 3.0 and 8.0

Summary of Submissions:

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<p>toxic and the chemicals it contains are bad for people's health and those around them.</p> <ul style="list-style-type: none"> • Shisha is an addictive substance with serious health impacts, worse than those proposed by cigarette smoking. This is outlined in a fact sheet from the US Centre for Disease Control. For these reasons alone this business should not be encouraged any public or private space. • The application states that harmful emissions from the smoking of shisha will not impact local residents. However, the venue is separated from residential properties by a laneway, and the smoking area is located outside at the back of the property and is immediately adjacent to that laneway. As evidenced by current fast-food businesses on Beaufort Street, fumes and smoke can travel significant distances and impact residential properties. • Approval of this proposal would legitimise the smoking of shisha and thereby give the false impression that these types of venues are encouraged while the smoking of cigarettes is highly discouraged. This could well delude impressionable people into the belief that shisha is safer than cigarette smoking when this is clearly not the case. • Given that the smoking of tobacco is discouraged in all other areas due to proven risks to health/life expectancy, approving a premises whose sole purpose is the ingestion of nicotine products, would not only put patrons of neighbouring businesses, neighbouring business owners, passing pedestrian traffic, neighbouring residents and the businesses patrons health at risk, but it would also send a message that smoking is condoned and therefore encouraged by the City of Vincent. 	<p>metres from the adjoining properties to the north-east, east and south-east that contain established sensitive uses. The concerns are therefore supported, as the above demonstrates that the use may not be capable of operating in a manner where emissions would be appropriately managed, and that it may adversely impact the amenity of the adjoining properties and the associated sensitive uses.</p>
<p><u>Land Use – General</u></p> <ul style="list-style-type: none"> • The premises is not in keeping with the types of businesses in the vibrant District Centre zone along Beaufort Street in its operation or character. As the premises is an Unlisted Use it should be interpreted conservatively because it's a use that does not add to the local character. • A shisha lounge is not a high quality area for public interaction as envisaged by the District Centre zone objectives. A 24 hour smoking place also doesn't fit in with the nature of Beaufort Street and Mount Lawley which is a gentrified area including restaurant strips and family-friendly businesses. • The application seeks to significantly increase the level of business activity in terms of its scope and scale. The operating hours, patron numbers and lack of parking results in a scale of operation which is unwarranted and far exceeds acceptable and established commercial business restrictions for the area. 	<p>Refer to the comments below under 'Land Use – Consistency with Local Planning Scheme No.2 (LPS2)'. Although there is a public health impact from smoking, smoking itself is not an illegal activity. The nature of the use is not associated with an illegal activity. The premises is located within the Mount Lawley/Highgate Town Centre which includes a number of licenced venues including The Elford, The Beaufort and Queens Tavern, which facilitate the service and consumption of alcohol onsite. The operation of these businesses would have some inherent impact on the area and reduced amenity. The premises is also directly opposite a convenience store selling tobacco products, and 300 metres from a similar premises in Cloud 9. In this context the proposal is unlikely to result in further reduced amenity or to set an undesirable precedent than that currently experienced or set by there being multiple existing businesses which serve alcohol and sell tobacco and smoking-related products and implements in close proximity.</p>

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<ul style="list-style-type: none"> • Having a 24/7, 100 patron capacity shisha lounge operating on the other side of a small laneway from a row of occupied residential homes is unreasonable. Kaata Lane would turn into a thoroughfare with foot traffic, noise pollution and street pollution which would disrupt the peace in this section of the neighbourhood. • The business and its proposed operations do not comply with the objectives of the City's Local Planning Scheme No. 2 and it should not be permitted. The business is not a community focused business and it is not accessible for the local community for public interaction or leisure. The operations will adversely impact adjoining businesses. It does not encourage high quality, pedestrian friendly, street-orientated development that responds to and enhances the key elements of the District Centre zone. It does not develop areas for public interaction. • The objectives of the District Centre state that development must ensure that they don't expand into or adversely impact adjoining residential areas. The business has already adversely impacted adjoining residential areas from disruptions late at night, anti-social behaviour and noise impacting properties and residents along Lois and Kaata Lane. This is in addition to concerns with the proposed operating hours, patron numbers and lack of parking. The business would not help bring vibrancy and people to the area. • The proposal poses significant adverse amenity impacts, does not enhance key elements of the District Centre and contributes no value to the community. 	<p>In regards to the objectives of the District Centre zone under LPS2:</p> <ul style="list-style-type: none"> • The use would operate as a retail tenancy that offers products for consumption in areas with seating provided. This would contribute towards employee opportunities and the activity centre as a community focus point for people, services and leisure, with the predominant retail offering and commercial activity along Beaufort Street. The retail aspect of the business is consistent with surrounding commercial activities including shops, restaurants, cafés and bars. These commercial activities provide goods or services for sale, are open to the general public, and provide day time and night time trade; consistent with the retail aspect of the proposed land use which would facilitate the retention and add to the diversity of these activities; • Aside from the fencing and gate, no modifications are proposed to the building frontage. This would ensure that it maintains compatibility with the streetscape through its overall built form. This includes its building height and scale and the provision of an active street frontage that are consistent with the Built Form Policy. • The fencing and gate would obscure this active frontage while reducing public interaction and not being consistent with key elements of the District Centre. Refer to the comments below under 'Built Form'; • The signage proposed would be consistent with the Signs and Advertising Policy. It is supported for the reasons outlined further below in this report; • The development, including the patio addition, does not impact on the energy efficiency or water conservation principles. Waste would be collected by an external waste service provider, in line with the City ceasing commercial waste collection and a bin store is proposed at the rear off Kaata Lane; • The proposal would detrimentally impact the amenity of the adjoining residential areas, as a satisfactory acoustic report and a management plan have not been submitted to demonstrate how the activities of the use would be appropriately managed to limit impacts. As set out above under 'Tobacco Use/Sale', the nature of the use involving the consumption of shisha in a ready-to-smoke form onsite within an unenclosed patio and outbuilding, would inherently result in smoke, vapour and odour being emitted outward from the premises. The applicant has not submitted any details or included any physical measures that would control or filter these emissions. This demonstrates that the use as proposed would not be capable of operating in a manner where emissions of smoke, vapour and odour, noise emissions and the activities of the use would be appropriately managed, and that it would adversely impact the amenity of the adjoining properties and the associated sensitive uses that

Summary of Submissions:

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	<p>area in close proximity to the subject site and the unenclosed patio area and outbuilding. Refer to the additional comments above and below under 'Noise', 'Operating Hours and Patron Numbers', 'Anti-Social Behaviour' and 'Parking'.</p>
<p><u>Land Use – Consistency with Local Planning Scheme No.2 (LPS2)</u></p> <ul style="list-style-type: none"> • The use is non consistent with the following matters to be considered under Clause 67(2) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> for the following reasons: <ul style="list-style-type: none"> ○ Clause 67(2)(a) – The health, safety and general welfare of the City's inhabitants is not protected and enhanced by the application. It poses a direct risk to the individual and public health of the City's inhabitants by promoting tobacco use in the form of shisha, where it is known to have significant health risks. The proposed hours of operation, 24 hours a day, 7 days a week, could give rise to safety concerns in arriving and leaving the premises at times where there may be limited visibility from others. ○ Clause 67(2)(f) – Reducing tobacco use and smoking is a key State priority and is reflected in State policy. These policies include the Sustainable Health Review, the WA Health Promotion Strategic Framework, the State Public Health Plan for WA and the WA Cancer Plan, all of which identify the priority to reduce tobacco use and provide high-level strategic direction to achieve this end. Approving this application would undermine the intent of State policies in this area. ○ Clause 67(2)(m) – A shisha lounge with the dominant purpose of encouraging the sale and use of shisha is not compatible with the desired future character of a town centre as an environment that supports healthy living and quality of life, and that is to be smoke-free by 2025 as outlined in the Beaufort Street Town Centre Place Plan and City of Vincent's Public Health Plan. There may also be smoke-drift in respect of the proposed use onto adjacent properties and Beaufort Street itself, which may adversely impact on the character of the area. A high density of tobacco and associated businesses may adversely impact on the character of the area. It should be noted that there are already premises in the vicinity selling tobacco and associated products and accessories. This may give the impression that smoking and related behaviours are acceptable in the City of Vincent community, when they are not. ○ Clause 67(2)(n) – Refer to comments above under 67(2)(m). In addition, the social impacts are that the development promotes an activity that poses a significant risk to public health and that detrimentally impacts on the health of those who visit the premises and staff. This is exacerbated by the proposed opening hours. The development has the potential to glamourise shisha use 	<p>In regards to the matters to be considered by local government under the <i>Planning and Development (Local Planning Schemes Regulations 2015)</i>:</p> <ul style="list-style-type: none"> • The use is not inconsistent with the aim to facilitate and encourage businesses which cater of a diversity of interests and lifestyles. While there is a demonstrated impact from the use of tobacco products, the sale of shisha in a ready-to-smoke form is not an illegal activity. An Unlisted Use requires discretion to be exercised by the decision maker for its approval. The proposed shisha bar is capable of consideration within the Commercial zone, by virtue of it being an Unlisted Use and not an 'X' (not permitted) land use; • Broader public health policy at the state level seeks to reduce the impacts caused by smoking. These policies do not identify opportunities for this to be controlled or influenced through the planning framework. The selling of smoking implements and consumption of shisha is not illegal and there are other controls in place through the tobacco products legislation (regulated by the Department of Health) to control how this is sold and consumed; • The City does not have any approved local planning policies which are relevant to the assessment of the use. Amongst other initiatives, the Public Health Plan seeks to deliver smoke-free town centres by 2025. The Public Health Plan also seeks to support the implementation of smoke-free environments including festivals, events, activities and/or clubs, and to advocate for reduced exposure to tobacco advertising, marketing, promotion and sponsorship. Notwithstanding the aims and priorities of the City's Public Health Plan, this is not a relevant consideration under the planning framework. The initiatives of the Public Health Plan do not extend to private property or contemplate strategies to restrict businesses selling shisha for consumption onsite; • Accounting for the adjoining residential areas, the nature and operation of the use may further diminish the existing amenity of these properties. Refer to the comments above and below under 'Noise', 'Operating Hours and Patron Numbers', 'Anti-Social Behaviour' and 'Tobacco Use/Sale'. In contemplating the surrounding context of the locality and Beaufort Street, the use would not have a more detrimental impact on the community than what is currently experienced; and • The issues raised in the submissions have been considered as part of this

Summary of Submissions:

Comments Received in Objection:	Administration Comment
<p>and portray it as a social activity (when in reality, it exposes users and bystanders to toxic and carcinogenic smoke). Allowing such a business to operate in a busy town centre may contribute to re-normalising tobacco use and smoking, which is a detrimental social impact.</p> <ul style="list-style-type: none">○ Clause 67(2)(r) – A shisha lounge in a town centre is not appropriate, taking into account the possible risk to human health or safety. A town centre with its increased pedestrian traffic is not suitable for a development that is, by its inherent nature, a significant risk to individual and public health. If it were allowed to be positioned with an entry from a high pedestrian traffic area, it could entice a significant number of people who may not otherwise use tobacco products, to try using them. This could have the effect of re-normalising tobacco use and exposing another group of people to nicotine addiction and significant health risk. Further, the proposed hours of operation could give rise to safety concerns in arriving and leaving the premises at times where there may be limited visibility from others.○ Clause 67(2)(x) – The entry to the site is from Beaufort Street within the town centre. The City is pursuing smoke-free town centres by 2025 for the benefit of the community as a whole and is creating environments that support healthy living and quality of life. Approving the application would detrimentally impact on the community and directly undermines the City's stated goals and plans for the town centres, including the Beaufort Street Town Centre Place Plan. It undermines the creation of an environment that supports healthy living and quality of life. Having a shisha lounge in the town centre would be harmful to individual and public health, and increases the opportunity for community members to access, use and become addicted to tobacco and windpipe smoking. This trajectory is totally avoidable and unnecessary.○ Clause 67(2)(y) – the City is to give due consideration to the comments made on the application during public consultation, including those above.○ Clause 67(2)(zb) – The City's Public Health Plan, the Beaufort Street Town Centre Place Plan and the stated move towards smoke-free town centres by 2025 (as expressed in these documents) should be considered. Allowing such an application will undermine what is trying to be achieved in these documents.	<p>application. Receiving objections to the proposal alone is not a valid reason for the application to be refused.</p>

Summary of Submissions:

Comments Received in Objection:	Administration Comment
<p><u>Anti-Social Behaviour</u></p> <ul style="list-style-type: none"> The business allows people to enter and exit through the rear of the premises. This promotes gathering in Kaata Lane which is dark and where there have been past instances of people gathering, police incidents and other anti-social behaviour. This is not consistent with the District Centre zone objectives as the transition between the private and public domain would not enhance the privacy and safety of residents. Object to the proposal due to the high level of anti-social behaviour that has been observed since the business has started operating, including vandalism, noise until late at night, police incidents and misuse of Kaata Lane. The business contributes to a lack of safety in the area and does not belong on Beaufort Street. Concerns with the business resulting in an increased level of anti-social behaviour in the neighbourhood. As the application is retrospective, the businesses impacts have already been observed. This includes multiple instances of anti-social behaviour at the rear of the business and in Kaata Lane at all hours of the day. The premises is a concern for the general safety of other users of Kaata Lane and Beaufort Street, particularly in the evening. Other users of Kaata Lane have seen several disturbances associated with the business, and these instances of anti-social behaviour contribute to a reduced sense of safety for users of Kaata Lane. Concerned about access in Kaata Lane for other users and encountering anti-social behaviour. The lane already has a tendency to feel unsafe at night and the business would only increase this further. 	<p>The applicant has not submitted a management plan to demonstrate how the operations of the business will be managed. The applicant has stated that in terms of complaint management and a code of conduct, that the business operator will be the first point of contact and that their contact details will be provided to patrons if any issues arise. They also stated that they would be willing prevent access to the premises from Kaata Lane and to install signage to reflect this and that the parking at the rear of the premises is for staff only.</p> <p>Although these measures may assist with venue management, there is a lack of any documented procedures to address the management of activities and patrons of the business, including their potential impacts such as noise and anti-social behaviour, as well as any complaints management procedures if complaints were received from adjoining properties. This is considered relevant given the location and unenclosed nature of the patio, its proximity to adjoining residential uses and its operating hours. The concerns are therefore supported, as the above demonstrates that the use may not be capable of operating in a manner where venue operations would be appropriately managed, and that it may adversely impact the amenity of the adjoining residential uses.</p> <p>It is noted that the premises is located within the Mount Lawley/Highgate Town Centre which includes a number of licenced venues including The Elford, The Beaufort and Queens Tavern, which facilitate the service and consumption of alcohol onsite. The operation of these businesses as part of the Town Centre would have some inherent impact and reduced amenity. The premises is directly opposite a convenience store selling tobacco products, and 300 metres from a similar premises in Cloud 9. In this context the proposal is unlikely to result in further reduced amenity in the locality than that currently experienced by being in close proximity to existing businesses which serve alcohol and sell tobacco and smoking-related products and implements that form part of the Town Centre.</p>
<p><u>Waste Management</u></p> <ul style="list-style-type: none"> The business frequently has excess rubbish spilling out into the laneway. Although in the application they claim their current waste management is sufficient it has been observed that they have not been able to store all their rubbish. This is not consistent with the District Centre zone objectives as the business would not incorporate sustainability principles, with particular regard to waste management and recycling. The current bins of the business regularly overflow and rubbish blows up and down Kaata Lane. Rubbish associated with the business is often not contained in bins and is scattered through Kaata Lane. 	<p>The applicant has stated that waste would be collected by an external waste service provider with one 660 litre bulk refuse bin, and a bin store is proposed at the rear off Kaata Lane to accommodate any waste that would be associated with the business. This would assist to ensure that waste would be appropriately accommodated onsite and managed.</p> <p>On this basis waste management has not been included as a reason for refusal for the use.</p>

Summary of Submissions:

Comments Received in Objection:	Administration Comment
<p><u>Built Form</u></p> <ul style="list-style-type: none"> The unauthorised additions facing onto Kaata Lane are of poor quality build, are visually unappealing and do not enhance visual appearance Kaata Lane. The additions to the premises are not in keeping with the style of the original building. <ul style="list-style-type: none"> The relevant objectives for this zone are to encourage high quality, pedestrian friendly, street-orientated developments. This business is located behind a high wall with a locked door which gives the appearance that it's only open for select pre-authorized patrons. It does not satisfy these objectives. 	<p><u>Patio Addition</u></p> <p>The patio addition satisfies all relevant acceptable outcomes of the City's Built Form Policy, including in relation to side and rear setbacks, pedestrian access and entries, and roof design.</p> <p>It would satisfy the element objectives of the City's Built Form Policy, as it relates to an ancillary single storey addition to an existing building. It is consistent with the nature of structures added to the rear of other buildings along Beaufort Street within the Town Centre to provide additional space for the operations and activities of tenants, and it is not required to be associated with a particular land use. As an unenclosed structure supported by slim posts it also contributes limited building bulk and it would be located over a previous bitumen hardstand area, not resulting in the removal of any landscaping or parking areas.</p> <p>On this basis the patio addition has been recommended for approval subject to standard conditions.</p> <p><u>Fence and Gate Addition</u></p> <p>The fence and gate addition does not satisfy the City's Built Form Policy acceptable outcomes relating to height of solid walls or fences.</p> <p>The concerns received are supported, and the fence and gate addition would not satisfy the element objectives of the Built Form Policy and the objectives of the District Centre zone under LPS2 for the following reasons:</p> <ul style="list-style-type: none"> The transition between the private and public domain would not enhance the privacy and safety of residents, as the fence and gate would obscure passive surveillance from occurring between the premises and Beaufort Street; and The fence and gate would not retain and enhance the amenity and safety of the adjoining public domain, as its height and materials would prevent the premises from having an active frontage while reducing public interaction, with this being a key element of the District Centre. <p>On this basis the fence and gate addition has been recommended for refusal alongside the use.</p>

Summary of Submissions:

Comments Received in Objection:	Administration Comment
<p><u>Building Non-Compliance</u></p> <ul style="list-style-type: none"> • Concerns raised that the premises is not fit for use for the following reasons: <ul style="list-style-type: none"> ○ There is no adequate smoke extraction and ventilation system both inside the building and in the rear outdoor patio area. ○ The premises lacks the appropriate fire safety exits and the current rear exit could be obstructed by vehicles. It is not apparent if suitable facilities have been provided for fire brigade intervention. ○ The property is fully enclosed by mesh and non-fire-retardant laser light sheeting affixed from the boundary fencing to the walls and roof. ○ A new roof has been installed at the rear of the building which doesn't seem to have received the necessary building approvals. There appears to be a lack of compliance with the Building Code in relation to materials, openings, boundary walls, fire resistance and safety, exits and signage. ○ It appears that requirements haven't been addressed regarding disabled access, energy efficiency and the provision of suitable ablution facilities, ventilation and mechanical exhausts. <p>The proposal should be compliant with the relevant requirements and these works should be completed prior to the business re-opening.</p> • The building frontage to Beaufort Street is unsafe, and the gate and fence height and construction method has insufficient support. 	<ul style="list-style-type: none"> • As per the comments under 'Built Form' above, the patio addition is considered acceptable under the planning framework. Prior to the patio addition being used, a Building Approval Certificate Application would need to be submitted to the City that is prepared by a qualified Practicing Building Consultant and that demonstrates the building complying with the relevant Building Code of Australia (BCA) requirements. This includes requirements in relation to fire safety, ventilation, entries and exits, and signage. • As per the comments under 'Built Form' above, the fence and gate addition is not considered acceptable under the planning framework. Should the application be refused, the fence and gate addition would need to be removed in accordance with Section 214 of the <i>Planning and Development Act 2005</i>.
<p><u>Other</u></p> <ul style="list-style-type: none"> • Query whether the business would have a liquor licence, as many of the comments in the application information would then not apply. • Concerns that the business will not operate in accordance with their tobacco licence, particularly in that food will be served and consumed in the smoking area. • Concerns that the given the past history of non-compliance that the business will not adhere to any conditions of approval, including relating to operating hours, noise management and patron numbers. 	<ul style="list-style-type: none"> • The applicant has confirmed that no liquor would be sold or consumed from the premises. • The applicant has confirmed that no food of any kind would be sold or served within the patio area that would be used for the sale and consumption of shisha. • Noted. The previous history of non-compliance is not a valid planning consideration when making a decision on a development application. If the business were to not adhere to any conditions if were to be approved, it would be subject to investigation and action by the City's Compliance team in accordance with the City's Prosecution and Enforcement Policy.

Note: Submissions are considered and assessed by issue rather than by individual submitter.