

**5.7 REQUEST TO EXCISE, SELL AND AMALGAMATE PORTION OF RESERVE 25675
(ADJACENT TO NO. 404 BULWER STREET, WEST PERTH)**

- Attachments:**
1. **Aerial and Indicative location of encroachment**
 2. **Site survey including area of encroachment**

RECOMMENDATION:

That Council advises Department of Planning Lands and Heritage that it SUPPORTS:

1. **The excise, sale and amalgamation of a portion of Reserve 25675 identified as Lot 802 on Deposited Plan 166938, Certificate of Title Volume LR3155 Folio 624 and known as Lot 802 Vincent Street, West Perth with the adjacent property known as No.404 (Lot 20) Bulwer Street, West Perth to the extent of encroachment; and**
2. **Relinquish of the existing management order and grant of a new management order over Reserve 25675 following the boundary realignment.**

PURPOSE OF REPORT:

To seek Council's consent for modification to the boundaries of Lot 802 Vincent Street, West Perth known as Reserve 25675.

Administration does not have delegation or authorisation to relinquish management orders granted to the Local Government from the Crown under the *Land Administration Act 1997*.

BACKGROUND:

Lot 802 Vincent Street shown in **Attachment 1** and known as Reserve 25675 is owned by the State of Western Australia. The City has care, control and management of the Reserve pursuant to section 46 of the *Land Administration Act 1997* to manage the reserve as a park.

The City received an application from the owners of No.404 Bulwer Street, West Perth proposing to replace their existing boundary fence and construct a new fence. The existing fence on the western side of the property was constructed sometime in the 1960s, the owners of the property submitted a site survey (**Attachment 2**) with the proposed fence application which identified that a portion of the fence encroached approximately 31.2 square metres within Reserve 25675. The approximate Encroached Area is shown highlighted in **Attachment 1** and in **Attachment 2**.

DETAILS:

As the existing fence is situated within the Encroached Area, the City sought DPLH advice as the landowner regarding the approval process for the owner to seek replacement of the fence located within DPLH land. DPLH has advised that there would be no objections to selling the Encroached Area and has provided their in-principle consent which is subject to the City confirming its support of the excision, sale and amalgamation of Encroached Area with the Property.

A formal submission is required to be made by the owner of No.404 Bulwer Street to DPLH which must be accompanied by the City's consent.

Once the submission has been received by DPLH, they will commence the excision, sale and amalgamation process comprising of:

- Referral and consultation with relevant stakeholders;
- Valuation of land;
- Contract of Sale;
- Payment of sale price;
- Lodgement of documents to reflect tenure change;
- Lifting and re-granting of the management order to the City based on the revised configuration of Reserve 25675.

Public Open Space

Under the Public Open Space Strategy, Reserve 25675 is referred to as the Vincent/Bulwer Street Reserve. This reserve is classified as Local Public Open Space (POS) with a primary purpose as an access way. In 2023, this Reserve was refurbished as an eco-zone through the removal of underutilised grassed areas and replacement with native gardens. This enabled the poorly functioning irrigation system to be turned off to save water whilst improving the amenity of the area and increasing habitat and biodiversity.

Based on the Public Open Space Strategy, West Perth has a shortfall of POS with only 6.52% (6.96ha) of POS within the suburb, which is 3.48% below the recommended target of 10%.

The excision of the Encroached Area is a reduction of POS by 0.13% within the City of Vincent and West Perth and will not impact the functionality and purpose of the Reserve. The fence has existed in this location since the 1960s, and the City has not had use of the Encroached Area during this time.

Development Approval

Development approval would be required for the proposed new fence. Acknowledging that the amalgamation process of the Encroached Area is a lengthy process, DPLH has agreed to sign the development application as the landowner prior to the completion of the amalgamation process.

CONSULTATION/ADVERTISING:

There is no legislative requirement for consultation as the Encroached Area is owned by the State.

DPLH will conduct its own referral and consultation process with relevant stakeholders as they consider necessary for the excision, sale and amalgamation process.

Administration does not consider it necessary to carry out community consultation to support DPLH's decision to excise, sell and amalgamate the Encroached Area on the basis that:

- (a) the reduction will not significantly reduce the current area of POS; and
- (b) the reduction does not impact any current useable or accessible areas of the Reserve.

LEGAL/POLICY:

The provisions relating to disposition of land in the *Local Government Act* 1995 do not apply.

The Stakeholder Engagement Policy will not apply as the City will not be the determining authority for the excision, sale and amalgamation process. In addition, the surrender of the Encroached Area, in Administration's view, will not, for the reasons mentioned above affect the community or gain community interest.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to support the Department of Planning Lands and Heritage decision in the excision, sale and amalgamation process.

STRATEGIC IMPLICATIONS:

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

Enhanced Environment

Our parks and reserves are maintained, enhanced and are accessible for all members of the community.

Innovative and Accountable

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

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:

There is no impact on the City's financial budget as the excision, sale and amalgamation process will be undertaken by DPLH and proceeds of sale of the Encroached Area will be paid by the Owners to DPLH.

COMMENTS:

Administration supports the surrender of the Encroached Area from the POS as the loss of this area will not impact the purpose of the Reserve.



The City of Vincent does not warrant the accuracy of information in this publication and any person using or relying upon such information does so on the basis that the City of Vincent shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Includes layers based on information provided by and with the permission of the Western Australian Land Information Authority (Landgate) (2013).

Lot 802 & No.404 Vincent Street,
West Perth



Portion of No.404 encroaching within reserve

404 Lot 20

197 Lot 300

402 Lot 301

400 Lot 5

Vincent St

Bulwer St

Bulwer St

Bulwer St

CITY OF VINCENT

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Aerial with encroachment

IT SHOULD BE NOTED THAT ALL UNDERGROUND SERVICES NEED TO BE VERIFIED BY THE RELEVANT AUTHORITY PRIOR TO ANY DEMOLITION, EXCAVATION, DESIGN AND/OR CONSTRUCTION. THEREFORE, NO RESPONSIBILITY IS TAKEN FOR SERVICE LOCATIONS. THE CERTIFICATE OF TITLE SHOULD BE CHECKED FOR EASEMENTS AND ENCUMBRANCES.

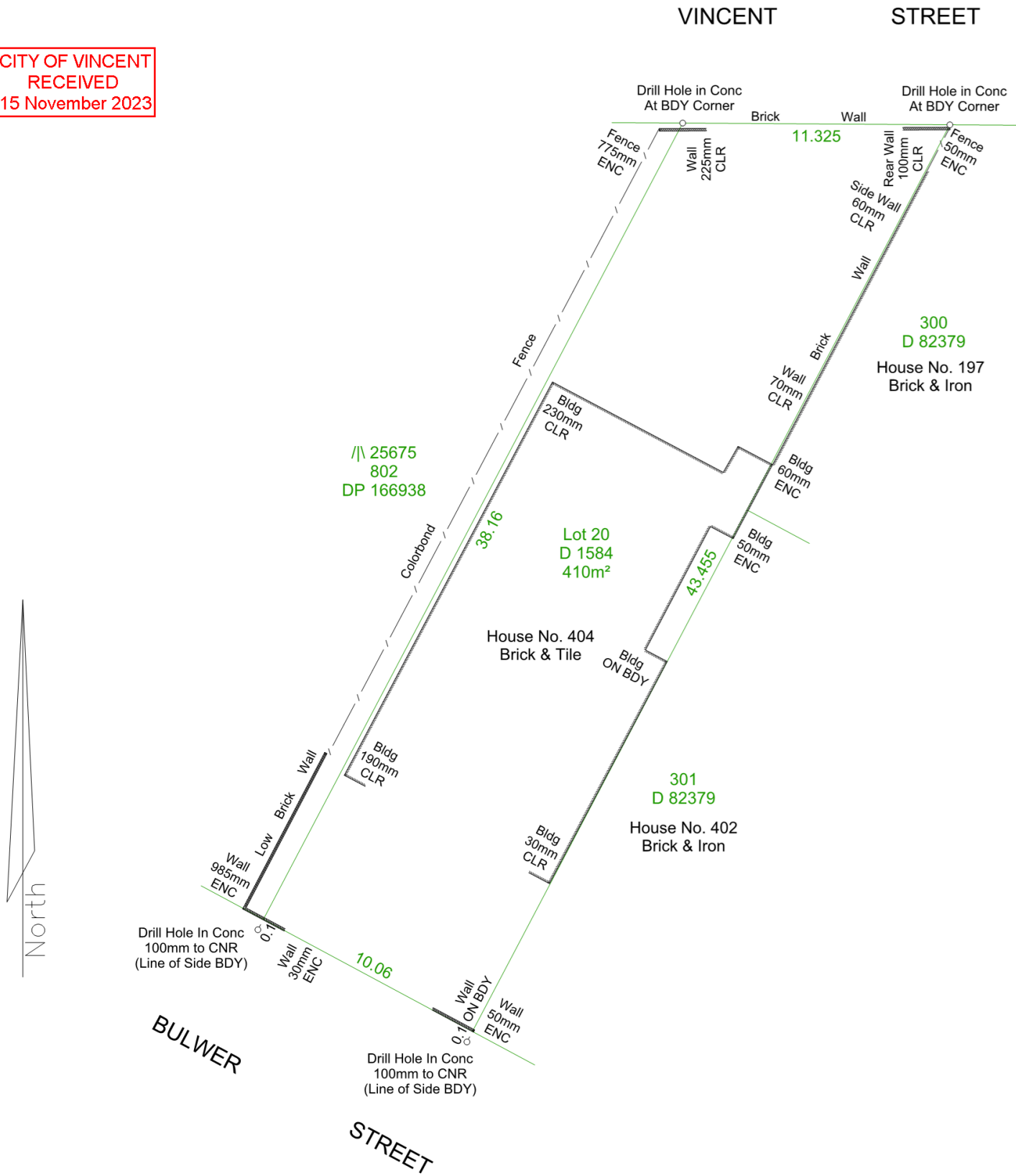
NOTE: THIS PLAN IS ACCURATE AT TIME OF SURVEY. HORIZON SURVEYS ACCEPTS NO RESPONSIBILITY FOR THE ACCURACY OF ANY INFORMATION ADDED.



SCALE - 1:200 @ A3

LOCAL AUTHORITY:
CITY OF VINCENT

CITY OF VINCENT
RECEIVED
15 November 2023



LICENSED SURVEYORS ACT 1909
SURVEYOR'S CERTIFICATE

I PETER J. BONUS., licensed surveyor, certify that on the 15th day of JUNE 2023., I re-established the boundaries of Lot 20 on Diagram 1584 as shown on the attached plan and that the survey was performed in accordance with relevant written laws.

Date 15/06/2023... Signed *Peter Bonus*

HORIZON SURVEYS
UNIT 1/94 HAY STREET, SUBIACO WA 6008
PH 9387 8226 Mob 0407 080 073
Email admin@horizonsurveys.com.au

ALEXANDER PETROVSKI
RE-PEG
404 BULWER STREET, WEST PERTH 6005
(LOT 20 on DIAGRAM 1584)

SURVEYED	DATE	JOB No.	SCALE
PJB/SDS	15/06/23	230047	1:200 at A3
COMPUTED	DATE	HORIZONTAL DATUM	VERTICAL DATUM
PJB	15/06/23	LOCAL	No Heights Shown
DRAWN	DATE	FIELD BOOK	LEVEL BOOK
SDS	16/06/23	HS 1023	
CHECKED		DRAWING No.	
		230047_RP_V1	