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(8 MAY 2007)**

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Nil

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 8 May 2007, commencing at 6.00pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, JP, declared the meeting open at 6.03pm.

**2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE**

**(a) Apologies:**

Nil.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member (until 8.27pm)
Cr Steed Farrell ( <i>Deputy Mayor</i> )	North Ward
Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
Cr Maddalena Torre	South Ward (from 6.12pm until 8.16pm)
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental and Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicker	Executive Manager, Technical Services
Annie Smith	Minutes Secretary
Lindsay McPhee	Journalist - " <i>Guardian Express</i> " (until 8.22pm)

Approximately 11 Members of the Public

**(c) Members on Leave of Absence:**

Nil.

**3. (a) PUBLIC QUESTION TIME & RECEIVING OF PUBLIC SUBMISSIONS**

1. Ms Yvonne Leonzini of 77 The Boulevarde, Mt Hawthorn - Item 10.1.3 - Stated that she wants to use the same footprint of the existing garage to build ancillary accommodation for her ageing mother and daughter. Asked Council to consider deleting clauses (ii)(a) and (b) as she believes reducing the floor space will compromise the integrity of the design and the illusion of space captured in the current plan. Stated that it is almost impossible to read the design from the street as there is a carport structure in the driveway and the proposed work is located at the rear of the block. Requested that the plans be approved in their current form.

2. Ms Lea Poynton of 5 Auckland Street, North Perth - Item 10.1.1 - Stated that they have concerns with traffic, noise pollution and general change to the immediate suburb. Believes the increased number of resident vehicles will increase the noise pollution and the development will back on to their back garden. Requested that Council consider their objections.

**Cr Messina departed the Chamber at 6.08pm.**

**Cr Messina returned to the Chamber at 6.10pm.**

3. Mr Sam Passante of 7 Auckland Street, North Perth - Item 10.1.1 - Stated that he and many of the residents in the area do not support the zoning change. Concerned with the impact that the proposal will have on the density, character and the good order of the locality at the moment. Does not believe that the proposal is sympathetic or sensitive to the environment and it does not adhere to the building codes and guidelines.

**Cr Torre entered the meeting at 6.12pm.**

4. Mr Jon Adams of 181 Lincoln Street, Highgate - Item 10.1.4 - Spoke against the proposed redevelopment. Stated that they oppose the development because of the height, overshadowing, plot ratio, open space and car parking. Believes that the car parking in the area is already under stress and that this proposal will only compound the issue. Questioned whether the amount of parking in lieu is sufficient to pay for parking in the future. Requested that Council revisit the initial approval.
5. Mr Andrea Basini of Labirynt Designs, Mt Lawley - Item 10.1.4 - Stated that the changes to the proposal are due to the necessity for letable floor space to satisfy the financiers. Stated that the approach taken to increase the space on the top level has been done in such a way that it would not overly change the bulk and scale of the building from the street level. Believes that the parking shortfall is within the Town's policies and can be supported.
6. Mr Jason Outten of 24 Plowman Circle, Maylands, Item 10.1.4 - Stated that there are already issues with parking in the area and that this proposal will only compound the problem. Believes that the proposal will overshadow everything in the street and will be a four storey eyesore that will set a precedent.

There being no further questions from the public, the Presiding Member, Mayor Nick Catania, JP, closed Public Question Time at 6.20pm.

**(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

- 4.1 Cr Ker for the Ordinary Meetings of Council to be held on 22 May and 12 June 2007 due to work commitments.
- 4.2 Cr Messina for Ordinary Meeting of Council to be held on 22 May 2007 due to work commitments.

**Moved Cr Farrell, Seconded Cr Lake**

*That;*

- (a) *Cr Ker's request for leave of absence for the Ordinary Meetings of Council to be held on 22 May and 12 June 2007 due to work commitments; and*
- (b) *Cr Messina's request for a leave of absence for the Ordinary Meeting of Council to be held on 22 May 2007 due to work commitments;*

*be approved.*

**CARRIED (9-0)**

**5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND MEMORIALS**

Nil.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Minutes of the Ordinary Meeting of Council held on 24 April 2007.

**Moved Cr Farrell, Seconded Cr Ker**

*That the Minutes of the Ordinary Meeting of Council held on 24 April 2007 be confirmed as a true and correct record.*

**CARRIED (9-0)**

**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

**7.1 Employee of the Month ward for the Town of Vincent for May 2007**

As members of the public will know, the Council recognises its employees by giving a monthly award for outstanding service to the Ratepayers and Residents of the Town. The recipients receive a \$100 voucher, kindly donated by the North Perth Community Bank, and a Certificate. Also their photograph is displayed in the Town's Administration Centre Foyer, in the Library and at Beatty Park Leisure Centre.

For MAY 2007, the award is presented to Reihana Paki (Rei), Supervisor Waste Management and Street Cleaning and Frank Viola from the Town's Outside Workforce. Rei and Frank were nominated as a result of an email received from Mr Tony Pestell of Harold Street, Mount Lawley, who wrote to the Town as follows;

*"Some time ago a Vincent Garbage removal truck accidentally backed into a corner of my rear brick fence."*

*I would like to commend all those Vincent staff who set about matching the bricks and finally today [1 May 2007] doing the repair so well it is invisible. Rei for keeping me informed about the delay in getting the bricks and particularly, Frank, who really knows how to use a trowel.*

*Compliments to all and thanks."*

Congratulations Rei and Frank - and well done!!

**Received with acclamation.**

7.2 Proposed Local Law Relating to Fencing

Pursuant to Section 3.12 - 3.16 of the Local Government Act, the Town of Vincent hereby gives notice that it has carried out a review of its Local Law Relating to Fencing and proposes to adopt a new Local Law Relating to Fencing - Item 10.4.3 on tonight's Agenda.

The purpose of this Local Law is to provide for the regulation, control and management of fences and establish the standard of a "sufficient fence".

7.3 Proposed Local Law Relating to Trading in Public Places

Pursuant to Section 3.12 - 3.16 of the Local Government Act, the Town of Vincent hereby gives notice that it has carried out a review of its Local Law Relating to Trading in Public Places and proposes to adopt a new Local Law Relating to Trading in Public Places - Item 10.4.4 on tonight's Agenda.

The purpose of this Local Law is to provide for the regulation, control and management of trading activities, outdoor eating areas, stalls, display of goods and items and traders and entertainers in any street or public place.

7.4 ANZAC Day Service - Axford Park

I recently received a letter of appreciation from the President and Members of the Mount Hawthorn RSL Sub Branch congratulating the Town on the excellent presentation of the Anzac Day Commemoration Service at Axford Park and for making this Remembrance Day such a huge success.

The President, Mr Ray Campbell, particularly wished to express his thanks for the way the service was conducted and the Council's support for this special day which he stated, as evidenced by the numbers attending, confirmed the Council's standing and the fine role it plays in the community.

Mr Campbell also wanted to pass on their thanks to the musicians, catering staff, Rangers and all other employees assisting in the Ceremony - in particular, the Piper (aka Senior Ranger, Peter Cicanese), who performed his duties admirably - which was greatly appreciated by all.

7.5 Heritage Council Awards

I am pleased to advise that the Town of Vincent has been nominated for a Heritage Council Award 2007 to recognise outstanding commitment and contribution to Heritage conservation in Western Australia.

A special Awards Ceremony will be held on 30 May 2007.

In addition, our former Senior Heritage Officer, Ms Hannah Eames, was also successfully nominated for an Award for Individuals contributing to Heritage.

7.6 Our Local History Book

I am pleased to advise that last week, Professor Geoffrey Bolton officially launched our first ever Local History Book. The launch was attended by approx 75 seniors from the Town and was a most successful event.

The book, titled; "*Our Town: early photographs from the Town of Vincent Local History Collection*" is an easy to read photographic book with extracts from interviews which relate to the photographs. This is very much a social history of the Town between 1902 and 1962, which can be browsed through and read in any order – or just to enjoy looking at the photographs!

Sample copies are available in the library and prices are \$25 for a soft cover edition or \$35 for a hard cover limited edition copy.

I understand that a second book may be forthcoming and funds are listed on the 2007-08 Draft Budget.

I wish to express my congratulations to Library and Information Services Manager, Elizabeth Scott; Local History Librarian Julie Davidson and Local Oral Historian, Maxine Laurie, for all their excellent work.

7.7 Urgent Business

I have approved of Urgent Business being considered on tonight's Agenda. This matter relates to Item 13.1 - Discharge of Mortgage (Various Documents) Heads of Agreement between the Town of Vincent, Allia Venue Management Pty Ltd, North East Equity Pty Ltd and Nicola Tana and David G. Rodwell (Guarantors) for Members Equity Stadium, 310 Pier Street, Perth.

**8. DECLARATION OF INTERESTS**

- 8.1 Mayor Catania declared a financial interest in Item 10.3.1 - Investment Report as at 30 April 2007. The nature of his interest being that he is the Chairperson of the North Perth Community Bank.
- 8.2 Cr Messina declared a financial interest in Item 10.3.1 - Investment Report as at 30 April 2007. The nature of his interest being that he is a Director and Shareholder of the North Perth Community Bank.
- 8.3 Cr Doran-Wu declared an interest affecting impartiality in Item 10.1.7 - Multicultural Services Centre of Western Australia Inc - 4 View Street, North Perth - Request for Parking Permits. The nature of her interest being that she has a working relationship with this organization.
- 8.4 Cr Farrell declared an interest affecting impartiality in Item 10.1.3 - No 77 The Boulevard, Mount Hawthorn - Proposed Ancillary Accommodation Addition to Existing Single House. The nature of his interest being that the applicant is a personal acquaintance.
- 8.5 Cr Lake declared an interest affecting impartiality in Item 10.2.3 - Progress Report No 2 - Road Safety Messages on Mobile Garbage Bins. The nature of her interest being that she owns property in the area which will receive bin stickers.



- 8.6 Cr Maier declared an interest affecting impartiality in Item 10.2.3 - Progress Report No 2 - Road Safety Messages on Mobile Garbage Bins. The nature of his interest being that he owns property in the area which will receive bin stickers.

**9. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)**

Nil.

**10. REPORTS**

The Presiding Member, Mayor Nick Catania JP, requested that the Chief Executive Officer advise the meeting of:

The Agenda Items were categorised as follows:

10.1 **Items which are the subject of a question or comment from Members of the Public and the following was advised:**

Items 10.1.3, 10.1.1 and 10.1.4

10.2 **Items which require an Absolute Majority which have not already been the subject of a public question/comment and the following was advised:**

Item 10.1.1

Presiding Member, Mayor Nick Catania JP, requested Elected Members to indicate:

10.3 **Items which Elected Members wish to discuss which have not already been the subject of a public question/comment or require an absolute majority and the following was advised:**

Cr Farrell	Item 10.4.3
Cr Chester	Items 10.1.2, 10.1.7 and 10.4.2
Cr Ker	Items 10.4.4 and 13.1
Cr Doran-Wu	Nil.
Cr Torre	Nil.
Cr Lake	Item 10.1.8
Cr Messina	Nil.
Cr Maier	Items 10.1.5, 10.1.6 and 10.2.1
Mayor Catania	Nil.

The Presiding Member, Mayor Nick Catania JP, requested that the Chief Executive Officer advise the meeting of:

10.4 **Items which members/officers have declared a financial or proximity interest and the following was advised:**

Item 10.3.1

10.5 **Unopposed items which will be moved "en bloc" and the following was advised:**

Items 10.2.2, 10.2.3, 10.3.2, 10.3.3, 10.3.4, 10.4.1, 10.4.5, 10.4.6, 10.4.7 and 10.4.8

10.6 **Confidential Reports which will be considered behind closed doors and the following was advised:**

Nil.

The Chief Executive Officer advised the meeting of the **New Order** of which items will be considered, as follows:

(a) **Unopposed items moved en bloc;**

Items 10.2.2, 10.2.3, 10.3.2, 10.3.3, 10.3.4, 10.4.1, 10.4.5, 10.4.6, 10.4.7 and 10.4.8

(b) **Those being the subject of a question and/or comment by members of the public during "Question Time";**

Items 10.1.3, 10.1.1 and 10.1.4

The remaining Items identified for discussion were considered in numerical order in which they appeared in the Agenda.

**Moved Cr Farrell, Seconded Cr Torre**

*That the following unopposed items be moved en bloc;*

*Items 10.2.2, 10.2.3, 10.3.2, 10.3.3, 10.3.4, 10.4.1, 10.4.5, 10.4.6, 10.4.7 and 10.4.8*

**CARRIED (9-0)**

**10.2.2 Progress Report No. 3 - Proposed Traffic and Parking Improvements - Lawler Street, North Perth, outside the Kyilla Primary School**

<b>Ward:</b>	North	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	North Perth P8	<b>File Ref:</b>	TES0158
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Lotznicker		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES progress report No. 3 on the Proposed Traffic and Parking Improvements in Lawler Street adjacent to the northern boundary of the school;*
- (ii) *NOTES that the majority of respondents, and in particular those in Lawler Street, are opposed the proposal as outlined on attached Plan No. 2478-CP-04;*
- (iii) *CONDUCTS a workshop to further develop the proposal/s for traffic and parking improvements in Lawler Street, in the vicinity of the Kyilla Primary School, and invites residents from Lawler Street, representatives from the Kyilla Primary School, and the Town's Local Area Traffic Management Advisory Group to attend; and*
- (iv) *RECEIVES a further progress report once the matter/s has been further determined*

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**COUNCIL DECISION ITEM 10.2.2**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

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**PURPOSE OF REPORT:**

The purpose of this report is to advise the Council of the results of the Community Consultation with regard to proposed Traffic and Parking Improvements in Lawler Street outside the Kyilla Primary School.

**BACKGROUND:**

Following a request from the Kyilla Primary school for Traffic and Parking Improvements in Lawler Street, the matter was considered by the Council in November 2006 and referred to the Town's Local Area Traffic Management (LATM) Advisory Group. Following consideration by the LATM advisory group, the Council considered a further report on the matter on 13 March 2007, where the following decision was made:

*"That the Council;*

- (i) RECEIVES the further report on the request received from the Kyilla Primary School for Traffic and Parking Improvements in Lawler Street adjacent to the northern boundary of the school;*
- (ii) NOTES that*
  - (a) five (5) options, as outlined on attached Plans No. 2478-CP-1 and 2, were considered by the Local Area Traffic Management Advisory Group at its meeting held on 22 February 2007; and*
  - (b) should the proposal be ultimately approved, \$90,000 will need to be listed for consideration in the 2007/2008 draft budget;*
- (iii) APPROVES IN PRINCIPLE the 'preferred' Traffic and Parking Improvement proposal estimated to cost \$90,000 as outlined on attached plan No 2478-CP-04;*
- (iv) CONSULTS with the residents in Lawler Street directly affected by the proposal and those in surrounding streets who 'potentially' may be affected by the proposal, giving them 14 days in which to provide a response; and*
- (v) RECEIVES a further report at the conclusion of the consultation process."*

#### **DETAILS:**

##### **Community Consultation**

On 30 March 2007, in accordance with clause (iv) of the Council decision, 87 letters with comment sheets were mailed to residents in Lawler Street directly affected by the proposal and to residents in surrounding streets who could 'potentially' be affected by the proposal. In addition, the information was posted on the Town's Community Consultation Web site at [www.vincent.wa.gov.au](http://www.vincent.wa.gov.au).

At the close of consultation on 19 April 2007, nineteen (19) submissions had been received - see summary of comments attached.

The results were as follows:

- In favour                      7 (or 37%)
- Partially in Favour        1 (or 5%)
- Against                        11 (or 58%)

It is noted that all of the respondents against the proposal live in Lawler Street and therefore these residents would be most affected by the proposed changes.

##### Comments/Conclusion

It was considered by the LATM Advisory Group and the officers that the one way proposal, while being the 'best' solution to the traffic and parking for the school, could create some access issues for the residents of Lawler Street.

It is obvious that while the proposal would have resolved the issues, the school is facing the residents in Lawler Street having differing views.

It is therefore considered that this matter needs to be reviewed and some of the pertinent comments made by some of the residents need to be further explored and workshopped with the school and the residents.

It must also be noted that while some residents considered that the proposal was a waste of money, as previously reported to the Council, the road is in poor condition and needs rehabilitation and streetscape improvements were also proposed to improve the amenity of the street.

**CONSULTATION/ADVERTISING:**

Respondents will be advised of the Council decision.

**LEGAL/POLICY:**

N/A

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of Strategic Plan 2006-2011 – 1.1.6 Maintain and enhance the Town’s infrastructure to provide a safe, healthy, sustainable and functional environment. “o) *Investigate and implement traffic management improvements in liaison with the Local Area Traffic Management (LATM) Advisory Group.*”

**FINANCIAL/BUDGET IMPLICATIONS:**

No funds are currently allocated in the 2006/2007 budget for this proposal. Funds of \$100,000 have, however, been allocated for Consideration in the 2007/2008 draft budget.

**COMMENTS:**

The Town was requested to investigate parking and traffic improvements along Lawler Street outside the Kyilla Primary School. The Town's officers developed five (5) possible options which were subsequently discussed by the LATM advisory group and the residents canvassed on a preferred option.

The majority of respondents were against the proposal, including most of the Lawler Street residents. It is therefore recommended that the proposal be revisited in liaison with the School, residents of Lawler Street and the Town's local Area Traffic management Advisory Group.

**10.2.3 Progress Report No. 2 - Road Safety Messages on Mobile Garbage Bins**

<b>Ward:</b>	Both	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	Mt Hawthorn P1	<b>File Ref:</b>	TES0334
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Lotznicher, J Lockley		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES progress report No. 2 on the "Road Safety Messages on Mobile Garbage Bins";*
- (ii) *NOTES that the Mount Hawthorn "Road Safety Messages on Mobile Garbage Bins" project has been 'successfully' completed;*
- (iii) *APPROVES the extension of the "Road Safety Messages on Mobile Garbage Bins" project to the following schools, as outlined on attached Plan No 2354-CP-2, and the surrounding roads as indicated on each respective plan;*
  - (a) *Aranmore Catholic Primary School - (Plan 2354-CP-2A)*
  - (b) *Kyilla Primary School - (2354-CP-2B)*
  - (c) *North Perth Primary School - (2354-CP-2C)*
  - (d) *Highgate Primary School - (2354-CP-2D)*
  - (e) *Sacred Heart Primary School - (2354-CP-2D);*
- (iv) *ADVISES each of the above schools of its decision and liaises with each school to involve them in the implementation of each respective project; and*
- (v) *RECEIVES a further progress report/s on the matter at the conclusion of the overall program implementation.*

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**COUNCIL DECISION ITEM 10.2.3**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

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**PURPOSE OF REPORT:**

The purpose of this report is to advise the Council on the outcome of the *Please Slow Down Consider Our Kids* bin sticker pilot program in the area surrounding Mount Hawthorn Primary School and seek Council's approval to extend the *Road Safety Messages on Mobile Garbage Bins* program to all primary school areas within the Town.

**BACKGROUND:**

**Ordinary Meeting of Council held on 12 July 2005:**

A pilot program of *Road Safety Messages on Mobile Garbage Bins* was considered where a *pilot program in the area surrounding the Mount Hawthorn Primary School* was approved.

**Ordinary Meeting of Council held on 8 November 2005:**

The Council approved the extension of the Mount Hawthorn *Road Safety Messages on Mobile Garbage Bins* area to include Egina, Buxton, and Kalgoorlie Streets, between Berryman Street and Anzac Road, The Boulevard, between Larne Street and Anzac Road, and Flinders Street, between Scarborough Beach Road and Green Street, given the positive outcomes in terms of reduction in 85th percentile speeds during the trial

It was further decided:

*"That the Council*

- (iv) *ADVISES the Mount Hawthorn Primary School of the findings of the trial and of the proposed extension of the area, as outlined in clause (ii) and requests that the Mount Hawthorn Primary School P & C again assists with the implementation and promotion of the stickers;*
- (v) *DEVELOPS 'Road Safety Messages on Mobile Garbage Bins' program to progressively include appropriate streets in the vicinity of ALL Primary Schools within the Town in consultation with the schools and in liaison with Road Wise; and*
- (vi) *RECEIVES a further report once the program has been developed to determine the most appropriate implementation timeframe and cost implications."*

**DETAILS:**

**Extension of the Mt Hawthorn Program**

This was successfully implemented on 12 and 13 March 2007 and involved local residents, several parents, the School Principal, the Deputy Mayor, two elected members and three of the Town's officers.

The Mount Hawthorn program encouraged community ownership and participation, which is an essential element in efforts to reduce road trauma and improve road safety. It was well received by residents. Many residents have expressed positive feedback regarding the project and encouragement to expand the program.

**Proposed Extension of the Program to Other areas:**

Attached Plan No 2354-CP-2 outlines 'all' the other areas in the Town where the program will be extended to and include streets surrounding the following:

- Aranmore Catholic Primary School - (Plan 2354-CP-2A)\*,
- Kyilla Primary School - (2354-CP-2B)
- North Perth Primary School - (2354-CP-2C)
- Highgate Primary School - (2354-CP-2D)
- Sacred Heart Primary School - (2354-CP-2D)

Note\*: The respective plan numbers next to the above schools outline the actual roads to be included in each program.

In addition, each school will be involved in a raffle to raise awareness of the program and road safety and hampers will be provided as a prize for the raffle and as an incentive for the volunteers who help with placing stickers on the bins on the day.

**Grant Funding:**

Grant funding totalling \$8,660 was received from Road Wise in late 2007 and, as a result, the Town now has adequate stickers to service over 1,500 residents who will be included in the expanded program

**CONSULTATION/ADVERTISING:**

The other primary schools within the Town will be consulted regarding the expanded program.

**LEGAL/POLICY:**

The stickers have no legal status.

**STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment.

**FINANCIAL/BUDGET IMPLICATIONS:**

The 2006/2007 budget included \$10,000 for the bin sticker project. Any remaining funds will be carried forward to the 2007/2008 financial year to fund the purchase of hampers and promotion and additional stickers if required.

**COMMENTS:**

As previously reported to Council, the majority of areas in the Mt Hawthorn pilot program recorded a slight decrease in the 85th percentile speed when the bins were out. As a community-based project, this is simple and relatively inexpensive to implement, with many positive responses received from nearby residents and those travelling through the area.

The overall Mount Hawthorn program encouraged community ownership and participation, which is considered to be an essential element in efforts to reduce road trauma and improve road safety.

It is therefore recommended that the Council approves the extension of the program in the nominated streets surrounding the other schools in the Town as outlined in the report.



**10.3.2 Authorisation of Expenditure for the period 1 - 30 April 2007**

<b>Ward:</b>	Both	<b>Date:</b>	01 May 2007
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0005
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	Melike Orchard		
<b>Checked/Endorsed by:</b>	Bee Choo Tan	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council CONFIRMS the;*

- (i) *Schedule of Accounts for the period 1 April – 30 April 2007 and the list of payments;*
- (ii) *direct lodgement of payroll payments to the personal bank account of employees;*
- (iii) *direct lodgement of PAYG taxes to the Australian Taxation Office;*
- (iv) *direct lodgement of Child Support to the Australian Taxation Office;*
- (v) *direct lodgement of creditors payments to the individual bank accounts of creditors;  
and*
- (vi) *direct lodgement of Superannuation to Local Government and City of Perth superannuation plans;*

*as shown in Appendix 10.3.2*

**COUNCIL DECISION ITEM 10.3.2**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**DECLARATION OF INTEREST**

<b>Members/ Officers</b>	<b>Voucher</b>	<b>Extent of Interest</b>
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Nil.

**PURPOSE OF REPORT:**

To seek authorisation of expenditure for the period 1 - 30 April 2007.

**BACKGROUND:**

The Local Government Act provides for all payments to be approved by the Council. In addition the attached Schedules are submitted in accordance with Item 13 of the Local Government (Finance Management) Regulations 1996.

**DETAILS:**

The Schedule of Accounts to be passed for payment, cover the following:

<b>FUND</b>	<b>CHEQUE NUMBERS/ PAY PERIOD</b>	<b>AMOUNT</b>
<b>Municipal Account</b>		
Town of Vincent Advance Account	EFT	\$1,500,000.00
<b>Total Municipal Account</b>		<b>\$1,500,000.00</b>
<b>Advance Account</b>		
Automatic Cheques	58467-58577, 58579-58655, 58657-58729	\$586,582.34
EFT Batch	643, 648-650	\$18,338.72
<b>Municipal Account</b>		
Transfer of Creditors by EFT Batch	645, 651-653	\$1,394,326.69
Transfer of PAYG Tax by EFT	April 2007	\$162,228.50
Transfer of GST by EFT	April 2007	\$0.00
Transfer of Child Support by EFT	April 2007	\$643.02
Transfer of Superannuation by EFT:		
• City of Perth	April 2007	\$82,095.75
• Local Government	April 2007	\$191,182.64
<b>Total</b>		<b>\$2,435,397.66</b>
<b>Bank Charges &amp; Other Direct Debits</b>		
Bank Charges – CBA		\$3,590.04
Lease Fees		\$4,468.14
Corporate Master Cards		\$5,588.45
Australia Post Lease Equipment		\$0.00
2 Way Rental		\$0.00
Loan Repayment		\$96,523.04
Rejection Fees		\$0.00
ATM Rebate		\$0.00
Beatty Park - miscellaneous deposit		\$0.00
<b>Total Bank Charges &amp; Other Direct Debits</b>		<b>\$110,169.67</b>
<b>Less GST effect on Advance Account</b>		<b>-\$83,788.00</b>
<b>Total Payments</b>		<b>\$3,961,779.33</b>

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2006-2011 – Key Result Area 4.2 – Governance and Management

*“Deliver services, effective communication and public relations in ways that accord with the expectations of the community, whilst maintaining statutory compliance and introduce processes to ensure continuous improvement in the service delivery and management of the Town.”*

**ADVERTISING/CONSULTATION:**

Nil.

**COMMENT:**

Vouchers, supporting invoices and other relevant documentation are available for inspection by Councillors at any time following the date of payment and are laid on the table.

**10.3.3 Community and Welfare Grants and Donations 2006/2007**

<b>Ward:</b>	Both	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0152 V2
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	J.Symons		
<b>Checked/Endorsed by:</b>	J Anthony/M Rootsey	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That Council APPROVES payment of the following grants and donations to the organisations listed as part of the second round of funding for donations as approved in the 2006/07 Annual Budget.*

<i>Outcare Inc</i>	<i>\$2,500</i>
<i>ENASCO Australia Inc</i>	<i>\$3,500</i>
<i>The Salvation Army</i>	<i>\$3,500</i>
<i>Volunteer Task Force</i>	<i>\$3,100</i>
<i>Manna Industries</i>	<i>\$3,500</i>
<b>TOTAL</b>	<b>\$16,100</b>

**COUNCIL DECISION ITEM 10.3.3**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT**

To obtain the Council approval of Community and Welfare Grants.

**BACKGROUND:**

**Community and Welfare Grants and Donations 2006/2007**

The Town of Vincent established the Community and Welfare Grants and Donations Scheme to provide financial assistance to individuals who are disadvantaged and/or in crisis and non-profit community groups and organisations providing community and welfare services to Town of Vincent residents.

Traditionally, the Community and Welfare Grants and Donations have been offered on an annual basis. In the 2005/2006 financial year not-for-profit organisations could apply for funding up to \$15,000. In the 2006/2007 financial year this criteria changed with the Grants and Donations now being offered biannually.

In May and November of this year, not-for-profit organisations providing community and welfare services to Town of Vincent residents may apply for a grant of up to \$5,000.00 to assist with the delivery of a particular service or programme. Funds are also set aside under "Sundry Donations" to enable the Town to provide small donations, on an ad hoc basis, to not-for-profit community service providers, not in receipt of an annual grant. Provision has also been made, with funds set aside under "Sundry Donations", to assist individual residents who are disadvantage and in crisis. In all cases, applications are thoroughly assessed in accordance with set guidelines.

In accordance with the Community and Welfare Grants and Donations Guidelines, the scheme was advertised in four editions of two local papers during the month of October inviting applications for funding which resulted in five applications.

Each application has been rated on a standard scale against a standard set of criteria. The ratings scale is shown below:

<b>Criteria</b>	<b>Weighting</b>
Adherence to policy guidelines	30%
Benefit to Town of Vincent residents	20%
Financial viability of the project or programme	10%
Previous grants acquitted satisfactorily	10%
Targets vulnerable and disadvantaged groups in the community	10%
A unique service that meets the needs of the community	10%
Demonstrated experience in delivering the service or programme	10%
	<b>100%</b>

## DETAILS

A summary of the applications and their ratings is shown on the following pages:

### Applications recommended for funding:

<b>Organisation</b>	<b>Outcare Inc 27 Moore Street, East Perth.</b>
Purpose of Funding	To conduct the “Keeping kids out of crime” education sessions in schools situated within the Town of Vincent. The programme involves a rehabilitated ex offender talking to students about the realities of choosing a life of crime. The intention of the programme is to ultimately deter kids from committing crimes while raising knowledge of the justice system, and the value of education.  Funds would be used for the presenter’s fee, programme preparation and management as well as administration and marketing costs.  The “Keeping kids out of crime” sessions have been conducted in approximately 14 schools intermittently over the previous 3 years. This accounts for over 80 sessions.
Target Group	Students in both primary and high schools, specifically years 7 – 11. There are 6 primary schools and one high school in the Town.
Services Provided by the Organisation	Outcare provides broad ranging offender support services including accommodation, youth services, addictions programme and family support.
Proportion of Vincent Residents Serviced by the Programme	There are six primary schools and one secondary school within the Town of Vincent.
Incorporated	Yes

<b>Organisation</b>	<b>Outcare Inc 27 Moore Street, East Perth.</b>
Comments	This programme will specifically benefit young people living in the Town of Vincent.  The total cost of the programme is \$4,000.
Amount Requested	\$2,800
<b>Amount Recommended</b>	<b>\$2,500</b>

<b>Outcare</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Adherence to policy guidelines	8	2.4
Benefit to Town of Vincent residents	7	1.4
Financial viability of the project or programme	8	0.8
Previous grants acquitted satisfactorily	8	0.8
Targets vulnerable and disadvantaged groups in the community	8	0.8
A unique service that meets the needs of the community	8	0.8
Demonstrated experience in delivering the service or programme	7	0.7
<b>TOTAL</b>	<b>54</b>	<b>7.7</b>

<b>Organisation</b>	<b>ENASCO Australia Inc 248 Fitzgerald Street, Perth.</b>
Purpose of Funding	To provide the ENASCO/Gold age senior in house mobile service programme.  In recent years the ENASCO organisation has recorded a decline in the number of seniors visiting the office in North Perth and an increase in the request for home visits. As well as visiting clients in their homes the mobile service may also be used to transport the client to specific appointments.  Funds would be used to cover transport costs – mileage allowance for use of private vehicle to and from client’s residence by contractors or consultants.
Target Group	Housebound senior citizens of Italian origin in the Town who are members of ENASCO.
Services Provided by the Organisation	The ENASCO office is open from 9am – 3pm Monday to Friday. There is 5 full time staff and two part time staff to deliver the following services; social security and taxation issues; translation of documents, consultancy and interpreting services; preparation of Power of Attorney documents and Wills; assistance with travel arrangements interstate and overseas; promotion of language and cultural issues and the provision of social and welfare information and assistance. Currently 8 – 10 home visits are conducted each week.
Incorporated	Yes
Number of Vincent Residents Served	Of the 3000 – 4000 clients that utilised ENASCOS services last year 80% live in the Town. The organisation has confirmed the accuracy of this information.
Comments	The service will encourage senior citizens to maintain an active quality of life by promoting a sense of achievement through their personal participation and the opportunity to experience a level of independence in not having to rely on family and friends.

<b>Organisation</b>	<b>ENASCO Australia Inc 248 Fitzgerald Street, Perth.</b>
	ENASCO is currently funded by the Italian Government, private organisations and an annual \$20 subscription fee.  It is envisaged that the service will run between Jan and Dec 07.
Amount Requested	\$5,000
<b>Amount Recommended</b>	<b>\$3,500</b>

<b>ENASCO</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Adherence to policy guidelines	7	2.1
Benefit to Town of Vincent residents	8	1.6
Financial viability of the project or programme	7	0.7
Previous grants acquitted satisfactorily	7	0.7
Targets vulnerable and disadvantaged groups in the community	8	0.8
A unique service that meets the needs of the community	8	0.8
Demonstrated experience in delivering the service or programme	7	0.7
<b>TOTAL</b>	<b>52</b>	<b>7.4</b>

<b>Organisation</b>	<b>Salvation Army 333 William Street, Perth.</b>
Purpose of Funding	The primary objective is to provide emergency relief to needy individuals through the Perth Family Support Services. Services include: <ul style="list-style-type: none"> <li>• Clothing Vouchers</li> <li>• Food Parcels</li> <li>• Food Vouchers</li> <li>• Furniture Vouchers</li> <li>• Household Goods</li> <li>• Life Skills Group</li> <li>• Telstra Vouchers</li> <li>• Bill Payment</li> <li>• Budget Club</li> </ul> A secondary objective is to assist clients to learn skills to better manage their household situation.
Target Group	All members of the community
Services Provided by the Organisation	The Salvation Army provides comprehensive social and religious facilities/service to the community. Family support provides relief through food parcels, clothing and expenses. They also undertake counselling to clients.
Number of Vincent Residents Served	Of the 20,000 people assisted last year, 5000 or one quarter lived in the Town. This figure is calculated from the interviews conducted by family support staff.
Incorporated	Yes
Comments	This is a very important service in the community. Community Development Officers at the Town of Vincent receive, on average, 20 calls each year from residents wanting to access the type of services offered by the Salvation Army.  The amount requested is \$1 per resident that utilises the service.
Amount Requested	\$5,000
<b>Amount Recommended</b>	<b>\$3,500</b>

<b>Salvation Army</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Adherence to policy guidelines	8	2.4
Benefit to Town of Vincent residents	8	1.6
Financial viability of the project or programme	8	0.8
Previous grants acquitted satisfactorily	8	0.8
Targets vulnerable and disadvantaged groups in the community	8	0.8
A unique service that meets the needs of the community	7	0.7
Demonstrated experience in delivering the service or programme	8	0.8
<b>TOTAL</b>	<b>55</b>	<b>7.9</b>

<b>Organisation</b>	<b>Volunteer Task Force 194 Loftus Street, North Perth.</b>
Purpose of Funding	<p>Volunteer Task Force proposes to utilize this grant to support their Gardening and Home Maintenance Programme.</p> <p>The funds would be used for:</p> <ul style="list-style-type: none"> <li>• Volunteer costs including training, recruitment, travel/fuel and lunches.</li> <li>• Service costs such as telephone, photocopying and postage</li> <li>• Marketing and promotion including advertising flyers and brochures.</li> </ul>
Target Group	Seniors living in the Town of Vincent.
Services Provided by the Organisation	<p>The agency provides support to people of limited financial, social and physical capacity to enable them to live comfortably and safely within their own home.</p> <p>Services provided by the agency include gardening, home maintenance, social support and domestic assistance.</p>
Incorporated	Yes
Number of Vincent Residents Served	In 2006/7 the agency provided services to 2320 people. Of these 129 (5%) live within the Town of Vincent.
Comments	The services provided by Volunteer Task Force benefit many disadvantaged and socially isolated seniors living in the Town of Vincent. The Town's Community Development Officers regularly and increasingly make referrals to this agency.
Amount Requested	\$4,750
<b>Amount Recommended</b>	<b>\$3,100</b>

<b>Volunteer Task Force</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Adherence to policy guidelines	8	2.4
Benefit to Town of Vincent residents	8	1.6
Financial viability of the project or programme	8	0.8
Previous grants acquitted satisfactorily	7	0.7
Targets vulnerable and disadvantaged groups in the community	8	0.8
A unique service that meets the needs of the community	8	0.8
Demonstrated experience in delivering the service or programme	8	0.8
<b>TOTAL</b>	<b>55</b>	<b>7.9</b>



<b>Organisation</b>	<b>Manna Industries 28 Lindsay St, Perth</b>
Purpose of Funding	To assist with the ongoing costs of running the Soup Kitchen at 28 Lindsay Street Perth.  It costs in excess of \$5000 a month to operate the kitchen.  The kitchen provides a three course sit down meal, a safe non-judgemental environment or a cup of tea and some attention to those that are experiencing hard times.
Target Group	All ages and all cultures.
Services Provided by the Organisation	Manna Industries, through the Soup Kitchen provide free meals and a safe, caring environment for anyone who is experiencing hardship.
Incorporated	Yes
Proportion of Vincent Residents Served	In the last financial year Manna provided 26,000 meals / people. Based on the assumption that all but a few people walked to the kitchen it could be mean that approximately 80% those attending the kitchen are from the Town. Anecdotal evidence supports this estimate.
Comments	For some it is the only meal they will eat all day, for others it cuts the cost of living so they can afford accommodation. For some it is a safe haven to eat with their family when times are tough.  Manna has been operating for 10 years with the demand for their service constantly increasing.
Amount Requested	\$5,000
<b>Amount Recommended</b>	<b>\$3,500</b>

<b>Manna Industries</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Adherence to policy guidelines	8	2.4
Benefit to Town of Vincent residents	7	1.4
Financial viability of the project or programme	8	0.8
Previous grants acquitted satisfactorily	8	0.8
Targets vulnerable and disadvantaged groups in the community	8	0.8
A unique service that meets the needs of the community	7	0.7
Demonstrated experience in delivering the service or programme	8	0.8
<b>TOTAL</b>	<b>54</b>	<b>7.7</b>

**SUMMARY OF RATINGS:**

**Summary of ratings for applications recommended for funding:**

<b>Organisation</b>	<b>Raw Score</b>	<b>Weighted Score</b>
Outcare Inc	54	7.7
ENASCO Australia Inc	52	7.4
The Salvation Army	55	7.9
Volunteer Task Force	55	7.9
Manna Industries	54	7.7

**CONSULTATION/ADVERTISING:**

The scheme was advertised twice in two (2) local papers during the month of October 2006.

**LEGAL/POLICY:**

Policy Number:

*1.1.5 “Donations, sponsorships and waving of fees and charges”.*

**STRATEGIC IMPLICATIONS:**

Strategic Plan - Amended 2006 – 2011 Key Result Area

*3.1:1 “Celebrate and acknowledge the Town’s cultural and social diversity.”*

*3.1.3 “Determine the requirements of the community.”*

**FINANCIAL/BUDGET IMPLICATIONS:**

**Community & Welfare Grants and Donations**

The table below details the financial implications of the welfare donations scheme over the past two years. It also lists the amount requested this financial year and the funding which was approved at the June round of Grants this year.

Organisation	Funding Requested (05/06)	Funding Recommended (05/06)	Funding Requested (06/07)	Funding Recommended (06/07)
Carers WA	2,000	2,000	4,800	2,500
Ethnic Communities Council	7,200	2,000	5,000	2,000
Greek Welfare Centre	10,000	3,000	5,000	3,000
Multicultural Services Centre	3,000	3,000	5,000	3,000
Passages Resource Centre	2,500	2,500	2,500	2,500
St Vincent de Paul Society	2,000	2,000	5,000	4,000
Continance Advisory Service			1,400	1,400
St Hilda’s Anglican Church			5,000	2,000
Women’s Health Care House	1,000	1,000	5,000	3,000
W.A AIDS Council	2,000	2,000	2,000	2,000
Sundry Donations	6,300	6,300	6,300	6,300
<b>TOTAL</b>	<b>\$36,000</b>	<b>\$23,800</b>	<b>\$47,200</b>	<b>\$31,700</b>

The table below details the financial implications of the welfare donations scheme over the past two years. It also lists the amount requested this financial year and the funding which is recommended for this November round of Grants.

Organisation	Funding Requested (05/06)	Funding Recommended (05/06)	Funding Requested (06/07)	Funding Recommended (06/07)
Outcare Inc			2,800	2,500
ENASCO Australia Inc			5,000	3,500
The Salvation Army	8,000	3,000	5,000	3,500
Volunteer Task Force	4,475	4,000	4,750	3,100
Manna Industries Inc			5,000	3,500
<b>TOTAL</b>	<b>\$12,475</b>	<b>\$7,000</b>	<b>\$22,550</b>	<b>\$16,100</b>

**Ad Hoc/Sundry Donations**

In the 2006/2007 Budget, \$6,300 is allocated to cover sundry donations. By utilising \$1,600 of this for the Community and Welfare Grants the Sundry budget will be reduced to \$4,700.

**2006/2007 Budget**

An amount of \$49,500 has been allocated for Community and Welfare Grants and Donations in the Budget for 2006/2007.

Since the introduction of the Community and Welfare Grants and Donations the total amount of funding requested has increased as shown in the table below:

FINANCIAL YEAR	AMOUNT REQUESTED	AMOUNT GRANTED
1996/1997	\$43,000.00	\$40,110.00
1997/1998	\$72,500.00	\$45,300.00
1998/1999	\$129,000.00	\$51,740.00
1999/2000	\$95,940.00	\$55,500.00
2000/2001	\$139,507.00	\$55,000.00
2001/2002	\$128,133.20	\$59,368.00
2002/2003	\$167,172.00	\$63,700.00
2003/2004	\$120,786.00	\$63,300.00
2004/2005	\$137,065.00	\$67,585.00
2005/2006	\$90,555.00*	\$49,000.00*
2006/2007	Round1 - \$47,200	Round 1 - \$31,900
2006/2007	Round 2 - \$22,550	

\* These figures do not include funding for the Loftus Community Centre and Rosewood Care Group.

**Regular Annual Grants to Playgroups and Toy Libraries Located in the Town**

An amount of \$20,000 has been allocated in the 2005/2006 and 2006/2007 budget to Playgroups. Each of the five Playgroups that operate within the Town of Vincent is eligible for funds totalling \$4,000 to use for capital works. To date all five playgroups have submitted requests.

This 2006/2007 financial year, a grant of \$1,000 was offered to each Toy Library located in the Town of Vincent to assist with the costs of advertising, promotion and purchase of toys.

This money has been distributed to the following Toy Libraries:

Noah's Ark Toy Library  
Mount Hawthorn Toy Library  
Leederville Toy Library

**COMMENTS:**

This is the second round of applications for the 2006/2007 financial year, to provide community groups and agencies an opportunity to apply for funding for programmes and services targeting the residents in the Town of Vincent. The first round was held earlier this year in June 2006.

The Town recognises the valid requests for funding from all applicant's, however in many cases the amount recommended is lower than that requested due to the limited funds available for grants. Priority has been given to funding those organisations to which the Town regularly makes referrals, and whose services directly or indirectly benefit a large number of the Town's residents and best reflect the needs of the local community.

**10.3.4 Disposal of Property - Part Lot 10 Corner Brewer and Pier Streets, Perth**

<b>Ward:</b>	-	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	PRO0475
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	M Rootsey		
<b>Checked/Endorsed by:</b>	J Giorgi	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *NOTES that no submissions were received following the advertising of the proposed disposal of Part Lot 10 Corner Brewer and Pier Streets, Perth in accordance with Section 3.58(3) of the Local Government Act; and*
- (ii) *AUTHORISES the Chief Executive Officer to proceed with the disposal of the property at Part Lot 10 Corner Brewer and Pier Streets, Perth.*

**COUNCIL DECISION ITEM 10.3.4**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

**PURPOSE OF REPORT:**

To report to Council the outcome of advertising of the proposed disposal of the property at Part Lot 10 Corner Brewer and Pier Streets, Perth.

**BACKGROUND:**

At the Ordinary Meeting of Council of 19 December 2006 the following resolution was adopted:

*"That the Council;*

- (i) *ACCEPTS the offer of \$130,000 from Schnapper Developments Pty Ltd (the "Purchaser") to the Town of Vincent ("Town") for the purchase Part Lot 10 Brewer Street, corner Pier Street, Perth ("the land"), subject to the following conditions:*
  - (a) *it being acknowledged that the Purchaser proposes to submit a revised development application to construct forty-one (41) units at Nos. 59-61 (Lots 20, 19, 18, 17, 16 and Pt 10) Brewer Street, Perth;*
  - (b) *the sale of the Town's land is considered essential for the subject development to be approved and constructed;*

- (c) *the Council's approval of the development will have regard to its Town Planning Scheme, the Residential Design Codes of Western Australia and relevant policies of the Town and the Town's sale of its land to the Purchaser does not place any obligation on the Council to approve of the development application or grant any density or plot ratio bonuses or any other benefits;*
- (d) *both the Purchaser and the Town will use their best endeavours (acting reasonably and the Town complying with its legislative obligations) to enable the project to be progressed;*
- (e) *compliance with the requirements of Section 3.58 of the Local Government Act 1995;*
- (f) *in the event that the Council grants approval for the development application, subject to conditions which are materially unacceptable to the applicant, this Contract is void providing the Applicant advises the Town in writing of such conditions within fourteen (14) days of receiving the Town's planning approval; and*
- (g) *the Purchaser will effect settlement within thirty (30) days of the later of compliance with the requirements of Section 3.58 of the Local Government Act 1995 or receipt of the Town's planning approval if granted under condition (f) above;*
- (h) *entry into of a written contract to be executed by the Purchaser and the Town within fourteen (14) days of the Council considering any submissions received pursuant to Section 3.58 of the Local Government Act 1995; and*
- (i) *the Joint Form of General Conditions for the Sale of Land 2002 Revision are to be incorporated into the contract so far as they are not varied by or inconsistent with the express terms of the contract and the above conditions;*
- (ii) *AUTHORISES the Chief Executive Officer to advertise the proposed disposal of Lot PT10 Brewer Street, Perth in accordance with Section 3.58(3) of the Local Government Act seeking submissions from the public;*
- (iii) *NOTES that a further report will be submitted to the Council to consider any submissions received; and*
- (iv) *ADVISES the applicant of the outcome of the consideration of the offer."*

**DETAILS:**

In accordance with the Council resolution the proposed Sale of Land at Part Lot 10 (106m<sup>2</sup>) corner Brewer and Pier Street, Perth (the subject of Certificate of Title Volume 2102 Folio 813 Plan 5631) was advertised for sale for the consideration of \$130,000.

The advertisement was placed in the West Australian on 3 January 2007 with submissions to close on 19 January 2007.

No submissions were received on the proposed sale at the submissions closing date.

An unencumbered offer was received from Schnapper Developments Pty Ltd on 27 April 2007 for the purchase price of \$130,000.

**CONSULTATION/ADVERTISING:**

N/A

**LEGAL/POLICY:**

The Local Government Act 1995 Section 3.58(3) deals with disposal of property other than by auction or public tender.

**FINANCIAL/BUDGET IMPLICATIONS:**

The Local Government Act 1995 Section 3.58(3) deals with disposal of property other than by auction or public tender.

**COMMENTS:**

As no submissions were received and the purchaser has offered the agreed purchase price, the disposal of the property is recommended.

**10.4.1 Use of the Council's Common Seal**

<b>Ward:</b>	-	<b>Date:</b>	30 April 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0042
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	M McKahey		
<b>Checked/Endorsed by:</b>	John Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council ENDORSES the use of the Council's Common Seal on the documents listed in the report, for the month of April 2007.*

**COUNCIL DECISION ITEM 10.4.1**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

**BACKGROUND:**

The Chief Executive Officer is responsible for the day-to-day management of the Town and other responsibilities and functions in accordance with Section 5.41 of the Local Government Act. This includes the signing of documents and use of the Council's Common Seal for legal documents. The Town of Vincent Local Law relating to Standing Orders Clause 5.8 prescribes the use of the Council's Common Seal. The CEO is to record in a register and report to Council the details of the use of the Common Seal.

At the Ordinary Meeting of Council held on 14 May 2002, the Council authorised the Chief Executive Officer to use the Common Seal, in accordance with Clause 5.8 of the Town of Vincent Local Law relating to Standing Orders, subject to a report being submitted to Council each month (or bi-monthly if necessary) detailing the documents which have been affixed with the Council's Common Seal.

The Common Seal of the Town of Vincent has been affixed to the following documents:

<b>Date</b>	<b>Document</b>	<b>No of copies</b>	<b>Details</b>
20/04/07	Memorandum of Understanding	2	Town of Vincent and Central TAFE (Leederville Campus) for the use of Leederville Oval - TAFE Sport and Recreation Programme
20/04/07	Memorandum of Understanding	2	Town of Vincent and Central TAFE for the use of Britannia Reserve
20/04/07	Withdrawal of Caveat	1	Town of Vincent and Williams Handcock Lawyers of Level 13, 37 St George's Terrace, Perth WA 600 re: No. 6 (Lot 503 on Deposited Plan 36820) Elven Street, North Perth 6006 (Owners: Mr and Mrs Nestic)
20/04/07	Withdrawal of Caveat - Amalgamation	1	Town of Vincent and Williams Handcock Lawyers of Level 13, 37 St George's Terrace, Perth WA 600 re: Nos. 89-95 (Lots 63 and 368) Smith Street, Highgate

Date	Document	No of copies	Details
20/04/07	Deed of Licence	1	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services, Gate 7, Subiaco Oval, Subiaco Road, Subiaco re: Mother's Day Classic - 23 April 2007 (Gareth Naven Room)
24/04/07	Deed of Licence	3	Town of Vincent and Matthew Magee of U8-44 Calais Road, Scarborough WA 6019 re: Use of Licensed Areas of Beatty Park Leisure Centre as per Schedule 1 ( <i>5 Lanes of 50m Pool on the Mezzanine Floor</i> ) - Term commencing from 1/04/06 and expiring on 31/03/11, with option of further term from 1/04/11 to 31/03/16
24/04/07	Contact Documents	2	Town of Vincent and Leederville Gardens Retirement Estate of 37 Britannia Road, Leederville and Mr L C T Chiang re: Unit 31, Leederville Gardens
27/04/07	Withdrawal of Caveat	1	Town of Vincent and Williams Handcock Lawyers of 13/37 St Georges Terrace, Perth WA 6000 re: No. 196 (Lot 556) Anzac Road, Mount Hawthorn - <i>Withdrawal and re-lodgement of caveat affecting the site, to register a new mortgage for the property</i>



**10.4.5 Leederville Oval (Medibank Stadium) Ground Management Committee - Receiving of Unconfirmed Minutes**

<b>Ward:</b>	South	<b>Date:</b>	30 April 2007
<b>Precinct:</b>	Oxford Centre, P4	<b>File Ref:</b>	RES0078
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M McKahey, John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Unconfirmed Minutes of the Leederville Oval Ground Management Committee Meeting held on 19 April 2007, as shown in Appendix 10.4.5.*

**COUNCIL DECISION ITEM 10.4.5**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of the report is for the Council to receive the Unconfirmed Minutes of the Leederville Oval Ground Management Committee meeting held on 19 April 2007.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 26 October 2004, the Council considered the establishment of a Committee for the management of Leederville Oval (now known as "Medibank Stadium") and resolved inter alia as follows;

*"That the Council APPROVES BY AN ABSOLUTE MAJORITY;*

- (i) *pursuant to Section 5.9(2)(c) of the Division 2, Part No. 5 of the Local Government Act 1995, to establish a Committee for the management of Leederville Oval ("Ground Management Committee");*
- (ii) *in accordance with the lease between the Town and East Perth Football Club (EPFC) and Subiaco Football Club (SFC), to APPOINT the Chief Executive Officer to the Committee and invites EPFC and SFC to also nominate a representative;*
- (iii) *to delegate the following functions to the Committee;*
  - (a) *to determine the Clubs' rights (day-to-day) to use the facilities;*
  - (b) *to consider and make representation to the Town for alternative training grounds;*
  - (c) *to determine day-to-day operational issues, (including catering, advertising, sponsorship, turf maintenance, cleaning, security, ticketing, use of car park);*

- (d) *to establish and review Key Performance Indicators (KPIs);*
  - (e) *to establish and review Risk Management Plans;*
  - (f) *to consider any request for temporary structures;*
  - (g) *to make recommendations for the maintenance of the common area;*
  - (h) *to make recommendations on Capital Improvements;*
  - (i) *to make recommendations on catering and formalise a catering policy; and*
  - (j) *to do other such things with respect to management of Leederville Oval; and*
- (iv) *the KPIs be referred back to Council for adoption."*

**CONSULTATION/ADVERTISING:**

N/A.

**LEGAL/POLICY:**

It is the Town's practice that Committee Meeting Minutes be reported to the Council.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Strategic Plan 2006-2011 - "*Leadership, Governance and Management*", in particular, Objective 4.1.2 - "*Manage the Organisation in a responsible, efficient and accountable manner.*"

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The reporting of the Town's Committee Minutes to the Council Meeting is in keeping with the Local Government Act 1995 and its regulations.

**10.4.6 Loftus Recreation Centre Management Committee - Receiving of Unconfirmed Minutes**

<b>Ward:</b>	South	<b>Date:</b>	30 April 2007
<b>Precinct:</b>	Oxford Centre, P4	<b>File Ref:</b>	RES0078
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M Rootsey		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Unconfirmed Minutes of the Loftus Recreation Centre Management Committee Meeting held on 23 April 2007, as shown in Appendix 10.4.6.*

**COUNCIL DECISION ITEM 10.4.6**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of the report is for the Council to receive the Unconfirmed Minutes of the Loftus Recreation Centre Management Committee meeting held on 23 April 2007.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 19 December 2006, the Council approved of a Management Committee for the Loftus Recreation Centre, as follows;

*“That the Council APPROVES BY AN ABSOLUTE MAJORITY;*

- (i) pursuant to Section 5.9(2)(c) of the Local Government Act 1995, to establish a Committee to supervise the Loftus Recreation Centre, 99 Loftus Street, Leederville;*
- (ii) in accordance with the Deed of Contract between the Town and Belgravia Leisure Pty Ltd, to APPOINT the Chief Executive Officer and Executive Manager Corporate Services, with the Manager Community Development as Deputy to both, to the Committee; and*
- (iii) to delegate the following functions to the Committee;*
  - (a) to supervise the performance of the Services by the Contractor and to ensure that the Contractor performs the Services in accordance with the KPIs and the Contract;*
  - (b) to establish and review the Key Performance Indicators (KPIs) in conjunction with the Contractor;*
  - (c) to receive and consider Performance Reports;*

- (d) *to advise the Town on Capital Improvements required for the Recreation Centre and the Premises and to make recommendations to the Town about the use of the Reserve Fund; and*
- (e) *to review the Risk Management Plan for the Premises."*

**CONSULTATION/ADVERTISING:**

N/A.

**LEGAL/POLICY:**

It is the Town's practice that Committee Meeting Minutes be reported to the Council.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Strategic Plan 2006-2011 - "*Leadership, Governance and Management*", in particular, Objective 4.1.2 - "*Manage the Organisation in a responsible, efficient and accountable manner.*"

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The reporting of the Town's Committee Minutes to the Council Meeting is in keeping with the Local Government Act 1995 and its regulations.

**10.4.7 Report on the 6th National Mainstreet Conference, Melbourne**

<b>Ward:</b>	-	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0031
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Boardman		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the report of the Mayor Nick Catania, Councillor Ian Ker and Executive Manager Environmental & Development Services, Mr Rob Boardman, on their attendance at the 6th National Mainstreet Conference held in Melbourne and Geelong from 18 to 21 March 2007.*

**COUNCIL DECISION ITEM 10.4.7**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to provide the Council with information on the attendance of the Mayor Nick Catania, Councillor Ian Ker and the Executive Manager Environmental & Development Services, Mr Rob Boardman, at the 6th National Mainstreet Conference held in Melbourne and Geelong from 18 to 21 March 2007.

**BACKGROUND:**

The 6th National Mainstreet Conference - "Creating Successful and Vibrant Places" - was held in Melbourne and Geelong from Sunday 18 March 2007 to Wednesday 21 March 2007. The Conference was previously held in 1995, 1997, 1999, 2004 and 2005.

The central focus of the 2007 Mainstreet Conference was "Mainstreets" - whether they be part of a town, region, suburb, city, activity centre or mall. Mainstreets are often the critical driver of a healthy and prosperous community, and increasingly they are required to perform a diverse range of new and challenging functions beyond the traditional one of "a place to do business". In the new millennium, Mainstreets are now places where people can work, shop, live, play, meet, relax, enjoy and interact.

Councillor Ian Ker presented a paper at this Conference.

**DETAILS:**

A number of overseas and Australian speakers with expertise in solutions, best practice and innovation for urban, suburban and regional Mainstreets, and associated topics addressed the Conference. A full copy of the Conference papers/presentations will be available shortly on the website: [www.mainstreetconference.com.au/joomla](http://www.mainstreetconference.com.au/joomla). A printed copy will be provided to the Town's Library.

The Conference Program encompassed the following;

**Keynote Speakers:**

- Cathy Coleman - President and CEO, Downtown Norfolk council, Norfolk, Virginia, USA - *"Managing and Sustaining Vibrant Places"*
- Peter Kenyon - Director, Bank of I.D.E.A.S. (Initiatives for the Development of Enterprising Action and Strategies), WA - *"The Business Retention and Expansion Program: An invaluable tool for building both the local economy and community"*.
- Annie Inwood - Mainstreet Advisor, Economic Development Group, Auckland City Council, NZ - *"Good Vibrations - Diversity in Mainstreets"*.
- Jeff Sanford - Chairman, International Downtown Association, Washington DC, USA - *"Seven characteristics of successful downtown management organisations"*.
- Stephen Sully - Director, Planning by Design Pty Ltd, Victoria - *"The importance of Centres and role of management in their success"*.
- John Hirst - General Manager, Broadmead Board Ltd, UK - *"The winning combination: getting the right people and attitudes together to ensure town centre success"*.
- Nigel Peardon - Director, BIDOLOGY Consulting, Northfield, Birmingham, UK - *"The Renaissance of City Centres - Birmingham's experience"*.
- Simon Quin - Chief Executive, ATCM, Westminster, London, UK - *"The game plan for the successful 'evolution management' of traditional centres"*.
- Stephen Ogden-Barnes - Program Director, Australian Centre for Retail Studies, Monash University, Victoria - *"Australian Retail Snapshot. Australian Centre for Retail Studies"*.
- David Jenkin, AM - *"What great Retailers Do"*.

Sessions covered the following topics:

- Tourism and Towns
- Placemaking and Partnerships
- Regional Revitalisations
- Development Dilemmas and Challenges
- Community Capacity and Mainstreets
- Creating Vibrant Places
- Centre Planning and Design
- Strategic Management
- Transit Cities Tales
- Environment and Sustainability
- Postcards from Mainstreets - A Snapshot of Practical Innovations and Ideas from around the Globe
- Trends, Insights and Impacts
- Managing for Success
- Design and Integration
- Practical Revitalisation Ideas
- Marketing and Branding
- Retail - "The Heart of our Mainstreets"
- Business Development

The Social programme embraced a Welcome Reception at the Melbourne Cricket Ground, Geelong Sunset at Deakin Waterfront Café and Gala Conference Dinner, as well as Field Trips hosted by the Cities of Port Phillip, Stonnington and Yarra.

In addition, there was an exploration of Central Geelong, featuring urban design, arts and culture and shopping, food and fun.

A detailed and comprehensive Conference Programme, as well as abstracts of the Conference Papers and biographies of keynote speakers and session presenters is '*Laid on the Table*'.

**Mayor Catania's Comments:**

There were many pleasing aspects of the Conference, in particular the quality of the presenters and the excellent venues - both in Geelong and Melbourne.

The theme that ran through the Conference was the need to manage "the place" to ensure the marketing effort was successful.

The need for managers and allocated staff to be employed to shape the vision for "the place" to be established, promoted and success achieved.

The need to work with the business sector, both large and small, in partnership to ensure their participation in promotion and contribution to infrastructure required to achieve the establishment of "the place".

The need to take advantage of the move by the local and global community to come back to a "Mainstreet" culture.

Strengthening the heart of the Town was an essential ingredient for a successful Mainstreet culture.

The need to get the proper mix of business activity in "the place" being promoted and established.

The need to be innovative and ensure the vision is established.

The need to promote City Centres because they are a base for sustainable development, surrounded by good public transport. This will project a sense of identity and project the character of the Town.

The wisdom of the community is always greater than the wisdom of the experts when it comes to what the Town needs to attract patrons, especially local patrons.

The Town of Vincent has an opportunity to develop its town centres with separate identifies; able to be promoted and marketed separately and also together, when appropriate.

**Councillor Ian Ker:**

A separate Conference Report is attached at Appendix 10.4.7. A colour copy has been circulated separately to Elected Members, the Chief Executive Officer and the Executive Managers.

A copy of this Conference Report will be made available to interested persons upon request.

The full Conference paper presented by Councillor Ian Ker "*Expanding the Horizons: Concepts, Reality and Opportunism for Traditional Mainstreet Centres*" is also 'Laid on the Table' and circulated separately to Elected Members, the Chief Executive Officer and the Executive Managers.

A copy of this Conference paper will be made available to interested persons upon request.

**CONSULTATION/ADVERTISING:**

Nil.

**LEGAL/POLICY:**

Council's Policy 4.1.15 - "*Conferences & Training - Attendance, Representation, Travel & Accommodation Expenses and Related Matters*" - Clause 5.0 states;

*"5.1 Following attendance at State conferences, congresses, study tours and any seminars, forums, workshops of two (2) days or more duration, the attendees shall submit a report to the Council within thirty days of their return to Perth, for the Council's information and records. The report shall include a summary of the event's proceedings, major points of interest to the Town and recommendation as to whether attendance at similar conferences is warranted.*

*5.2 All Conference Papers are the property of the Town and are also to be placed in the Town's Library so that they are accessible by the public."*

**STRATEGIC IMPLICATIONS:**

In keeping with the Town's Strategic Plan 2006-2011 – Objective 4.2 - "*Provide a positive and desirable workplace*", in particular, 4.2.4(b) - "*Enhance employee empowerment, professional development and job satisfaction and create a workplace that encourages and rewards innovation, implements best practice, and positions the Town as an Employer of Choice*".

**FINANCIAL/BUDGET IMPLICATIONS:**

Not applicable.

**COMMENTS:**

Attendance by the Mayor Nick Catania, Councillor Ian Ker and Executive Manager Environmental & Development Services, Mr Rob Boardman at the 6th National Mainstreet Conference held in Melbourne and Geelong from 18 to 21 March 2007 provided a most interesting and informative experience, and insight to current and future trends in creating successful and vibrant "Mainstreets", together with valuable networking opportunities.



**10.4.8 Information Bulletin**

<b>Ward:</b>	-	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	-
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	A Smith		
<b>Checked/Endorsed by:</b>	John Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Information Bulletin dated 8 May 2007, as distributed with the Agenda, be received.*

**COUNCIL DECISION ITEM 10.4.8**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

**DETAILS:**

The items included in the Information Bulletin dated 8 May 2007 are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>
IB01	Letter from State Administrative Tribunal regarding Matter No. DR/283 of 2006 - Kellett v Town of Vincent
IB02	Letter from State Administrative Tribunal regarding Matter No. DR/73 of 2007 - Boyd v Town of Vincent
IB03	Letter from Department of Local Government and Regional Development relating to Boundary Changes - Gazettal of Governor's Orders
IB04	Letter of Appreciation from Ms S Cornforce regarding the Town of Vincent Library
IB05	Letter of Thanks from Lotterywest to the Town for hosting the Lotterywest Information Seminar on 21 March 2007
IB06	Notes of Hawthorn House Community Advisory Group Meeting held on 13 April 2007
IB07	Notes of Safer Vincent Crime Prevention Partnership Meeting held on 4 April 2007
IB08	Ranger Statistics for January, February and March 2007 (PER0018)
IB09	Dog Needs Study Progress Report (CMS0105)
IB10	Register of Petitions - Progress Report - May 2007

<b>ITEM</b>	<b>DESCRIPTION</b>
IB11	Register of Notices of Motion - Progress Report - May 2007
IB12	Register of Reports to be Actioned - Progress Report - May 2007
IB13	Register of Legal Action
IB14	Register of State Administrative Tribunal Appeals
IB15	Forum Notes - 17 April 2007
IB16	Notice of Forum - 15 May 2007

**10.1.3 No. 77 (Lot 286 D/P: 3642) The Boulevard, Mount Hawthorn - Proposed Ancillary Accommodation Addition to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	Mount Hawthorn; P01	<b>File Ref:</b>	PRO3847; 5.2006.616.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	O Hammond		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner V and Y D Leonzini for proposed Ancillary Accommodation Addition to Existing Single House at No. 77 (Lot 286 D/P: 3642) The Boulevard Mount Hawthorn, and as shown on plans stamp-dated 21 December 2006, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the maximum total area of the Ancillary Accommodation Structure being reduced to 70 square metres;*
  - (b) the total building height of the Ancillary Accommodation Structure being reduced to a maximum of 5 metres to the top of the eaves; and*
  - (c) the balcony on the southern and western elevations being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owner(s) of No. 75 The Boulevard and No. 80 Kalgoorlie Street, stating no objections to the proposed privacy encroachment.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iii) prior to the issue of a Building Licence, a Section 70A Transfer of Land Act 1893 Notification shall be registered against the Certificate of Title for the land advising proprietors or prospective proprietors of the existence of the following conditions which affect the use or enjoyment of the ancillary accommodation structure on the land:*

- (a) *the ancillary accommodation structure shall only be occupied by a member or members of the family of the occupier of the main dwelling;*
  - (b) *the ancillary accommodation structure shall not be used or rented out as a separate dwelling to the main building;*
  - (c) *the person or persons for whom the ancillary accommodation structure is to be constructed, is for use by that person or persons and shall be used for no other purposes or by other persons; and*
  - (d) *the ancillary accommodation structure shall not be occupied by any more than two (2) occupiers at any one time; and*
- (iv) *any new street/front wall, fence and gate between The Boulevardde boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
  - (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level.*
- 

**Moved Cr Farrell, Seconded Cr Doran-Wu**

*That the recommendation be adopted.*

**Moved Cr Doran-Wu, Seconded Cr Farrell**

*That clauses (ii)(a) and (b) be deleted and the remaining subclause (c) be renumbered to clause (ii).*

**Debate ensued.**

**AMENDMENT CARRIED (9-0)**

**MOTION AS AMENDED CARRIED (9-0)**

**COUNCIL DECISION ITEM 10.1.3**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner V and Y D Leonzini for proposed Ancillary Accommodation Addition to Existing Single House at No. 77 (Lot 286 D/P: 3642) The Boulevard Mount Hawthorn, and as shown on plans stamp-dated 21 December 2006, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) the balcony on the southern and western elevations being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owner(s) of No. 75 The Boulevard and No. 80 Kalgoorlie Street, stating no objections to the proposed privacy encroachment.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iii) prior to the issue of a Building Licence, a Section 70A Transfer of Land Act 1893 Notification shall be registered against the Certificate of Title for the land advising proprietors or prospective proprietors of the existence of the following conditions which affect the use or enjoyment of the ancillary accommodation structure on the land:
  - (a) the ancillary accommodation structure shall only be occupied by a member or members of the family of the occupier of the main dwelling;*
  - (b) the ancillary accommodation structure shall not be used or rented out as a separate dwelling to the main building;*
  - (c) the person or persons for whom the ancillary accommodation structure is to be constructed, is for use by that person or persons and shall be used for no other purposes or by other persons; and*
  - (d) the ancillary accommodation structure shall not be occupied by any more than two (2) occupiers at any one time; and**
- (iv) any new street/front wall, fence and gate between The Boulevard boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:
  - (a) the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;**

- (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
- (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
- (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level.*

<b>Landowner:</b>	V & Y D Leonzini
<b>Applicant:</b>	Y D Leonzini
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	473 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves ancillary accommodation addition to existing single house.  
The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	N/A	N/A	Noted
Building Setbacks: Ground Floor - North (side 1)	1.5 metres	1 metre	Supported – minimal undue impact on neighbouring property and affected adjoining land owner’s consent submitted with plans Supported – minimal undue impact on neighbouring property and affected adjoining land owner’s consent submitted with plans
- West (rear)	1 metre	0.75 metre	

Upper Floor - North (side 1)	1.5 metres	1 metre	Supported – minimal undue impact on neighbouring property and affected adjoining land owner’s consent submitted with plans Supported – minimal undue impact on neighbouring property and affected adjoining land owner’s consent submitted with plans
- West	1.2 metres	0.75 metre	
Privacy Setback: Landing/balcony - West	7.5 metres *Or screening in accordance with the R Codes	4.8 metres to western boundary	Not supported – undue impact on neighbouring properties and condition applied to screen or obtain neighbours consent.
- South	7.5 metres *Or screening in accordance with the R Codes	5.97 metres to southern boundary	Not supported – undue impact on neighbouring properties and condition applied to screen or obtain neighbours consent.
Wall Building Height	5 metres	5.134 metres to the roof eaves (6.5 metres to the roof pitch)	Supported in part – undue impact on amenity of the area and condition applied for the eave height to comply with total building height of 5 metres. The remainder of the structure is well within Town requirements for standard building height.
Pedestrian Access	Weather-protected pedestrian connection between the main dwelling and the ancillary accommodation structure	No protected pedestrian connection proposed	Supported – no undue impact on amenity of area and close proximity to main dwelling via existing pergolas.
Maximum Floor Area:	70 square metres	75 square metres	Not supported – undue impact on amenity of area and condition applied for total area to be reduced to 70 square metres.

<b>Consultation Submissions</b>		
Support	Three (3) supporting consent forms were submitted by the applicant from all three affected neighbours to the north, south and west.	Noted
Objection	Nil	Noted
<b>Other Implications</b>		
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Nil	
Financial/Budget Implications	Nil	

\* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

**COMMENTS:**

In light of the above, the proposal is considered supportable, subject to standard and appropriate conditions to address the above matters.



**10.1.1 No. 6 (Lot 22 D/P: 167) London Street, Corner Haynes Street and Scarborough Beach Road, North Perth - Proposed Demolition of Existing Buildings and the Construction of a Three-Storey Development Comprising 12 Multiple Dwellings**

<b>Ward:</b>	North	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	North Perth; P8	<b>File Ref:</b>	PRO3010 5.2006.60.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by Labirynt Design & Development on behalf of the owner Nicotra Developments Pty Ltd for Proposed Demolition of Existing Buildings and the Construction of a Three-Storey Development Comprising 12 Multiple Dwellings, at No. 6 (Lot 22 D/P: 167) London Street, corner Haynes Street and Scarborough Beach Road, North Perth, and as shown on demolition only (excluding proposed building outline), and boundary elevation plans stamp-dated 18 January 2007 and perspective elevations, ground floor, first floor and second floor plans, overshadowing diagram, landscaping plan and site survey plans stamp-dated 14 February ~~2007~~ 2006, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (iii) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (iv) in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$1400 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing;*

(v) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*

- (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and*
- (b) *the Town of Vincent will not issue an owner or visitor residential car parking permit to any owner or occupier of the units. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.*

*This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*

(vi) *any new street/front wall, fence and gate between the London Street, Haynes Street boundaries and the main building, including along the side boundaries within this front setback area, shall comply with the following:*

- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
- (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
- (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
- (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
- (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level; and*
- (f) *the solid portion adjacent to the London Street boundary from the above truncation(s) can increase to a maximum height of 1.8 metres, provided that the fence and gate have at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include significant open structures, recesses and/or planters facing the street at regular intervals, and varying materials; and the incorporation of varying materials, finishes and/or colours are considered to be one (1) design feature. Details of these design features shall be submitted to and approved by the Town prior to the issue of a Building Licence;*

(vii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*

- (viii) *all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (ix) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the London and Haynes Streets verges adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (x) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town, and thereafter implemented and maintained;*
- (xi) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town. All tandem car bays are to be allocated for a specific multiple dwelling;*
- (xii) *the proposed vehicular gate for the development being a minimum 50 percent visually permeable when viewed from Haynes Street; and*
- (xiii) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the provision of a minimum of 3 visitor car bays, which are clearly marked/sign posted as such, outside the secured internal car park; and*
- (b) *bin compound to be constructed in accordance with the Town's Health Services section's specifications for residential development and sized to contain: - 1 x mobile garbage bin per unit and 1 x general recycle bin per 2 units.*

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies and the Residential Design Codes.*

**Note:** *The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strikethrough, italic font and underline*

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**COUNCIL DECISION ITEM 10.1.1**

**Moved Cr Farrell, Seconded Cr Doran-Wu**

*That the recommendation be adopted.*

**Debate ensued.**

**LOST (4-5)**

<b><u>For</u></b>	<b><u>Against</u></b>
Cr Lake	Mayor Catania
Cr Maier	Cr Chester
Cr Messina	Cr Doran-Wu
Cr Torre	Cr Farrell
	Cr Ker

**Reasons:**

1. **Insufficient justification for the variations sought and the application of Clause 40 in terms of the proposed density bonus.**
2. **Consideration of objections received from the local residents.**
3. **Inappropriate bulk and scale compared to nearby development.**

<b>Landowner:</b>	Nicotra Developments Pty Ltd
<b>Applicant:</b>	Labirynth Design & Development
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30/40
<b>Existing Land Use:</b>	Unoccupied property
<b>Use Class:</b>	Multiple Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	2023 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

- 23 August 2005 The Council at its Ordinary Meeting resolved to conditionally approve the demolition of existing showroom and outbuilding, but refused the construction of three-storey mixed use development comprising eight (8) multiple dwellings, eating house, offices, shops and associated basement car parking, at No. 6 (Lot 22 ) London Street, corner Haynes Street and Scarborough Beach Road, North Perth.
- 28 February 2006 The Council at its Ordinary Meeting resolved not to acknowledge the showroom and open air display area as a non-conforming use and refused the application for the retention of non-conforming use as showroom/open air display, at No.6 (Lot 22) London Street, North Perth.
- 22 August 2006 The Council at its Ordinary Meeting considered a confidential report relating to the retention of non-conforming use as showroom/open air display - as part of a review matter to the State Administrative Tribunal - review matter No. DR 626 of 2005 at No. 6 (Lot 22) London Street, North Perth.
- 15 September 2006 The applicant in the review matter DR 626 of 2005 advised the Town that the review matter relating to the retention of non-conforming use as showroom/open air display at No. 6 (Lot 22) London Street, corner Haynes Street and Scarborough Beach Road, North Perth will not continue. As the showroom and air display has not operated for more than 6 months at the above site, the showroom and air display is no longer a valid non-conforming use.

**DETAILS:**

The proposal involves the demolition of the existing buildings (former Midland Brick site) and the construction of a three storey building consisting of 12 multiple dwellings. Vehicular access to the site is via Haynes Street.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density/Number of dwellings	R30 - 6.64 grouped dwellings. R40- 8.1 multiple dwellings.	R59.31 - 12 multiple dwellings (Density bonus of 48.29 per cent in terms of R40).	Supported – as the development is consistent with the objectives of Clause 40 of TPS 1, in terms of enhancing the amenity of the area, with the demolition of the existing non-residential buildings, and consistent with proper and orderly planning of the locality. The scale of the development is considered consistent with recently approved developments that are currently being constructed along Scarborough Beach Road. The proposal also gives prominence to this strategically located corner site. The site is considered a suitable development opportunity site in terms of location and size for an appropriate higher density development, which will assist in the continued down coding of the Eton Locality.
Plot Ratio	0.60 (1213.8 square metres)	0.687 (1389.8 square metres)	Supported – as the increase in density directly results in the increased plot ratio and no undue impact on the amenity of the area.

Car parking	25 car bays, of which 3 car bays for visitors	26 car bays, of which 2 car bays for visitors	Not supported - undue impact on the amenity of the area, and a condition requiring the provision of a minimum of 3 visitor car bays has been applied.
No. of storeys	2 stores plus loft	3 storeys	Supported – no undue impact on streetscape or amenity of immediate locality and compatible with similar scale development in the immediate locality along Scarborough Beach Road, such as at the corner of Dunedin Street.
Height of building	10 metre	10.3 metres	Supported - no undue impact on streetscape or amenity of the immediate locality, and compatible with similar scale development in the immediate locality along Scarborough Beach Road, such as at the corner of Dunedin Street, which is currently under construction.
Building Setbacks: Ground floor-north elevation	1.5 metres	1.398 to 2 metres	Supported - as the variation is not considered to have an undue impact on the affected neighbours.
Ground floor-south/ Haynes Street elevation	4 metres	3.9 to 5.7 metres	Supported - as above
First floor-south/Haynes Street elevation	6 metres	3.384 to 3.77 metres	Supported - as above
First floor-east elevation	4.4. metres	3.89 to 6.59 metres	Supported - as above
First floor-west/London Street elevation	6 metres	5.2 to 6.275 metres	Supported - as above
Second floor-south/Haynes Street elevation	6 metres	2.91 metres	Supported - as above
Second floor-west/London Street elevation	6 metres	5.2 to 6.275 metres	Supported - as above

<b>Consultation Submissions</b>		
Support (1)	<ul style="list-style-type: none"> <li>No comments provided.</li> </ul>	Noted.
Objections (6)	<ul style="list-style-type: none"> <li>The increase in density from R30/40 to R60 is not supported as it is not in keeping with the precinct as it is neither sympathetic nor sensitive to the area. The increase to 12 units is not supported, however 8 units as allowed by the R Codes is supported.</li> <li>Negative impact on the quality of life and residential amenity.</li> <li>Adverse impact as the development is overbearing in height, bulk and scale resulting in a sense of confinement due to size.</li> </ul>	<p>Not supported - for the reasons provided in the above Non-Compliance Table.</p> <p>Not supported - as the proposal complies with the privacy and open space requirements of the R Codes and the desired streetscape for the area.</p> <p>Not supported - for the reasons provided in the above Non-Compliance Table.</p>
	<ul style="list-style-type: none"> <li>Concern of noise from 12 air-conditioners , and noise complaints due to increased potential occupancy</li> <li>Approval will set a dangerous precedent and a detrimental effect now and in the future to residents, thus allowing developers to challenge requirements of the Town.</li> <li>Concerns of overlooking into adjoining residential properties backyard and kitchen and living room due to height and scale of development.</li> </ul>	<p>Noted - as the noise levels are governed by the relevant provisions in the Noise Regulations of the Environmental Protection Act.</p> <p>Not supported – as each development is assessed on individual merit.</p> <p>Not supported – as the proposal complies with the privacy requirements of the R Codes.</p>
	<ul style="list-style-type: none"> <li>Additional traffic generated by the proposed development will increase traffic risk into the area, including excessive speeds of cars travelling above the speed limits.</li> <li>The provision of 2 visitor car bays for a 12 unit development is inadequate.</li> </ul>	<p>Not supported – as there are currently speed limits in all residential suburbs. Complaints of excessive speeds should be reported to the relevant authorities.</p> <p>Supported - a condition requiring the provision of 3 visitors' car bays is recommended by the Town's Officers.</p>

<b>Other Implications</b>	
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications	Nil
Financial/Budget Implications	Nil

\* The representative R Coding and density bonus calculations are provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

\* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

### **Demolition**

Details relating to the demolition of the existing buildings on-site reported to the Ordinary Meeting of Council held on 23 August 2005 remain unchanged, and is as follows in verbatim:

*"A full heritage assessment is not considered appropriate for the proposed demolition of the Midland Brick showroom and outbuilding located on the corner of London Street and Scarborough Beach Road.*

*The City of Perth Sewerage Plans indicates that in 1924 the site, which now occupies the subject place, had not yet been developed. The City of Perth Building Archive Records show that a garage and storeroom was constructed at No.6 London Street in 1955 and the Midlands Brick Company was issued with a Building Licence to construct the showroom and office in 1974.*

*The place is considered to be of little aesthetic, historic, scientific or social value and does not meet the minimum criteria for entry into the Town's Municipal Heritage Inventory.*

*In light of the above, it is recommended that approval be granted for the demolition of the existing buildings, subject to standard conditions."*

### **Conclusion**

The proposal is considered to represent an appropriate residential development at the above site. Accordingly, it is recommended that the demolition of the buildings on-site and the redevelopment proposal be approved, subject to standard and appropriate conditions to address the above matters.



**10.1.4 No. 448 (Lots 2, 3 and 4), Fitzgerald Street, Corner Wasley Street, North Perth- Proposed Partial Demolition of Existing Single Storey Commercial Building and Construction of Four (4) Storey Mixed Use Development Comprising Shops, Office Buildings, Consulting Rooms (Dental Practitioners), Eating House and Existing Basement Car Park**

<b>Ward:</b>	North	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	North Perth Centre; P09	<b>File Ref:</b>	PRO1047; 5.2007.102.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Rasiah, S Kendall		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Labyrinth Design & Development on behalf of the owner Tizzano Group for Proposed Partial Demolition of Existing Single Storey Commercial Building and Construction of Four (4) Storey Mixed Use Development Comprising Shops, Office Buildings, Consulting Rooms (Dental Practitioners), Eating House and Existing Basement Car Park at No. 448 (Lots 2, 3 and 4) Fitzgerald Street, corner Wasley Street, North Perth, and as shown on overshadowing, demolition, landscaping, elevations and third and fourth floor plans stamp-dated 21 March 2007 and revised site, basement car park, ground and first floor plans stamp-dated 18 April 2007, subject to the following conditions:*

- (i) prior to the issue of the Building Licence or first occupation of this development, whichever occurs first, the applicant/owner shall pay a cash-in-lieu contribution of \$59,332 for the equivalent value of 22.82 car parking spaces, based on the construction cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget. Alternatively, if the car parking shortfall is reduced as a result of a greater number of car bays being provided, the cash-in-lieu amount can be reduced to reflect the new changes in car parking requirements;*
- (ii) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (iii) the consulting rooms shall be used for dentistry/dental practitioners purpose only and should the applicant/owner wish to change the nature of the consulting rooms use, it shall be necessary to reapply to and obtain approval from the Town prior to commencement of the new use;*
- (iv) the hours of operation for the consulting rooms (dental practitioners) shall be limited to the following times: 8.00am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm Saturday, inclusive;*
- (v) a maximum of four (4) dental consultants/practitioners and consulting rooms are permitted to operate at the property at any one time;*

- (vi) *any new street/front wall, fence and gate between the Fitzgerald Street and Wasley Street boundaries and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
  - (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level;*
- (vii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (viii) *all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (ix) *the multi-purpose electronic screen shall be restricted to displaying time, day, month or weather information only, and shall not be used for advertising of any other nature;*
- (x) *the vehicular entry gates to the undercroft car park shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the development at all times. Details of the management measures shall be submitted to and approved by the Town prior to the first occupation of the development;*
- (xi) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town, and thereafter implemented and maintained;*
- (xii) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town. All with tandem car bays being sign posted and set aside specifically for staff use only;*

- (xiii) *a detailed landscaping plan, including a list of plants on the fourth floor of the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xiv) *prior to the first occupation of the development, seven (7) class 1 or 2 and eight (8) class 3 bicycle parking facility shall be provided at a location convenient to the entrances and within the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (xv) *the car parking area shall be shown as 'common property' on any strata or survey strata subdivision plan for the property,;*
- (xvi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xvii) *the maximum floor space shall be limited as follows:*
  - (a) *shops - 504 square metres of gross floor area;*
  - (b) *eating house (café/restaurant) -55 square metres of public area;*
  - (c) *offices - 924 square metres of gross floor area; and*
  - (d) *office - 55 square metres of gross retail banking floor area;*
- (xviii) *prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (xix) *prior to the issue of a Building Licence, designs for art work(s) valued at a minimum of 1 per cent of the estimated total cost of the development (\$25,000) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$25,000, subject to the Town agreeing to this arrangement . The art work(s) shall be in accordance with the Town's Policy relating to Percent for Art Scheme and be developed in full consultation with the Town's Community Development Section with reference to the Percent for Art Scheme Policy Guidelines for Developers. The art work(s) shall be installed prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xx) *prior to the issue of a Building Licence, the following matters are to be submitted to and approved by the Town:*
  - (a) *the written approvals of the Minister for Lands and/or the Minister for Local Government and Regional Development whichever is appropriate, for the balcony encroachment over the adjacent road reserve (Crown land); OR*
  - (b) *revised plans demonstrating no structures within the adjacent road reserves;*

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies;*

- (xxi) *an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (xxii) *doors, windows and adjacent floor areas fronting Fitzgerald Street and Wasley Street shall maintain an active and interactive relationship with these streets;*
- (xxiii) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xxiv) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *end of trip facilities for bicycle users being provided in accordance with the Town's Policy relating to Parking and Access;*
  - (b) *the building being redesigned to accommodate a truncation of 3 metres by 3 metres at the intersection of Wasley Street and Fitzgerald Street - without any encroachment into the truncation other than awnings to the satisfaction of the Town;*
  - (c) *continuous and complementary awnings being provided over the Fitzgerald Street and Wasley Street footpaths. The awnings shall follow the line of truncation, and be in accordance with the Town's Local Laws relating to Verandahs and Awnings over Streets, with the awnings being a minimum height of 2.75 metres from the footpath level to the underside of the awning and a minimum of 600 millimetres from the kerb line of Fitzgerald Street and Wasley Street; and*
  - (d) *the tandem car bays shown on the approved site plans being allocated to and marked for staff use only.*

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies;*

- (xxv) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property that the Town of Vincent will not issue a owner or visitor car parking permit to any owner or occupier of the units. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.*

*This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*

- (xxvi) *the support/approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission, and compliance with its comments and conditions at the applicant(s)/owner(s)' full expense; and*
- (xxvii) *the subject property is not to be used for massage activity of a sensual nature, prostitution, as a brothel business, as an agency business associated with prostitution, as an escort agency business, or the like.*
- 

**COUNCIL DECISION ITEM 10.1.4**

**Moved Cr Farrell, Seconded Cr Messina**

*That the recommendation be adopted.*

Debate ensued.

Cr Torre departed the Chamber at 6.50pm.  
Cr Torre returned to the Chamber at 6.52pm.

Debate ensued.

**Moved Cr Chester, Seconded Cr Farrell**

*That a new clause (xxviii) be added as follows:*

*"(xxviii) the sustainability measures identified by the applicant Labirynth Design and Development in their presentation to the Elected Members Forum held on 19 September 2006, which included waterless urinals, grey water recycling systems, low-E glass, new low consumption LED and fluorescent lighting and intelligent after-dark security lighting using off-peak power shall be incorporated into the development design and Building Licence plans and be demonstrated to be met to the satisfaction of the Town prior to the issue of a Building Licence. These measures shall be installed prior to the first occupation of the development and maintained thereafter."*

Debate ensued.

**AMENDMENT CARRIED (9-0)**

Debate ensued.

**Moved Cr Torre, Seconded Cr Doran-Wu**

*That clause (xx) be amended to read as follows:*

- "(xx) prior to the issue of a Building Licence, the following matters are to be submitted to and approved by the Town:*
- (a) the written approvals of the Minister for Lands and/or the Minister for Local Government and Regional Development whichever is appropriate, for the balcony encroachment over the adjacent road reserve (Crown land); OR*
  - (b) revised plans demonstrating no structures within the adjacent road reserves;  
and*

(c) detailed third floor plans clearly demonstrating that the third floor will be used for 4 consultants' rooms only.

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies;"*

Debate ensued.

**AMENDMENT CARRIED (6-3)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Farrell
Cr Chester	Cr Lake
Cr Doran-Wu	Cr Maier
Cr Ker	
Cr Messina	
Cr Torre	

**MOTION AS AMENDED LOST (4-5)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Farrell	Cr Doran-Wu
Cr Messina	Cr Ker
Cr Torre	Cr Lake
	Cr Maier

**Reason:**

- Significant parking shortfall.**

**ADDITIONAL INFORMATION:**

The Town has received a late submission (attached) in relation to the above proposal. The comments raised in the submission are not supported for the reasons stated in the below revised "Assessment Table" under the heading of "Consultation Submissions", and the "Officer Recommendation" remains unchanged.

<b>Consultation Submissions</b>		
Support (1)	No comments provided.	Noted.
Objection (Nil) (1)	<p>Nil.</p> <ul style="list-style-type: none"> <li>Not anti-development and on the contrary pleased to support development that adds value to the area in the best interest of the Town. While the proposal will bring in more lunch hour trade, it will be deserted after 5 pm when the workers go home. Surely the area needs more shops, cafes and people living in them. Why hasn't the Council encouraged a residential component in this development. A residential development for two of the floors would be more accepting.</li> </ul>	<p>Noted.</p> <p>Noted - as a mixed use development with a residential component would additionally create a more active environment after hours together with the proposed eating house use.</p>

	<ul style="list-style-type: none"> <li>• <u>The proposal resembles a four storey office block. Is that what the Town has planned for the North Perth precinct? If so then the business operators in the area should be notified of this so that they can make their own development arrangements accordingly.</u></li> </ul>	<p><u>Not supported - as the District Centre zoning of the property allows the proposed uses, and the proposal is a mixed used development site, where the Fitzgerald and Wasley Streets elevations have been articulated to reflect an urban style 'City-Like' character.</u></p>
	<ul style="list-style-type: none"> <li>• <u>The current proposal will place more pressure on available car parking in the area and will discourage people coming to North Perth to do their shopping.</u></li> </ul>	<p><u>Noted - as stated in the Agenda Report to the Ordinary Meeting of Council Report held on 19 December 2006, that there is a Town-owned 42 car bay car park at the rear of the proposed development site, which has a maximum 3 hour time limit. In addition, the car park off View Street has another 41 car bays and is within close proximity to the development site.</u></p>
	<ul style="list-style-type: none"> <li>• <u>Plot ratio is excessive for the area. Building should be scaled down in size.</u></li> </ul>	<p><u>Not supported-as it is considered acceptable in terms of height and scale. The proposal also gives prominence to this strategically located corner site, where a fourth storey can be considered for corner sites.</u></p>
	<ul style="list-style-type: none"> <li>• <u>Proposal does not comply with the Town's standard. If this sort of development is approved, then the scheme should be amended and community consulted.</u></li> </ul>	<p><u>Not supported- as the variations are within acceptable limits, and considered not to unduly affect the amenity of the area.</u></p>
	<ul style="list-style-type: none"> <li>• <u>The Town should be charging higher cash-in-lieu amounts, as the land area for provided the shortfall in car parking far exceeds the current land value for the provision of the car bay shortfall.</u></li> </ul>	<p><u>Noted.</u></p>

<b>Landowner:</b>	Tizzano Group
<b>Applicant:</b>	Labirynt Design & Development
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): District Centre
<b>Existing Land Use:</b>	Shop
<b>Use Class:</b>	Shop, Office Building, Eating House, Consulting Rooms
<b>Use Classification:</b>	"P", "P", "P" and "AA"
<b>Lot Area:</b>	1094 square metres
<b>Access to Right of Way</b>	East side, 4.6 metres wide, sealed, Town owned

**BACKGROUND:**

- 27 September 2005 The Council at its Ordinary Meeting conditionally approved an application for proposed change of use from shop to shop and eating house and alterations at the above site.
- 19 September 2006 The above proposal was presented to an Elected Members Forum.
- 3 November 2006 The proposal was forwarded to the Western Australian Planning Commission for comments.
- 19 December 2006 The Council at its Ordinary Meeting (OMC) conditionally approved the partial demolition of existing single storey commercial building and construction of four (4) storey mixed use development comprising shops, office buildings, consulting rooms (dental practitioners) and eating house.

**DETAILS:**

The current proposal involves partial demolition of the existing building and the construction of an additional three storeys, resulting in a four storey development with an existing basement car park. One of the main changes from the proposal conditionally approved at the Ordinary Meeting of Council held on 19 December 2006 is a beauty salon and spa facility on the fourth floor terrace in place of previous offices and greater floor space on that floor.

The uses proposed are offices, retail (shop), eating house and consulting rooms. Access to the site is off Wasley Street by way of the rear right of way. The applicant submission is attached.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	0.70 or 766 square metres	1.28 or 1400 square metres	Supported - as increase in number of floors results in the increased plot ratio. In the past, for corner developments, the Town has considered higher plot ratios provided that the "total development" fits in with the surrounding development and the likely benefits to be achieved by such integrated developments, such as this proposal.



Number of storeys	3 storey on corners	4 storeys and existing basement car park	Supported - as it is considered acceptable in terms of the height and scale, and also gives prominence to this strategically located corner site, and previously approved at the OMC on 19 December 2006.
Height of building	10 metres	16.5 metres	Supported –as the site is a strategically located corner site and is not considered to create an undue, adverse effect on the existing streetscape.
Building Setbacks: Front setback- West (Fitzgerald Street) elevation	"Nil"	"Nil" to 1 metre and 5.43 metres on fourth floor	Supported- as the front setback is not considered to create an undue, adverse effect on the existing streetscape, and previously approved at the OMC on 19 December 2006.
Side-North (Wasley Street) elevation	"Nil"	"Nil" and 1 metre	Supported - as the greater setback is considered not to unduly affect the streetscape in the area.
Side-South elevation	"Nil"	"Nil" to 2 metres on the fourth floor	Supported, as the adjoining lot to the south is also within the District Centre zone, and is likely to be redeveloped in the near future.
Rear-East elevation	9 metres	6.3 metres	Supported- as one of the main reasons for the 9 metres rear setback is to allow for court yard space for residential developments. The proposal does not involve a residential component and previously approved at the OMC on 19 December 2006.
Landscaping	10 per cent or 109.4 square metres	2.28 per cent or 25 square metres	Supported- on the basis that most of the developments along Fitzgerald Street within the Precinct do not have landscaping, mainly due to the nature and urban form of surrounding developments.
<b>Consultation Submissions</b>			
Support (1)	No comments provided.		Noted.
Objection (Nil)	Nil.		Noted.

<b>Other Implications</b>		
Legal/Policy	TPS 1 and associated Policies.	
Strategic Implications	Nil	
Financial/Budget Implications	Nil	
<b>Car Parking</b>		
Office: 1 car bay per 50 square metres gross office/administration floor area (proposed 924 square metres) = 18.48 car bays. Office: 1 car bay per 15 square metres of gross retail banking floor area (proposed 55 square metres) = 3.67 car bays. Café/Eating House -1 space per 4.5 square metres of public area (55 square metres) = 12.22 car bays. Shop: 1 car bay per 15 square metres of gross floor area (proposed 504 square metres) = 33.6 car bays. Consulting rooms: 3 car bays per consulting room (proposed 4 consulting rooms) = 12 car bays. Total 79.97 car bays To nearest whole number	80 car bays	
Apply the parking adjustment factors.	(0.5852)	
<ul style="list-style-type: none"> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.85 (within 400 metres of one or more public car parks in excess of 75 spaces)</li> <li>▪ 0.90 (provision of "end of trip" facilities for bicycle users)</li> <li>▪ 0.90 (proposed development as within the District Centre)</li> </ul>	46.82 car bays	
Car parking provided on-site	24 car bays, of which 2 are tandem car bays.	
Resultant shortfall	22.82 car bays	
<b>Bicycle Parking Facilities</b>		
<b>Requirements</b>	<b>Required</b>	<b>Provided</b>
<b>Offices</b>		
<ul style="list-style-type: none"> <li>• 1 space per 200 (proposed 924) square metres gross floor area (class 1 or 2).</li> <li>• 1 space per 750 (proposed 724) square metres over 1000 square metres for visitors (class 3), as the class 3 facilities for a bank office of 200 square metres is a separate requirement as below.</li> </ul>	4.62 spaces  N/A	No bicycle parking facilities shown on submitted plans.
<b>Bank</b>		
<ul style="list-style-type: none"> <li>• 2 spaces for class 3.</li> </ul>	2 spaces	As above.
<b>Consulting rooms</b>		
<ul style="list-style-type: none"> <li>• 1 space per 4 practitioners (Class 3)</li> </ul>	1 space	As above.
<b>Shop</b>		
<ul style="list-style-type: none"> <li>• 1 space per 300 (proposed 504) square metres gross floor area (Class 1 or 2).</li> <li>• 1 space per 200 (proposed 504) square metres (Class 3).</li> </ul>	1.68 space  2.52 space	As above.  As above.

<b>Eating house</b>	• 1 space per 100 (proposed 55) square metres public area (class 1 or 2).	0.55 space	As above.
	• 2 spaces plus 1 space per 100 (proposed 55) square metres of public area (class 3).	2.55 spaces	As above.

\* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

## COMMENTS:

### Western Australian Planning Commission Referral

The proposal has been referred to the Western Australian Planning Commission (WAPC) as the proposal abuts Fitzgerald Street, which is classified as an "Other Regional Road" and also due to regional implications.

In the previous proposal approved by the Council at its Ordinary Meeting held on 19 December 2006, the WAPC has advised that a 3 metre by 3 metre truncation is required at the corner of Fitzgerald and Wasley Street, with the awning to be contained within the Fitzgerald Street road reservation to the satisfaction of the Town.

The Town has not received a further response from the WAPC, at the time this Agenda Report was prepared for this revised development proposal.

### Partial Demolition

The subject place, known as the Fitzgerald Arcade located at No. 448 Fitzgerald Street, North Perth was constructed circa 1987 in the Late Twentieth Century Retail style of architecture. Located on a prime corner location at the Fitzgerald and Wasley Street intersection, the place forms part of a commercial landscape dating from 1898.

The single storey painted brick arcade is positioned on the corner of Fitzgerald Street and Wasley Street. The place has a substantial set back from the road and maintains an interactive presentation to each street. The façade features a simple parapet, a corrugated iron bull nose verandah, aluminium framed fenestration detail and a prominent protruding barrel roof entrance to Fitzgerald Street. The rear of the place abuts a public car park and features two small barrel roofed areas, three aluminium framed windows and two large roller doors, which provide access to undercroft parking. The complex comprises five shops, which are located around a central passage underneath the prominent protruding barrel roof entrance off Fitzgerald Street.

The arcade is not listed on the Town's Municipal Heritage Inventory and is not considered to have any specific cultural heritage value that would make it eligible for consideration for inclusion on the Town's Municipal Heritage Inventory. The place is considered to require no further investigation and that a full Heritage Assessment is not warranted. Therefore, it is recommended that the application to part demolish the building be approved, subject to a quality archival record and other standard conditions.

### Beauty Therapy/Hairdresser/Spa/Sauna

For all purposes and intent, the above uses on the fourth floor have not been categorised as "Non-Medical Consulting Rooms" as per the Town Policy relating to Consulting Rooms, but have been treated as a "shop" use as it involves the provision of goods and services to the general public. As such, car parking for the above uses have been based on retail/shop use. However, a condition has been imposed that the subject property is not to be used for massage activity of a sensual nature, prostitution, as a brothel business, as an agency business associated with prostitution, as an escort agency business, or the like to further ensure that the use is carried out for its intended purpose as above.

### **Cash-In-Lieu of Car Parking**

The Council at its Ordinary Meeting held on 12 April 2005, resolved the following:

- “(ii) *ADOPTS the draft amended version of the Policy relating to Parking and Access to be applied in the interim during the advertising period and up to formal adoption of the draft amended Policy to those planning and building applications received after the date the draft amended Policy is adopted by Council;*”

The draft amended version of the Parking and Access Policy introduces a provision that the cash-in-lieu contribution is to be based on not only the construction costs, but also on a land component being 50 per cent of the land value of the area of a car parking bay on the subject property.

Given the debate and Council resolutions relating to Items 10.1.5 and 10.1.16 at the Ordinary Meeting of Council held on 26 July 2005, in the context of the current and draft amended cash-in-lieu of car parking provisions and the increase in cash-in-lieu construction costs in the 2005/06 Fees and Charges, the following practice is considered to be the most appropriate in such cases:

1. No land value component is to be included in the cash-in-lieu of car parking contribution until the draft amended Parking and Access Policy is finally adopted by the Council.
2. Planning applications received prior to and on 12 July 2005 (date of formal adoption of 2005/06 Budget and Fees and Charges) -the cash-in-lieu contribution is to be based on \$2,500 per car bay.
3. Planning application received after 12 July 2005-the cash-in-lieu contribution is to be based on \$2,600 per car bay.

The cash-in-lieu and shortfall in car parking is supported on the basis that there is available car parks within close proximity of the development site.

### **Alfresco**

The proposed alfresco which is proposed within the adjacent road reserve will require a separate Alfresco Eating House Licence application to be submitted to and approved by the Town.

### **Conclusion**

The application is considered supportable and would not result in an undue impact on the amenity of the surrounding area. The application is, therefore, supported subject to standard and appropriate conditions to address the above matters.

**10.1.2 No. 501 (Lot 157 D/P: 41983) Fitzgerald Street, corner Sholl Lane, North Perth - Proposed Two Storey Singe House**

<b>Ward:</b>	North	<b>Date:</b>	30 April 2007
<b>Precinct:</b>	Smith's Lake; P6	<b>File Ref:</b>	PRO1432; 5.2006.360.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	L Mach		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner C Cafarelli for proposed Two Storey Singe House, at No. 501 (Lot 157 D/P: 41983) Fitzgerald Street, corner Sholl Lane, North Perth, and as shown on plans stamp-dated 21 July 2006 (site plan, upper floor plan and elevations) and 10 April 2007 (ground floor plan), subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating that any new street/front wall, fence and gate between the Fitzgerald Street boundary and the Sholl Lane boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
  - (a) the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
  - (e) the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level; and*

- (f) *the solid portion adjacent to the Fitzgerald Street boundary from the above truncation(s), can increase to a maximum height of 1.8 metres, provided that the fence and gate have at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include significant open structures, recesses and/or planters facing the street at regular intervals, and varying materials; and the incorporation of varying materials, finishes and/or colours are considered to be one (1) design feature. Details of these design features shall be submitted to and approved by the Town prior to the issue of a Building Licence.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iii) *the owners of the subject land shall finish and maintain the surface of the boundary wall facing the No. 501 (proposed Lot 156) Fitzgerald Street on the western elevation in a good and clean condition; and*
- (iv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
- (a) *two (2) car parking bays being dimensioned and complying with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking"; and*
- (b) *the window(s) to bedroom 3 on the northern elevation being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject window not exceeding one square metre in aggregate in the respective subject wall, so that it is not considered to be a major opening as defined in the Residential Design Codes 2002. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owner(s) of No. 503 Fitzgerald Street, stating no objections to the proposed privacy encroachment.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies.*

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**COUNCIL DECISION ITEM 10.1.2**

**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted.*

**Crs Messina and Torre departed the Chamber at 7.16pm.**

**Debate ensued**

**Crs Messina and Torre returned to the Chamber at 7.30pm.**

**LOST (3-6)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Messina	Cr Doran-Wu
Cr Torre	Cr Farell
	Cr Ker
	Cr Lake
	Cr Maier

**Reasons:**

1. **Non-compliance with plot ratio requirement**
2. **Consideration of objections received from neighbours.**
3. **Undue presentation and impact on the Fitzgerald Street streetscape.**
4. **Non-compliance with the condition of approval of the Council's resolution of 13 September 2005.**
5. **Insufficient car access and manoeuvring.**

<b>Landowner:</b>	C Cafarelli
<b>Applicant:</b>	C Cafarelli
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R60
<b>Existing Land Use:</b>	Vacant
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	215 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

The subject site has an extensive history relating to the (partial) demolition of the building that was previously on-site. The most recent background of the subject property is as follows:

- |                   |  |
|-------------------|--|
| 16 December 2003  | The Council at its Ordinary Meeting resolved to conditionally approve the demolition of existing single house and construction of a two-storey single house.   |
| 20 April 2004     | The subdivision to create the subject lot was granted conditional approval by the Western Australian Planning Commission.  |
| 7 December 2004   | The Council at its Ordinary Meeting resolved to refuse an application for proposed two (2) two-storey single houses at No(s). 501 Fitzgerald Street and 2A Sholl Lane (Lot 155 - proposed Lots 156 and 157).       |
| 3 March 2005      | The Town refused, under delegated authority from the Council an application for proposed two (2) two-storey single houses at No(s). 501 Fitzgerald Street and 2A Sholl Lane (Lot 155 - proposed Lots 156 and 157). |
| 13 September 2005 | The Council at its Ordinary Meeting resolved to conditionally approve a two-storey single house at No.501 Fitzgerald Street (proposed Lot 156 from Lot 155 D/P: 24637).  |

**DETAILS:**

The proposal involves a two storey single house at the subject property.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	0.65- 140 square metres	0.88- 183square metres	Supported- no undue impact on streetscape and plot ratio is consistent with plot ratio of existing dwellings on Sholl Lane, including adjoining Lot 156 which has plot ratio of 0.88. Furthermore, the dwelling's bulk is well setback from Fitzgerald Street (5.7 metres plus previous 1.5 metres deep road widening).
Building Setbacks: Ground Floor- - West	1.5 metres	Nil	Supported- wall abuts existing parapet wall and no undue impact on neighbouring property.
First Floor- - South/Sholl Lane	6.0 metres	2.03 (balcony)-3.04 (main building) metres	Supported - established streetscape of similar reduced setbacks, including adjoining Lot 156 which has setbacks of 1.0-1.96 metres.
- North	2.8 metres	1.5 metres	Supported- no undue impact on neighbouring property, and northern neighbour has not objected.
- West	1.5 metres	Nil	Supported- no undue impact on neighbouring property and northern neighbour has not objected.
Buildings on Boundaries	One wall built up to boundary is permitted with an average height of 3 metres and a maximum height of 3.5 metres, for 66.6% length of boundary.	Western boundary wall up to 5.7 metres high for 92 per cent of the boundary, behind the front setback line	Supported- wall abuts existing parapet wall and no undue impact on neighbouring property.



Driveways Width	3.0 metres	2.6 metres	Supported in part – on the basis that the condition relating to dimensioning and provision of 2 car bays is met.
Front Fence	To be visually permeable above 1.2 metres	Solid fencing up to 1.8 metres	Not supported – undue impact on streetscape and has been conditioned to comply with Town’s Street Wall/Fences Policy.
Privacy Setbacks	Bedrooms- 4.5 metres  Outdoor habitable spaces- 7.5 metres	Bedroom 3 is 1.5 metres to north  Front balconies is 7.0 metres to south	Not supported- undue impact and has been conditioned to comply.  Supported- overlooks commercial use and provides casual surveillance of and interaction with Sholl Lane.
<b>Consultation Submissions</b>			
Support	Nil		Noted.
Objection (2)	• Plot Ratio		Not supported - refer to above.
	• Privacy		Supported in part - refer to above, all other matters are compliant with the relevant privacy requirements of the R Codes.
	• Overshadowing		Not supported- compliant with relevant requirements of the R Codes.
	• Traffic hazard and driveway		Not supported- the Town's Technical Service Officers have supported the proposed vehicular access and car bays subject to an appropriate condition being applied.
	• Destroying the streetscape by building too close to the road.		Not supported- refer to above and setbacks to Fitzgerald Street is generally compliant with relevant standards.
<b>Other Implications</b>			
Legal/Policy			TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications			Nil
Financial/Budget Implications			Nil

\* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

**COMMENTS:**

In light of the above and the objections being addressed, the planning application is recommended for approval, subject to standard and appropriate conditions to address the matters raised in the report.

**10.1.5 No. 147 (Lots 115 and 138 D/P: Perth) Lincoln Street, with Frontages to Bulwer Avenue, Bulwer Street and Grant Street, Perth - Proposed Partial Demolition of and Alterations and Additions to Existing Educational Establishment**

<b>Ward:</b>	South	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	Hyde Park; P12	<b>File Ref:</b>	PRO2042; 5.2007.114.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Kendall		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Metropolitan Region Scheme, the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission for the application submitted by Oldfield Knott Architects on behalf of the owner Building Management Authority for proposed Partial Demolition of and Alterations and Additions to Existing Educational Establishment, at No. 147 (Lots 115 and 138 D/P: Perth) Lincoln Street, with frontages to Bulwer Avenue, Bulwer Street and Grant Street, Perth and as shown on plans stamp-dated 26 April 2007, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive; and*
- (ii) prior to the issue of a Building Licence or the first occupation of the development, which ever occurs first, revised plans shall be submitted and approved demonstrating the retention of all verge trees along Lincoln Street, adjacent to the subject property. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (iii) prior to any removal and/or relocation of the Telstra telephone booth on the Lincoln Street verge, adjacent to the subject property, the applicant shall obtain the written consent for such removal and/or relocation from the agency/body responsible for its care, control and management; ~~and~~*
- (iv) the proposed car parking area along the south east corner of the site, which is accessed from Grant Street, shall be used by the staff of the Highgate Primary School only. This car parking arrangement shall be signposted appropriately, at the cost of the owner/occupier. Details of the signage shall be submitted to and approved by the Town and installed prior to the first occupation of the development, and maintained thereafter by the owner/occupier; and*
- (v) prior to the issue of a Building Licence or commencement of works on site, whichever occurs first, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the proposed car parking area and associated vehicular access from Grant Street, adjacent to the south-east corner of the site, being removed/deleted; and*

*(b) the proposed library building being relocated to enable the provision of a minimum of 21 car bays within the car parking area adjacent to the north-east corner of the site, which is accessed from Lincoln Street. The car parking area shall be landscaped at a minimum rate of one tree per four car bays.*

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies.*

**Note: The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strikethrough, italic font and underline**

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**Moved Cr Farrell, Seconded Cr Maier**

*That the recommendation be adopted.*

Debate ensued.

**Moved Cr Maier, Seconded Cr Ker**

*That clause (v)(a) be deleted and new clause (v)(a) and (vi) be added as follows:*

- "(v) (a) *the proposed car parking area adjacent to the south-east corner of the site, which is accessed from Grant Street and the car parking area adjacent to the north-east corner of the site, which is accessed from Lincoln Street, being landscaped at a minimum rate of one tree per four car bays;*
- (vi) *the Town is prepared to allow the setback of the proposed library building to the eastern boundary to be reduced to nil, provided such lesser setback is agreed upon by the Department of Housing and Works, Western Australian Planning Commission and owners of the adjoining affected eastern properties. These revised plans shall be accompanied by a structural report from a practising structural engineer certifying that the retaining wall adjacent to the eastern boundary of the subject site is structurally sound to accommodate the proposed library building wall. These revised plans shall also not result in any greater variation to the requirements of the Town's Policies and shall be submitted and approved prior to the issue a Building Licence or commencement of works on site, whichever occurs first."*

Debate ensued.

**AMENDMENT LOST (4-5)**

<b><u>For</u></b>	<b><u>Against</u></b>
Cr Chester	Mayor Catania
Cr Ker	Cr Doran-Wu
Cr Lake	Cr Farrell
Cr Maier	Cr Messina
	Cr Torre

**MOTION CARRIED (9-0)**

**COUNCIL DECISION ITEM 10.1.5**

*That;*

*in accordance with the provisions of the Metropolitan Region Scheme, the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission for the application submitted by Oldfield Knott Architects on behalf of the owner Building Management Authority for proposed Partial Demolition of and Alterations and Additions to Existing Educational Establishment, at No. 147 (Lots 115 and 138 D/P: Perth) Lincoln Street, with frontages to Bulwer Avenue, Bulwer Street and Grant Street, Perth and as shown on plans stamp-dated 26 April 2007, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive; and*
- (ii) prior to the issue of a Building Licence or the first occupation of the development, which ever occurs first, revised plans shall be submitted and approved demonstrating the retention of all verge trees along Lincoln Street, adjacent to the subject property. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (iii) prior to any removal and/or relocation of the Telstra telephone booth on the Lincoln Street verge, adjacent to the subject property, the applicant shall obtain the written consent for such removal and/or relocation from the agency/body responsible for its care, control and management;*
- (iv) the proposed car parking area along the south east corner of the site, which is accessed from Grant Street, shall be used by the staff of the Highgate Primary School only. This car parking arrangement shall be signposted appropriately, at the cost of the owner/occupier. Details of the signage shall be submitted to and approved by the Town and installed prior to the first occupation of the development, and maintained thereafter by the owner/occupier; and*
- (v) prior to the issue of a Building Licence or commencement of works on site, whichever occurs first, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the proposed car parking area and associated vehicular access from Grant Street, adjacent to the south-east corner of the site, being removed/deleted; and*
  - (b) the proposed library building being relocated to enable the provision of a minimum of 21 car bays within the car parking area adjacent to the north-east corner of the site, which is accessed from Lincoln Street. The car parking area shall be landscaped at a minimum rate of one tree per four car bays.*

*The revised plans shall not result in any greater variation to the requirements of the Town's Policies.*

**ADDITIONAL INFORMATION:**

The Traffic Impact Statement for the above planning application was received by the Town on 26 April 2007. To ensure the matter was determined in time to meet the Western Australian Planning Commission timeframes, the Agenda Report was prepared without specific comments from Technical Services in relation to the Traffic Impact Statement. The Manager Engineering Design Services and Senior Engineering Technical Officer have subsequently reviewed the Traffic Impact Statement, which examines the impact of the proposed staff car park and associated traffic movements on Grant Street.

The Traffic Impact Statement states '*it is considered that the expected peak hour traffic movements are low and will not affect the current operation or amenity of Grant Street.*' However, it is considered that the proposed staff car park and associated traffic movements on Grant Street will affect the amenity of the residents in the immediate vicinity and, therefore, Technical Services do not support this aspect of the proposal. Grant Street has several properties, which are unable to provide on-site parking and, therefore, Grant Street provides the only parking available to its residents and also some Bulwer Street properties. It is not deemed appropriate to reduce the parking amenity further.

Technical Services is also concerned about conflicts between vehicles exiting Grant Street during a 'peak movement' period, Bulwer Street traffic and residents trying to enter Grant Street.

In light of the above, a '*Corrected Recommendation*' has been prepared for the removal of the car parking area and associated access along the south east corner of the site, which is accessed from Grant Street.

With regard to the '*Proposed Amendment*' requested by Councillor Maier requiring the proposed library building to be relocated to a nil setback to the eastern boundary, it is to be noted that a further overshadowing and privacy setback assessment has not been undertaken and that relocation may require significant alterations to be undertaken to the existing retaining wall along the eastern boundary, to ensure its structural stability. In addition to this, the proposed relocation may result in a greater impact on the amenity of the adjoining neighbours and should be subject to a period of community consultation.

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<b>Landowner:</b>	Building Management Authority
<b>Applicant:</b>	Oldfield Knott Architects Pty Ltd
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Public Purposes (Primary School)
<b>Existing Land Use:</b>	Educational Establishment
<b>Use Class:</b>	Educational Establishment
<b>Use Classification:</b>	"AA"
<b>Lot Area:</b>	2000 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves the following three main components:

- the construction of a new library building along the eastern boundary of the site;
- the reconfiguration of the existing access and car parking from Lincoln Street; and
- the provision of a formal staff car parking area, which is accessed from Grant Street.

The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Non-Residential/ Residential Development Interface	The new development will not create undue conflict through the generation of traffic and parking.	The provision of a formal staff car parking area, which is accessed from Grant Street.	Supported in part - refer to 'Traffic Impact' comments below.
Residential Design Codes: Building Setbacks - Library to Eastern Boundary	Rear Setbacks - where no residential development abuts a residential area to the rear, the required setback is 6 metres.  4.5 metres	Eastern Boundary - Proposed Library - 3.2 metres  Relocated Bus Shed and Gardeners Shed - 2.5 metres  3.2 metres	Supported - the eastern elevation could be construed as either a side or rear elevation. The proposed setbacks to both the library and two sheds are considered not to have an undue impact on the amenity of the adjacent multiple dwellings.  Supported - not considered to have an undue impact on the amenity of the adjacent multiple dwellings.
Privacy Seatbacks - Library Verandah Landing to Eastern Boundary	7.5 metres	7.2 metres	Supported - not considered to have an adverse impact on the amenity of the adjacent multiple dwellings.

<b>Car Parking</b>	
Car Parking Requirement (nearest whole number) -School: 1.25 car bays per classroom provided (22 classrooms) – 27.5 car bays	28 car bays
Apply the adjustment factors <ul style="list-style-type: none"> <li>• 0.85 (within 400 metres of an existing public car parking place within excess of 75 car parking spaces).</li> <li>• 0.85 (within 400 metres of a bus stop)</li> </ul>	(0.7225) 20.23 car bays
Minus car parking on-site	41 car bays
Resultant surplus	22.77 car bays
<b>Consultation Submissions</b>	
The planning application was not advertised as is being referred to Council for consideration.	
<b>Other Implications</b>	
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications	Nil
Financial/Budget Implications	Nil

\* The representative R Coding and density bonus calculations are provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

### **Heritage**

The Highgate Primary School is included on the Town's Municipal Heritage Inventory and is on the State Register of Heritage Places. In accordance with the *Heritage of Western Australia Act 1990*, the development proposal was referred to the Heritage Council of Western Australia (HCWA) for its consideration on 2 April 2007.

The HCWA have not been able to provide comments to meet the deadline for inclusion into this Agenda Report. However, the HCWA have advised that the Western Australian Planning Commission (WAPC) has referred the matter to the HCWA and that the HCWA would be providing its comments directly to the WAPC as the determining authority.

Notwithstanding the above, a Heritage Impact Statement was prepared for the proposal by Hocking Planning and Infrastructure. The Heritage Impact Statement is included as an attachment to this report and the key points are summarised below:

- The proposal removes the intrusive demountable classroom and the relocation of car parking to prevent pedestrian/vehicular conflict within the school playground.
- The library is sympathetic in form and character to the heritage places of the site, whilst sitting unobtrusively in the background of any views to heritage places and elements.
- The location and character of the proposed library do not impinge or affect the cultural heritage elements and values of the place.

### **Traffic Impact**

The applicant provided a Traffic Impact Statement, prepared by Riley Consulting Traffic and Transportation Consultants, to address concerns regarding the impact of the proposed staff car park and associated traffic movements on Grant Street. The Traffic Impact Statement is included as an attachment to this report and the key points, as outlined in the conclusion, are summarised below:



- “• *The car park will not generate significant traffic movements and will of course only be used during school term times.*
- *Grant Street currently has minimal traffic movement and whilst the car park would result in a numerically significant increase to traffic, the increase would not be considered to be detrimental to the safe operation of the street and would also not be considered to affect residential amenity.*
  - *The carriageway width of Grant Street is sufficient to permit two-way traffic movements under current planning guidelines.*
  - *It is estimated that 10 on-street parking bays can be maintained on Grant Street using single track operation. Based on advice contained in AS 2890, single track operation would be acceptable for the maximum forecast peak period traffic movements. However, it is unlikely that parking would occur in Grant Street all the time to capacity and thus single track operation would be very rare.”*

### **Parks Services**

The proposal requires the removal of a number of trees to accommodate the proposed library and staff car parking area off Grant Street. The Parks Services Technical Officer has visited the site and identified the plantings, which are to be removed. The plantings to be removed within the proposed car park include: a Norfolk Island Hibiscus (*Lagunaria patersonii*); a Western Tea Myrtle (*Melaleuca nesophila*), a Paper Bark (*Melaleuca quinquinervia*) and a Peppercorn tree (*Schinus molle*). Parks Services has advised that all of the above tree species are common plantings with many fine specimens being well established within private gardens and the Town's Parks and Reserves.

The plantings, which are to be removed to accommodate the proposed library include: a Cape Lilac (*Melia azedarach*); a Fiddlewood (*Citharexylum spinosum*) and a Sugar Gum (*Eucalyptus cladocalyx*). Parks Services have advised that the Cape Lilac and the Fiddlewood trees are both in good health; however, given the trees' size, the trees would not be part of the original plantings within the school grounds. It is further advised that whilst the Sugar Gum would have been an original planting, it has been severely damaged by termite activity and inappropriately pruned.

In light of the above, Parks Services have advised that there is no objection to the removal of the above trees.

The proposal also requires the removal of a Eucalyptus Platypus verge tree along the Lincoln Street boundary to accommodate a new crossover into the front/northern car park. Parks Services have advised that it does not support the removal of this tree.

### **Summary**

The proposed development (library building) is adjacent to the Residential zone along Lincoln Street and Grant Street. It is noted that the privacy encroachment is supportable and that the proposal does not unduly affect the amenity of the Residential zone to the east and south of the subject site.

In light of the above, the proposal is considered supportable, subject to standard and appropriate conditions to address the above matters.

**10.1.6 No. 71 (Lot 199) Edward Street, Perth - Proposed Removal of Operational Time Restrictions from Hanson Concrete Batching Plant by City of Perth**

<b>Ward:</b>	South	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	Beaufort; P13	<b>File Ref:</b>	PRO0553; ENS0031
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	L Mach		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *ADVISES the City of Perth that the Council STRONGLY OBJECTS to the proposed removal of the restrictions on the hours of operation of 6.00 am to 7.00 pm Monday to Saturday (to 24 hour operation) at No. 71 (Lot 199) Edward Street, Perth, in relation to the Hanson Concrete Batching Plant, due to the detrimental impact on nearby residential areas within the Town of Vincent;*
- (ii) *REQUESTS the City of Perth to advertise for community consultation in a 250 metre radius the Development Application proposing the removal of restrictions on the hours of operation of 6.00am to 7.00pm Monday to Saturday (to 24-hour operation) at No. 71 (Lot 199) Edward Street, Perth, regarding the Hanson Concrete Batching Plant, for the following reasons:*
  - (a) *it is acknowledged that the East Perth Redevelopment Authority (EPRA) in June 1996 approved the current use for a period of sixteen (16) years and that the hours restrictions have been removed on an annual application basis since 2002 however, also acknowledge that the permanent and original approval was subject to the hours of operation being restricted from 6.00am to 7.00pm Monday to Saturday; and*
  - (b) *complaints have been lodged with the City of Perth, EPRA, Town of Vincent and Department of Environment and Conservation (DEC) in relation to insufficient community consultation, unreasonable noise, dust emissions, and increased heavy haulage traffic flow; and*
- (iii) *in the event of City of Perth deciding to approve the application without Community Consultation on the proposed altered hours of operation, the City of Perth is REQUESTED to INCLUDE the following Conditions of Approval and confirm the conditions in writing to the Town;*
  - (a) *prior to changes in operating hours Community Consultation be conducted with residents and business owners in a 250 metre radius around the batching plant to identify and address concerns regarding health, safety, noise, dust, heavy haulage traffic, and relevant amenity issues;*
  - (b) *a Complaint Handling System be implemented that includes a procedure to log and deal with complaints from residents and owners allegedly affected within the Town of Vincent;*
  - (c) *a Management Plan be required that includes the control and monitoring of dust, unreasonable noise after 10.00pm to 7.00am, and heavy haulage traffic, to the reasonable satisfaction of the City of Perth, residents/businesses in a 250 metre radius, the Department of Environment and Conservation and the Town of Vincent; and*
  - (d) *a review of conditions by June 2008 including community consultation within a 250 metre radius.*

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

Debate ensued.

**Moved Cr Ker, Seconded Cr Farrell**

*That clause (iii)(c) be amended to read as follows:*

*“(iii) (c) a Management Plan be required that includes the control and monitoring of dust, unreasonable noise after ~~10.00~~ 7.00pm to 7.00am, and heavy haulage traffic, to the reasonable satisfaction of the City of Perth, residents/businesses in a 250 metre radius, the Department of Environment and Conservation and the Town of Vincent; and”*

**AMENDMENT CARRIED (9-0)**

Cr Maier requested that each clause of the recommendation be considered and put separately. The Presiding Member advised that Cr Maier’s request was denied.

Cr Messina departed the Chamber at 7.50pm.

Cr Messina returned to the Chamber at 7.51pm.

**Moved Cr Farrell, Seconded Cr Chester**

*That a new clause (iii)(e) be added as follows:*

*“(iii) (e) the removal of restrictions of the hours of operation of 6.00am to 7.00pm Monday to Saturday being limited to a maximum period of twelve (12) months of notification to the applicant by the City of Perth.”*

**AMENDMENT CARRIED (9-0)**

Debate ensued.

**MOTION AS AMENDED CARRIED (9-0)**

#### **COUNCIL DECISION ITEM 10.1.6**

*That the Council;*

- (i) ADVISES the City of Perth that the Council STRONGLY OBJECTS to the proposed removal of the restrictions on the hours of operation of 6.00 am to 7.00 pm Monday to Saturday (to 24 hour operation) at No. 71 (Lot 199) Edward Street, Perth, in relation to the Hanson Concrete Batching Plant, due to the detrimental impact on nearby residential areas within the Town of Vincent;*
- (ii) REQUESTS the City of Perth to advertise for community consultation in a 250 metre radius the Development Application proposing the removal of restrictions on the hours of operation of 6.00am to 7.00pm Monday to Saturday (to 24-hour operation) at No. 71 (Lot 199) Edward Street, Perth, regarding the Hanson Concrete Batching Plant, for the following reasons:*

- (a) *it is acknowledged that the East Perth Redevelopment Authority (EPRA) in June 1996 approved the current use for a period of sixteen (16) years and that the hours restrictions have been removed on an annual application basis since 2002 however, also acknowledge that the permanent and original approval was subject to the hours of operation being restricted from 6.00am to 7.00pm Monday to Saturday; and*
- (b) *complaints have been lodged with the City of Perth, EPRA, Town of Vincent and Department of Environment and Conservation (DEC) in relation to insufficient community consultation, unreasonable noise, dust emissions, and increased heavy haulage traffic flow; and*
- (iii) *in the event of City of Perth deciding to approve the application without Community Consultation on the proposed altered hours of operation, the City of Perth is REQUESTED to INCLUDE the following Conditions of Approval and confirm the conditions in writing to the Town;*
  - (a) *prior to changes in operating hours Community Consultation be conducted with residents and business owners in a 250 metre radius around the batching plant to identify and address concerns regarding health, safety, noise, dust, heavy haulage traffic, and relevant amenity issues;*
  - (b) *a Complaint Handling System be implemented that includes a procedure to log and deal with complaints from residents and owners allegedly affected within the Town of Vincent;*
  - (c) *a Management Plan be required that includes the control and monitoring of dust, unreasonable noise after 7.00pm to 7.00am, and heavy haulage traffic, to the reasonable satisfaction of the City of Perth, residents/businesses in a 250 metre radius, the Department of Environment and Conservation and the Town of Vincent;*
  - (d) *a review of conditions by June 2008 including community consultation within a 250 metre radius; and*
  - (e) *the removal of restrictions of the hours of operation of 6.00am to 7.00pm Monday to Saturday being limited to a maximum period of twelve (12) months of notification to the applicant by the City of Perth.*

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**PURPOSE OF REPORT:**

On 24 April 2007, the Town received correspondence from the City of Perth Approval Services advising of the receipt of a development application proposing the removal of restrictions on the hours of operation of 6.00am to 7.00pm Monday to Saturday at No. 71 (Lot 199) Edward Street, Perth, the Hanson Concrete Batching Plant until 26 June 2012.

Although the formal advertising period for the application concluded on Monday, 7 May 2007, the Town is seeking an extension in the commenting period.

**BACKGROUND:**

A similar planning application to the above has been approved by the City of Perth Council at its meeting held on 29 August 2006 for a period of 12 months to allow a review of the impact of the plant and associated vehicle movements on the surrounding area. The Council also considered this application at its Ordinary Meeting held on 25 July 2006 and resolved similar to the Officer Recommendation of this subject report.

The background of the matter, as outlined in the Agenda Report to Council at its 25 July 2006 Ordinary Meeting is as follows:

*"The City of Perth advised that a formal complaint was received in 2004 and recently from residents in the Town of Vincent.*

*Hanson has owned and operated a concrete batching plant in this vicinity (Parry Street) since 1964 and maintains development approval to operate until at least 2012 on the current site. The Hanson plant has all necessary approvals to locate its plant on the current site. Ready-mix also operates a similar sized concrete batching plant in the immediate vicinity (Carisbrook Road) and delivery vehicles use a similar route to enter and exit their plant. Lord Street is a major arterial road to and from Perth City and will always attract substantial vehicular traffic.*

*In relation to operations, it is understood that Hanson has had a number of visits from Department of Environment representatives over the years, and continues to address any substantiated matters raised.*

*Dust monitoring (personal) has been undertaken on numerous occasions over the years and it is reported that the results are well within statutory limits. In an endeavour to further mitigate dust, Agitator Trucks have been 'washed down' prior to leaving the plant. Hanson advise that odour has not been established as only naturally occurring crushed granite or dune sands are used in the manufacture of concrete.*

*With a booming local economy, the concrete industry receives frequent requests to deliver concrete after normal operating hours. This is typically to minimise the inconvenience to pedestrian or vehicular traffic. At other times, it may be to ensure concrete works are completed to enable clients or workers to return to work or other activities during daylight, if completed at night, or by Monday if works are undertaken on a Sunday.*

*Hanson is of the view that they should not be restricted in satisfying a few objectors while they serve its customers needs in the construction industry. Although concrete may be carted from alternate sites, it should be realised that this will only further add to heavy vehicular traffic on our freeways and major arterial roads, particularly during peak periods coming into the City. The proximity of batching plants to the Central Business District - a major user of concrete in any metropolitan area - reduces the number of trucks travelling into and out of the City from afar and actually reduces the total number of vehicles necessary to satisfy the demand. If deliveries are permitted outside the current restricted hours it can, at times, help to reduce truck traffic during peak traffic flows Monday to Friday.*

*It is understood that the City of Perth has copies of Consultants Reports, traffic and environment, submitted with Hanson's Development Application for additional works on its premises in late 2004. These were approved February 2005.*

*Hanson acknowledge that its industry attracts the attention of near neighbours from time to time and this is accentuated in a mixed use area as is the case surrounding the East Perth operation. Hanson advised the Manager Health Services that they are committed to work with their neighbours and the regulatory authorities to achieve a harmonious co-existence, whilst satisfying the interests of a demanding building industry. In addition, it is Hanson's view that the general operation of a concrete batching plant in such a mixed use environment leads to some inconvenience to parties at times and they have attempted to address any aberrations promptly and efficiently."*

**DETAILS:**

The Town has been given the opportunity to provide comments by the City of Perth regarding the planning application for the proposed removal of restrictions on the hours of operation of 6.00 am to 7.00 pm Monday to Saturday at the subject site.

Additional details regarding a similar application at the same site, as outlined in the Agenda Report to Council at its 25 July 2006 Ordinary Meeting is as follows:

*"The Vincent complainant in correspondence to the City of Perth dated 26 June 2006 outlines concerns as follows:*

*'We object to the removal of any time restrictions of the Hansen Concrete Batching Plant at 71 Edward Street and request that you impose restrictions that will benefit the amenities of the area and allow us to regain our dignity in what has been a very destructive exercise in very **bad planning**. We request that the Perth City Council inform the Hanson Concrete Batching Plant and the Ready-mix concrete batching plant that they make provision to scale down their operations and **MOVE** out of the area sooner rather than later.*

*The **viability of all our premises**... is suffering as a result of the combined and what has been a steady and "furious" increase of the agitator and large heavy haulage vehicular activity to and from the batching plants....To look out of a window in any of our first floor units that overlook this most unappealing, **un-aesthetic**, undesirable and very out of place piece of building architecture is one thing. If we wish to simply leave a window open to let in some **fresh air** that is another.*

*It is virtually impossible with the **noise** from the agitator trucks and **exhaust pollution** that occurs when the heavy haulage semi's and agitator trucks form a cue in front of 171-183-181a Lord Street to turn into Edward Street right into Edward Street off when they travel North off Lord Street and mostly when coming from the Graham Farmer Freeway.*

***There is a dust and continual noise problem from the Hansen Concrete batching plant that DEFINITELY** occurs. This **FACT** does not always concur with DEC/EPA and it seems not that it will ever be resolved to a satisfactory level, as we have complained about it from the word "go" when the concrete batching plant was very mistakenly re-located and re-commissioned and to its' present address and very much **AGAINST** our repeated wishes for it **NOT** to, to E.P.R.A in 1995/6 and up until they were in charge of this area.*

*The **dust** will occasionally waft over from the incoming product dumping that occurs in a **VERY** large East West facing shed. There really is no other source except maybe from and out of the **FILLED** heavy haulage semi trailers that come to the batching plant or are the remnant of product that the **EMPTIED** heavy haulage semi trailers. This is very possible as we have seen , during the summer and winter months that the drivers of the semi trailers, from **BOTH** batching plants do not bother to cover there inbound loads, **WET** or **DRY** or cover the empty trailers when choose to use Edward Street onto Lord when they depart the area. Our theory is that there are remnants of **fine particle SILACATE dust** and other dangerous fine particle product that will be respired by many while in this area. It is still present in the uncovered trailers of the heavy haulage vehicles even after they dump their load. There would be just enough time for the air, warming sunlight and any heat that is present with in the now **OPEN** area void within the trailer, to dry up and blow out of the trailer/s as they travels along and within a short distance. Even if it were happening over a longer distance, this product is being left to its own devices and not prevented from leaving the confines of the trailers. Why **NOT**?*

*Is there an acceptable amount of environment pollution from the remnant material payload of the trucks if they are seemingly empty? Who can prove otherwise? Theoretically it sounds possible. Just put some talcum powder or similar material such as what might simulate the remnant product into the empty trailer/s and see how long it stays in there for the duration of the trip.*

*It is not very different to what comes of FULL uncovered load of such material on these heavy haulage trailer/s. There is just less material/product to escape. None the less, it is an UNACCEPTABLE amount to “dose” any HUMAN BEING with. This applies to all of us who have to endure it now and with any the buildup on the buildings and other structures that has occurred here over time. In our by chance, careful but occasional observations of the goings on around here, it seems to many of us that remnant dust is material that the concrete batching plants seem to have relied on the rain to wash down, when it does rain and for the wind to blow it away from their site location. Up until recently and prior to us notifying DEC/EPA, Hansen at 71 Edward Street rarely bothered to wash down the agitator trucks that are covered in dust, BEFORE they exited from the plant site and almost immediately onto Edward Street. It seems that some do wash now, but guess what? The agitator trucks now track fine dust material on their tires and out onto the cross over of both 71 Edward Street and 120-130 Claisbrook Road. This dust, when it dries on the road is just another source of fugitive material that will be blown around just outside of the plant boundaries and onto us and into our building and most likely we will, or who ever is unfortunate to be around at the wrong time, will breath in.*

*We know **fugitive dust** is present and have observed it blowing around occurring from time to time. We smell it and yes, we can also TASTE it in on our tongues at times when it is present in the air around here. IT is visible on cars and buildings, inside and out on the leaves of some trees, before it rains.*

*It is a unique looking dust particle and compared to what we have seen in the past:*

*It is not from the passing vehicle traffic that you would find on a local main road like Lord Street.*

*It is NOT the black soot from the wood/coal fired steam powered “choo choo” trains that might go by the distantly located originally East Perth Railway Station.*

*It is not the black soot from the long time decommissioned East Perth Power Station.*

*It is NOT from any other source of the other major industrial operations other than the two batching plants in the area.*

*It is not form the NON existent ACI bottle factory that used to be in the NEWLY revived part of east Perth.*

*It is more usually a visible white/grey powder. Unlike any we have ever seen on a main road like Walcott Street or Beaufort Street or William Streets (prior to construction works or anywhere in the Perth City during times of little or no construction of major projects. This would not be the sort of dust that would be allowed to occur ever and on such a constant level in an area that is supposed to support a residential population. If it did, wouldn't it be the responsibly of the local governing authority to track and halt the source?*

*We know that all the products that makes the concrete have to be hauled in from a long distance before it is batched in the city. The agitator trucks can transport the mixed material from an out of the city site given the fact that there is now a very well placed freeway infrastructure that will get them in and out of our city and they do not have to batch under our noses. So why are they still here?*

*This fact again seems to be another denial of correction by the relevant parties who have left up to us to prove its existence. The health authorities insist it is a matter that the DEC/EPA should be addressing. DEC/EPA is telling us that the concrete batching plants are doing what they are supposed, but this is usually when we complain. We complain because of the problems that are only visually evident at the time of inspection by whoever needs to see it an when it convenes them. We know the product that makes the material has to be hauled in from a long distance before it is batched in the city. The agitator trucks CAN transport the mixed material from an out of the city site given the fact that there is now a very well placed freeway infrastructure that will get them in and out of our city so they do not have to batch here under our noses, to provide a quality product on time. So why are they still here? The only benefits that are gained are those that the concrete batching plants are obtaining for their profits at OUR expense. That is ALL what it's all about.*

*The **dust problem** is a major cause for concern, as it is very evident especially in the summer when it gets blown around by the prevailing winds inside and ultimately over the boundaries of the plants. It would require a very high barrier wall to contain this dust as it is the finer particle that gets blown out and over the boundaries at the moment. There seems to be little to redress the escaping dust and we find this an impossible situation to relay the problems to a health and/or environment authority...We have been living and working on and off in this area for the last 40 years and we DO know the difference only too well of these recent changes to the plants increase in size and operating hours.'*

*In addition, it is understood that a Petition was submitted to the City of Perth by nearby residents as follows:*

- 1. Request to reject current and future applications to remove the operational hours/time restrictions: 22 petitioners;*
- 2. Request to reduce current activities (6.00am to 7.00pm): 11;*
- 3. Request to review this incompatible industrial use near residences: 10;*
- 4. Requests an alternative route for heavy vehicles: 11; and*
- 5. Request to appoint an independent Health Consultant at the Proponent's expense to investigate the impact of the fugitive dust, noise and environmental pollution caused by the current and proposed use: 10."*

#### **CONSULTATION/ADVERTISING:**

Consultation and advertising is the responsibility of the City of Perth.

#### **STRATEGIC IMPLICATIONS:**

Town of Vincent Strategic Plan 2006 – 2011: Objective 1.1 Improve and Maintain Environment and Infrastructure - '*1.1.4 Minimise negative impacts on the community and environment*'.

#### **LEGAL POLICY:**

City of Perth Town Planning Scheme, Environmental Protection Act 1986 (as amended), Environmental Protection (Concrete Batching) Regulations 1998 and the Environmental Protection (Noise) Regulations 1997.

The Senior Environmental Officer, Swan Goldfields Agricultural Region of the Department of Environment, monitors environmental compliance of the plant.

#### **FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

#### **COMMENTS:**

Although the onus was originally on EPRA and now on the City of Perth to assess the use of the premises, issues have been raised with the Town as outlined above and it would be prudent to again request action as detailed in the Officer Recommendation.



**10.1.7 Multicultural Services Centre of Western Australia Inc – 4 View Street, North Perth - Request for Parking Permits**

<b>Ward:</b>	North Ward	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	Smiths Lake	<b>File Ref:</b>	PRO1877
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	P Betts		
<b>Checked/Endorsed by:</b>	M Rootsey	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *APPROVES the issuing of seven (7) parking permits, to the staff of Multicultural Services Centre, for use in View Street Car Park; and*
- (ii) *ADVISES the Multicultural Services Centre that, if parking is not available in View Street Car Park, the permits are not valid in any other area.*

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**COUNCIL DECISION ITEM 10.1.7**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

Cr Torre departed the Chamber at 8.00pm.

Debate ensued.

Cr Torre returned to the Chamber at 8.07pm.

**LOST (4-5)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Farrell	Cr Lake
Cr Torre	Cr Maier
	Cr Messina

Cr Doran-Wu departed the Chamber at 8.13pm.

**Reasons:**

- 1. **If approved, an unacceptable precedent will be established.**
- 2. **All applications should be treated equally.**

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**PURPOSE OF REPORT**

To report on the details for the request from the Multicultural Services Centre of Western Australia Inc, who lease the premises at 4 View Street, North Perth from the Town, for the provision of seven (7) parking permits to use at the View Street car park.

**BACKGROUND:**

The Multicultural Services Centre of Western Australia Inc currently holds a lease over the premises at 4 View Street, North Perth for the period 1 December 2005 until 30 November 2007. They currently pay lease fees of \$12,547 per annum. A number of different services are provided by the Centre including aged care programmes, employment services, legal services and community settlement services.

**DETAILS:**

Correspondence was recently received from the Executive Director of the Multicultural Services Centre of Western Australia Inc requesting provision of seven (7) parking permits for the employees of the Centre to use at the View Street car park. Parking in this area of North Perth, during working hours, is at a premium, with no all-day parking facilities being available to staff of local businesses. This currently creates a situation where staff simply move their vehicles, either within View Street, or Wasley Street car Parks, or from one car park to the other. As a result, the parking bays in both car parks tend to be filled for most of the day.

The View Street car park has forty one (41) parking bays available to the public and the issue of seven (7) parking permits, to staff of the Multicultural Services Centre, equates to 17% of these available bays. A portion of the property at 4 View Street, North Perth was incorporated into the View Street Car Park, prior to the current lease arrangements being entered into, resulting in an increase in the number of available parking bays, of ten (10) bays. The issuing of seven (7) parking permits will have the effect of reducing this number again, but there will remain a net increase of three (3) bays.

Because View Street Car Park is immediately adjacent to the premises at 4 View Street, North Perth, it is considered appropriate for permits to be issued, for use in this facility only. It is appropriate for the Town to specify that, while permits are provided, for use in View Street Car Park only, it does not guarantee that parking space will be available. Because of the existing congestion, it is not considered appropriate for the permits to be valid in Wasley Street Car Park, or in any kerbside locations in the area.

View Street Car Park is a free facility, but its use is governed by a three (3) hour parking limit. As a result, there will be no actual cost incurred, if the above proposal is approved.

The Manager Ranger Services and Community Safety whilst supporting parking permits for the staff would not support the allocation of specific bays in the car park to staff.

**CONSULTATION/ADVERTISING:**

N/A

**LEGAL/POLICY:**

Multicultural Services Centre of W.A. Inc. lease from the Town of Vincent the property at 4 View Street for the period 1 December 2005 to 30 November 2007.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2006 – 2011 – Strategic Objectives: Natural and Built Environment:

*“Objective 1.1 Improve and maintain environment and infrastructure*

*1.1.6 Enhance and maintain the Town’s infrastructure to provide a safe, healthy, sustainable and functional environment”*

**FINANCIAL/BUDGET IMPLICATIONS:**

N/A

**COMMENTS:**

The Multicultural Services Centre of Western Australia Inc. provide a number of important services to the community. Their request for parking permits will have no direct financial impact on the Town. An affirmative decision on this item allows the Town to indirectly assist the Centre with the provision of its services.

**10.1.8 Contaminated Sites Act 2003 and Associated Documentation**

<b>Ward:</b>	Both Wards	<b>Date:</b>	1 May 2007
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	ENS0119
<b>Attachments:</b>	<a href="#">001</a> , <a href="#">002</a> , <a href="#">003</a> , <a href="#">004</a> ,		
<b>Reporting Officer(s):</b>	J Lockley, V Lee		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman, R Lotznicker	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RECEIVES** this report relating to the Contaminated Sites Act 2003 and Associated Documentation;
- (ii) **APPROVES** the reporting of 13 Suspected Contaminated Sites located on land owned or occupied by the Town of Vincent, to the Department of Environment and Conservation as detailed in attachment 10.1.8 (001) - Draft Register of Known, Suspected or Potentially Contaminated Sites 'List 2: Suspected Sites of Contamination Owned or Occupied by the Town of Vincent';
- (iii) **NOTES** the 575 sites identified within the Town of Vincent's Draft Register of Known, Suspected or Potentially Contaminated Sites - 'List 3: Potentially Contaminated Sites due to Previous Landuses on the Site,' as detailed in Attachment 10.1.8 (003);
- (iv) **ADOPTS** the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites in the interim until the formal adoption of the Draft Policy, as shown in Attachment 10.1.8(002);
- (v) **ADVERTISES** the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:
  - (a) advertising a summary of the subject Draft Policy once a week for four (4) consecutive weeks in a newspaper circulating in the locality;
  - (b) where practicable, notifying those persons who in the opinion of the Town, might be directly affected by the Draft Policy; and
  - (c) forwarding a copy of the Draft Policy to the Western Australian Planning Commission (WAPC);
- (vi) **after the expiry of the period for submissions:**
  - (a) **REVIEWS** the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites, having regard to any written submissions; and
  - (b) **DETERMINES** the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites, with or without amendments, to or not to proceed with them; and

(vii) **NOTES:**

- (a) *that appropriate advisory signage will be installed at sites classified by the Department of Environment and Conservation that are owned or occupied by the Town, including Robertson Park Seasonal Wetland; and*
  - (b) *the Town's Risk Assessments relating to working within sites classified by the Department of Environment and Conservation will be updated to acknowledge the risks associated with working on contaminated sites and recommend precautionary measures.*
- 

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

Crs Messina and Chester departed the Chamber at 8.14pm.

Debate ensued.

**Moved Cr Ker, Seconded Cr Farrell**

*That clause (v)(b) be amended to read as follows:*

- “(v) (b) *where practicable, notifying property owners and those persons who in the opinion of the Town, might be directly affected by the Draft Policy; and”*

At 8.16pm, Cr Torre advised the Chief Executive Officer that she would be leaving the meeting and not returning as she was unwell.

**AMENDMENT CARRIED (5-0)**

(Crs Chester, Doran-Wu and Messina were absent from the Chamber and did not vote. Cr Torre had left the meeting.)

Debate ensued.

**MOTION AS AMENDED CARRIED (5-0)**

(Crs Chester, Doran-Wu and Messina were absent from the Chamber and did not vote. Cr Torre had left the meeting.)

**COUNCIL DECISION ITEM 10.1.8**

*That the Council;*

- (i) **RECEIVES** *this report relating to the Contaminated Sites Act 2003 and Associated Documentation;*
- (ii) **APPROVES** *the reporting of 13 Suspected Contaminated Sites located on land owned or occupied by the Town of Vincent, to the Department of Environment and Conservation as detailed in attachment 10.1.8 (001) - Draft Register of Known, Suspected or Potentially Contaminated Sites 'List 2: Suspected Sites of Contamination Owned or Occupied by the Town of Vincent';*

- (iii) *NOTES the 575 sites identified within the Town of Vincent's Draft Register of Known, Suspected or Potentially Contaminated Sites - 'List 3: Potentially Contaminated Sites due to Previous Landuses on the Site,' as detailed in Attachment 10.1.8 (003);*
- (iv) *ADOPTS the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites in the interim until the formal adoption of the Draft Policy, as shown in Attachment 10.1.8(002);*
- (v) *ADVERTISES the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
- (a) *advertising a summary of the subject Draft Policy once a week for four (4) consecutive weeks in a newspaper circulating in the locality;*
  - (b) *where practicable, notifying property owners and those persons who in the opinion of the Town, might be directly affected by the Draft Policy; and*
  - (c) *forwarding a copy of the Draft Policy to the Western Australian Planning Commission (WAPC);*
- (vi) *after the expiry of the period for submissions:*
- (a) *REVIEWS the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites, having regard to any written submissions; and*
  - (b) *DETERMINES the Draft Policy relating to Known, Suspected or Potentially Contaminated Sites, with or without amendments, to or not to proceed with them; and*
- (vii) *NOTES:*
- (a) *that appropriate advisory signage will be installed at sites classified by the Department of Environment and Conservation that are owned or occupied by the Town, including Robertson Park Seasonal Wetland; and*
  - (b) *the Town's Risk Assessments relating to working within sites classified by the Department of Environment and Conservation will be updated to acknowledge the risks associated with working on contaminated sites and recommend precautionary measures.*

#### **ADDITIONAL INFORMATION:**

##### **Known Contaminated Site**

On 1 May 2007, the Town of Vincent received notification from the Department of Environment and Conservation that it had receipt of a report of a second known or suspected contaminated site, occupied by the Town, being:

- Lot 9 on plan 52070 as shown on Certificate of Title 2230/33, 2230/334, 2230/335, 2230/336, 2230/337, 2230/338, 2230/339, 2639/751 known as **Tamala Park**, Mindarie, WA 6030.

This site is a landfill co-ordinated by the Mindarie Regional Council. The Town is one of seven local governments who own and use this as a landfill site.

In addition, Item 8 - Other Information under List 2 has been amended such that Robinson Park is corrected and reads Robertson Park. A replacement List 2 reflecting this correction is attached to this Additional Information report.

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#### **PURPOSE OF REPORT:**

The purpose of this report is to provide the Council with an update in relation to the Contaminated Sites Act 2003 and the Town's actions so far to satisfy the requirements of this Act.

#### **BACKGROUND:**

The report also seeks approval from the Council to report 13 sites, detailed in Attachment 10.1.8 (001), owned by or vested in the Town, to the DEC, via a 'Form 1', by 31 May 2007, as required by the Contaminated Sites Act 2003. In addition, the location of former landfill sites that are currently under private ownership will be provided to the DEC as shown in Attachment 10.1.8 (004). The DEC has requested that this information be provided on a map, and that it is not necessary for the Town to report these sites via a 'Form 1'.

The report also presents the Draft Policy relating to Known, Suspected and Potentially Contaminated Sites and to seek the Council's approval to advertise the Draft Policy. The Draft Policy suggests strategies to maintain a Register of Known, Suspected and Potentially Contaminated Sites within the Town and mechanisms for this information to be available to the public.

The Contaminated Sites Act 2003 commenced on 1 December 2006, and this new legislation complements other legislation such as the Environmental Protection Act 1986 and Health Act 1911.

The Town is required under the Contaminated Sites Act 2003 to report any known or suspected contaminated sites, via a Form 1, to the DEC by 31 May 2007 when;

1. The Town is the owner or occupier of the site; and
2. The Town has caused or contributed to the contamination or a site.

In addition, any other person who becomes aware of known or suspected contamination may report it to the DEC, however they are not obliged to do so.

Information regarding what constitutes contaminated sites and potentially contaminating land uses are detailed in reports produced by the Department of Environment and Conservation (and its predecessors) as a 'Contaminated Sites Management Series', which is available on the DEC's website.

The classifications also apply to groundwater, which may move over time, therefore, land tenure boundaries do not necessarily define a contaminated site and a contaminated site is not necessarily restricted to the original source of the contamination.

The Council, at its Ordinary Meeting held on 19 December 2006, considered the matter and resolved as follows:

*"That the Council;*

- (i) *RECEIVES this report relating to the Contaminated Sites Act 2003, and the correspondence dated 16 November 2006 and accompanying documentation from the Western Australian Local Government Association relating to the Contaminated Sites Act 2003; and*

- (ii) *AUTHORISES the Chief Executive Officer to identify \$17,000 in the next 2006/ 2007 Budget Review process to undertake tasks and documentation associated with a survey of Contaminated Sites within the Town, and subsequent compilation and submission to the Department of Environment and Conservation by May 2007.*”

**Known Contaminated Site**

One site owned by the Town has already been reported to, and classified by the DEC, being a location in Robertson Park:

- Perth Townsite Lot 1316 as shown on Certificate of Title LR3130/743 known as, 28 Stuart Street, Perth WA 6000.

The Town initiated soil investigations within the reserve in 2005 due to some plant deaths and poor establishment of seedlings. The investigations found that lead was present in the soils at levels exceeding Ecological Investigation Levels and Health Investigation Levels for parks and recreational open space and playing fields. High levels of selenium were also found. These results were reported to the Department of Health and the then Department of Environment. The source of this contamination is likely to be linked to the previous use of the site as a bottleyard.

The Department of Health advised that due to limited time spent by community members on-site handling the contaminated soils within Robertson Park, exposure to lead and selenium would be minimal and not a health risk, and further advised that:

*“If community members are particularly concerned regarding their exposure to lead and selenium as a result of their work in Robertson Park, they can visit their medical practitioner and have their lead and selenium levels checked. Future exposure to metals in soils may be mitigated by wearing gloves, protective clothing such as overalls and dust masks.”*

The DEC has classified this site as a “Possibly contaminated – investigation required”. This information is now publicly available through the DEC’s Reported Sites Register and a memorial has been placed on the Certificate of Title by the DEC to notify prospective purchasers of the contamination status of the site.

**DETAILS:**

The Town’s strategy has been devised by a collaborative effort between Environmental and Development Services and Technical Services Officers, including the employment of a temporary Strategic Planning Officer, rather than outsourcing the whole project to an external consultant.

The Town’s Officers have attended workshops provided by the DEC and undertaken a desk top study to identify known, suspected and potentially contaminated sites within the Town and collated them into a Draft Register.

Sources of information include:

- the Town’s employees;
- the Town’s records;
- Przywolnik, K. Harrison, R. and Burke, S. (2000) “Report of an Archaeological Survey of Robertson Park”;
- Conacher, J. (2000) “Historic Land Use Survey of the Claisebrook Catchment”;
- Kesteven, C. (2000) “Water Pollution in the Claisebrook Catchment: Sources, Types and Recommendations for Future Monitoring”; and
- Kelsall Binet Architects (2003) “Hyde Park Conservation Plan”.



Attachment 10.1.8 (001) contains a list of 13 sites that are owned or occupied by the Town that are known or suspected to have contamination, and are to be reported to the DEC via a Form 1. The former bottleyard site in Robertson Park does not need to be reported again.

Sites to be reported include:

- Britannia Reserve (historic landfill site);
- Kadina Street (historic landfill site);
- Beatty Park Reserve (historic nightsoil site);
- Forrest Park Reserve (historic landfill site);
- Robertson Park (historic market gardens);
- Birdwood Park (historic landfill site); and
- Banks Reserve (Electrical transformers/power station).

These sites are owned/vested to the Town and previous uses on these sites are listed with the publication 'Potentially Contaminating Activities, Industries and Landuses' published by the Department of Environment October 2004.

The desk top study has also identified 575 sites within the Town that may be potentially contaminated due to previous activities and land uses. The majority of these sites are in private ownership, now used for a different land use and there may be no visible evidence of contamination or a previous potentially contaminating land use. For example, a former landfill site, now an established residential area. There may be a risk, that some of these sites are contaminated at levels that pose a risk of harm to human health or the environment. In addition, if these sites are re-developed in the future, these contaminates may be exposed and re-activated during site works.

As keeper of many of these historical records, this report suggests that there is the need for the Town to create a publicly accessible register of potentially contaminated sites, and landowners and the community be made aware of possible risks associated with these sites.

#### **The Need for a New Policy**

The implications of the Contaminated Sites Act 2003, affect a number of internal working processes within the Town of Vincent, with implications for Environmental Health Services, Parks Services, Planning, Building and Heritage Services, Customer Services Centre and Waste Management Services. It is considered appropriate that a Policy is developed to guide these internal processes, ensure the Town meets its obligations under the Act, and provides leadership to the community regarding contaminated sites issues. Attachment 10.1.8 contains a draft Policy which details a strategy for the Town to deal with known, suspected, and potentially contaminated sites. In addition, the contaminated sites also has on-going implications for the land use planning system. Therefore, this report suggests that the Policy should be incorporated into the Planning and Building Policy Manual.

#### **CONSULTATION/ADVERTISING:**

Any new, rescinded or amended Planning Policy is required to be advertised for public comment in accordance with Clause 47 of the Town's Town Planning Scheme No. 1.

The DEC has also undertaken a public awareness campaign for the implications of the Contaminated Sites Act 2003.

#### **LEGAL/POLICY:**

Town of Vincent Town Planning Scheme No. 1 and associated Policies; and Contaminated Sites Act 2003.

There are no current policies within the Town directly relating to contaminated sites.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2006-2011: Strategic Objectives – 1. Natural and Built Environment;

*“1.1.4 Minimise negative impacts on the community and environment.”*

*“1.1.6 Enhance and maintain the Town’s infrastructure to provide a safe, healthy, sustainable and functional environment.”*

Properties owned by the Town that have some contamination or potential contamination and leased by the Town to lessee, may require the Town to inform the Lessee upon renewal or commencement of a new lease.

**FINANCIAL/BUDGET IMPLICATIONS:**

At the Ordinary Meeting of Council held on 19 December 2006, \$17 000 was identified in the 2006/2007 Budget Review process to undertake tasks and documentation associated with a survey of Contaminated Sites within the Town, and subsequent compilation and submission to the Department of Environment and Conservation by May 2007. However in view of the need to report by 31 May 2007, the report was carried out “in-house” by the Town’s Officers.

For the information of the Council, preliminary estimates for the cost of a suitably qualified professional to undertake basic tests on a suspected contaminated site range from \$1,500 - \$3,000. A more detailed investigation, for example a petrol station, may cost in the range of \$20,000.

**COMMENTS:**

**Update of Tasks/Actions**

The Agenda Report to the Ordinary Meeting of Council held on 19 December 2006 included a table of tasks that would need to be undertaken by the Town to meet its obligations under the Contaminated Sites Act 2003. The following table advises of progress.

<b>Indicative Task</b>	<b>Indicative Required Action</b>	<b>Status</b>	<b>Further Action Required</b>
Preliminary Site Investigation	Desktop Preliminary Site Investigation for internal review including retrieval of any archival records from the City of Perth; and Site assessment of all suspected contaminated sites.	Desktop study completed by the Town’s Officers. 13 Sites owned or occupied by the Town have been identified, all being on Park and Recreation Reserves.	Nil.
Preparation of Programme to undertake collation and compilation of the Town of Vincent’s Contaminated Sites Register	Review information compiled through Desktop Preliminary Site Investigation; and Develop a programme outlining how the compilation of the contaminated sites will be undertaken, to submit to Department of Environment and Conservation by May 2007.	Programme completed and strategy discussed with the DEC. New actions required are added at the bottom of this table and highlighted with an *.	Nil.

<p>Liaise with Senior Staff at the Town, including Executive Managers</p>	<p>Liaise with the Town's Executive Managers and Managers, report the Programme to Council.</p>	<p>Workshops with Senior Officers completed.</p>	<p>Nil.</p>
<p>Undertaking and compiling of Contaminated Sites Survey and mapping</p>	<p>Undertake on-site survey of all identified contaminated sites within the Town of Vincent; and Map contaminated sites in Geographical Information Systems format for reference.</p>	<p>In progress. Sites owned by or occupied by the Town are now Parks and Recreation Reserves. On-site surveys of all properties potentially contaminated is not considered to be necessary.</p>	<p>Maps will be finalised after consideration of the Agenda Report by the Council, in accordance with any further direction given by the Council.</p>
<p>Develop Procedures and Practices Manual regarding registering of Contaminated Sites within the Town</p>	<p>Research and implement provisions of the Contaminated Sites Act 2003, outlining the obligations and responsibilities associated with contaminated sites or the suspected contamination of sites; and Develop process of identifying and including contaminated sites as part of the Development Assessment Process;</p>	<p>Ongoing. Draft Policy attached in Attachment 10.1.8 (002)</p>	<p>Policy to be advertised in accordance with the Community Consultation Policy and any further direction given by the Council.</p>
<p>Community Education</p>	<p>Develop and undertake a community education programme, outlining what constitutes as contaminated sites, and what requirements are needed to be fulfilled; Widespread promotion (newspapers, mail out, posters); and Co-ordinate printing of documents to distribute during course of community education phase.</p>	<p>On-going.</p>	<p>Community promotion documents to be finalised and printed. Final public education document to be included with mail out to landowners with known, suspected or potentially contaminated sites within the Town. New Policy advertised in accordance with Community Consultation Policy. Officer to be identified for customer queries.</p>
<p>Facilitate the adoption of Contaminated Sites Register by Council and submit to the Department of Environment and Conservation</p>	<p>Prepare relevant Council reports to facilitate the progression and adoption of the compiled Contaminated Sites Register for the Town of Vincent; and Prepare relevant documentation for the submission of the Contaminated Sites Register and database to the Department of Environment and Conservation by May 2007.</p>	<p>In progress.</p>	<p>13 sites to be reported to the DEC by 31 May 2007. Council to note the list of 575 sites that are potentially contaminated due to a previous land use prior to the landowners being advised.</p>

*Maintenance of Register of Known, Suspected or Potentially Contaminated Sites	Register to be updated as the classifications of sites changes, and sites added, deleted or amended.	On-going.	On-going maintenance of the Register and the GIS system. In addition, it is recommended that a 'memorandum' is attached to each site on the Town's 'Authority' database to enable quick reference for the Town's Officers.
*Land use Planning System	Register of Known, Suspected or Potentially Contaminated Sites to be referred to during the planning process	On-going.	On-going.
*Land Ownership changes	Register of Known, Suspected or Potentially Contaminated Sites to be referred to during the Land Settlement Enquiry Process	On-going.	On-going.

**Sites not under Ownership or Management of the Town, and the Town did not Contribute to the Contamination of the Site, but Potentially Contaminated due to a Previous Land use**

Historic evidence held by the Town identifies over 575 sites that have been used in the past for potentially contaminating activities, land uses as identified in the DoE's publication 'Potentially Contaminating Activities, Industries and Landuses'. Sites that have been identified as potentially contaminated have been collated into the Draft Register of Known, Suspected and Potentially Contaminated Sites, and listed as 'Potentially Contaminated due to previous land use'. This Draft Register is attached as Attachment 10.1.8 It does not necessarily mean that these site are contaminated, and/or have levels of contaminates that are considered to harm human health or the environment.

This includes approximately 300 residential lots adjacent to Britannia Reserve, Smiths Lake Reserve and Charles Veryard Reserve that are located on former landfill sites, and there may be contaminates underneath these residential dwellings. The DEC has requested that the Town provide them with a map/evidence of these areas that were previously landfill sites and the DEC will contact these landowners in due course. There is no requirement in the Contaminated Sites Act 2003 for the Town to fill out a 'Form 1' for these sites which are not owned by the Town. However, the DEC has recommended that the Town contact these affected landowners directly and advise of the process, prior to the DEC formally contacting them.

The historic evidence also includes independent businesses such as blacksmiths, printers, dyers, auto-mechanics, service station and the like that were scattered throughout the Town.

At this stage, and without evidence to suggest that such sites are contaminated, the Town's Officers in collaboration with the DEC's Officers, considered that it is not appropriate for the Town to report these sites to the DEC as a known or suspected site via a 'Form 1'. However, as keepers of these historical records, the Town may be considered to have a duty of care/due diligence to inform these landowners of the previous land uses and the potential risk of the sites being contaminated. For example, many current landowners may not be aware of these previous uses which occurred over a century ago.

The Policy suggests means of doing this by:

- (i) Compiling and maintaining a publicly available register of sites that may be potentially contaminated.

As a working document it is important that details of sites can be added, deleted and amended when required. Once the register has been finalised, the Town is to undertake a mail out to the current landowners to advise of the previous land use and advise that there may be a risk of land contamination. Accompanying the letter will be an information facts sheet and directions to contact the DEC for detailed information.

Cross-referencing of the sites on the Register into the Town's Authority database system will be undertaken, to enable quick reference for the Town's administration employees.

- (ii) Land Ownership Changes

Where the Town of Vincent is involved in the land settlement enquiry process, the Town will inform prospective purchasers if the site is identified in the register, and advise of the potential risk.

- (iii) Planning Process

If a Planning Application is considered by the Town of Vincent for a site that is on the Town's Register, the Town will inform the applicant that the site is listed on the register and advise of the potential risk by providing an advice note on the acknowledgement letter and on the decision notice. A Planning Application will include Planning Applications, Subdivision Applications and Scheme Amendments.

Should the Planning Application involve the discontinuation of a potentially contaminating land use, if appropriate, a condition of Planning Approval is to be imposed requiring tests to ascertain the level of contamination and where appropriate remediation strategies to be recommended by a suitably qualified professional, and approved by the Town prior to the issue of Building Licence. If contamination is found, the site is to be reported to the DEC and any action deemed necessary by the DEC be undertaken.

- (iv) Sites owned or vested in the Town

- (a) Where appropriate, the Town shall submit 'Disclosure Statements' to the DEC; and
- (b) Where appropriate, 'End of Lease Contaminated Site Surveys' will be factored into new lease agreements or lease renewals.

### **Summary**

In light of the above, it is recommended that the Council receives this report and initiates the Draft Policy relating to Known, Suspected and Potentially Contaminated Sites and advertises the Draft Policy in accordance with clause 47 of the Town of Vincent Town Planning Scheme No. 1.

It is also recommended that the 13 sites identified as 'Suspected Contaminated' that are owned or occupied by the Town are reported to the DEC by 31 May 2007.

At 8.17pm the Presiding Member called a five (5) minute adjournment.

At 8.26pm the meeting resumed with Mayor Catania, Crs Chester, Doran-Wu, Farrell, Ker, Lake, Maier and Messina, Chief Executive Officer, Executive Managers Environmental & Development Services, Technical Services and Corporate Services and the Minutes Secretary in attendance.

Journalist Lindsay Mc Phee left during the adjournment at 8.22pm.

Mayor Catania advised that he had to leave the meeting as he had a flight to catch and requested that Deputy Mayor - Cr Farrell assume the Chair.

Mayor Catania departed the Chamber at 8.27pm and Cr Farrell assumed the Chair.

<b>10.2.1 Progress Report - Status of 2006/2007 Metropolitan Road Rehabilitation Program Projects</b>
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<b>Ward:</b>	Both	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	All	<b>File Ref:</b>	TES0174
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the progress report on the Status of the 2006/2007 Metropolitan Road Rehabilitation Program Projects;*
- (ii) *NOTES*
  - (a) *that only one of the projects listed for 2006/2007, namely Beaufort Street, between Parry and Brisbane Streets, has been completed and the remaining three (3) projects are on hold for the reasons provided in the report;*
  - (b) *that while the 2006/2007 State Metropolitan Road Rehabilitation Program funds are required to be expended by 30 June 2007, there is scope to apply for an extension until December 2007;*
  - (c) *that two (2) of the remaining projects, namely Fitzgerald Street between Carr and Newcastle Streets, and Bulwer Street between William and Beaufort Streets, will be able to be implemented prior to December 2007 as the proposed Main Sewer upgrade works should be completed in these two areas within the next two to three months;*
- (iii) *IMPLEMENTS the proposed rehabilitation works in Oxford Street between Oxford Street and Leederville Parade as soon as practical, given the poor road infrastructure condition and bearing in mind that some of the works may need to be altered in the future as a result of the Leederville Masterplan redevelopment (refer attached Plans Nos 2515-CP-01 to 03);*

- 
- (iv) *SUBMITS a formal request to Main Roads WA for an extension of the State Metropolitan Road Rehabilitation Program funds to the end of December 2007; and*
- (v) *RECEIVES a further report on the matter should there be any change regarding the status of Metropolitan Road Rehabilitation projects discussed in the report.*
- 

**Moved Cr Maier, Seconded Cr Ker**

*That the recommendation be adopted.*

Debate ensued.

**Moved Cr Ker, Seconded Cr Messina**

*That clause (iii) be amended to read as follows:*

- “(iii) *IMPLEMENTS the proposed rehabilitation works (as shown in attached Plan No. 2515-CP-01) in Oxford Street between Oxford Street and Leederville Parade as soon as practical, given the poor road infrastructure condition and bearing in mind that some of the works may need to be altered in the future as a result of the Leederville Masterplan redevelopment (refer attached Plans Nos 2515-CP-01 to 03);*”

Cr Doran-Wu departed the Chamber at 8.35pm.

**AMENDMENT CARRIED (6-0)**

(Mayor Catania and Cr Torre had left the meeting. Cr Doran-Wu was absent from the Chamber and did not vote.)

**MOTION AS AMENDED CARRIED (6-0)**

(Mayor Catania and Cr Torre had left the meeting. Cr Doran-Wu was absent from the Chamber and did not vote.)

**COUNCIL DECISION ITEM 10.2.1**

*That the Council;*

- (i) *RECEIVES the progress report on the Status of the 2006/2007 Metropolitan Road Rehabilitation Program Projects;*
- (ii) *NOTES*
- (a) *that only one of the projects listed for 2006/2007, namely Beaufort Street, between Parry and Brisbane Streets, has been completed and the remaining three (3) projects are on hold for the reasons provided in the report;*
- (b) *that while the 2006/2007 State Metropolitan Road Rehabilitation Program funds are required to be expended by 30 June 2007, there is scope to apply for an extension until December 2007;*

- (c) *that two (2) of the remaining projects, namely Fitzgerald Street between Carr and Newcastle Streets, and Bulwer Street between William and Beaufort Streets, will be able to be implemented prior to December 2007 as the proposed Main Sewer upgrade works should be completed in these two areas within the next two to three months;*
- (iii) *IMPLEMENTS the proposed rehabilitation works (as shown in attached Plan No. 2515-CP-01) in Oxford Street between Oxford Street and Leederville Parade as soon as practical, given the poor road infrastructure condition and bearing in mind that some of the works may need to be altered in the future as a result of the Leederville Masterplan redevelopment;*
- (iv) *SUBMITS a formal request to Main Roads WA for an extension of the State Metropolitan Road Rehabilitation Program funds to the end of December 2007; and*
- (v) *RECEIVES a further report on the matter should there be any change regarding the status of Metropolitan Road Rehabilitation projects discussed in the report.*

**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council of the Metropolitan Regional Road Funding conditions with regard to expending the grant monies within a reasonable period of time.

**BACKGROUND:**

At its Ordinary Meeting held on 8 August 2006, the Council considered a report on the year 2006/2007 to 2010/2011 Road Rehabilitation and Upgrade Program, where the following decision was adopted:

*"That the Council;*

- (i) *ADOPTS the first year, 2006/2007, of the five (5) year (2006/2007 to 2010/2011) Road Rehabilitation and Upgrade Program as outlined in Attachment 10.2.3; and*
- (ii) *NOTES that the remaining four (4) years (2007/2008 to 2010/2011) of the program is 'preliminary only' and will be subject to change."*

**DETAILS:**

A letter from Main Roads WA was received in March 2006, advising of the approved Metropolitan Local Road Project Grants for 2006/2007:

Therefore the Town's current (2006/2007) budget includes the following.

Road	Section	Project Cost \$	Grant \$	TOV contribution \$	Status
Oxford St	Vincent - Leederville Pde	120,000	80,000	40,000	On Hold
Fitzgerald St	Newcastle - Carr St	90,000	60,000	30,000	On Hold
Bulwer St	William - Beaufort St	152,000	101,333	50,667	On Hold
Beaufort St	Parry - Brisbane St	110,000	73,333	36,667	<b>Complete</b>
	<b>Total</b>	<b>472,000</b>	<b>314,666</b>	<b>157,334</b>	



### **Project Status**

#### Beaufort Street - Parry to Brisbane St

This project has been *completed* (pending planting of trees).

#### Fitzgerald Street - Newcastle to Carr St

This project is *on hold* pending the completion of a section of the Perth Main Sewer. Preliminary indications are that the sewer works in this section of roadway will be completed in mid May 2007 (2006/2007).

#### Bulwer Street - William to Beaufort St

This project is *on hold* pending the completion of a section of the Perth Main Sewer. Preliminary indications are that the sewer works in this section of roadway will not be completed until at least July/August 2007 (2007/2008).

#### Oxford Street - Vincent St to Leederville Pde

This project is currently on hold pending a decision on the Leederville Masterplan Implementation. The road surface is in very poor condition and if the funds are not expended by the end of 2007, i.e. in the 2007/2008 financial year, the Town may have to forfeit the grant monies.

### **Discussion/Recommendations**

With both Fitzgerald and Bulwer Streets, the funds should be expended prior to the end of 2007. An extension of time from Main Roads WA will be requested.

With Oxford Street a decision needs to be made whether an extension of time is requested until December 2007 or the funds are forfeited.

#### Oxford Street:

The State funds are for road rehabilitation, i.e. removal of the existing asphalt layer, laying new asphalt, re-kerbing/kerb repairs. No streetscape enhancement works would be undertaken with the funding currently provided/allocated, for this project (at this point in time).

Should this section of Oxford Street be 'rehabilitated' at this stage, some of the works may need to be removed at a later stage once final streetscape upgrade options have been developed. A timeframe for this has not yet been determined however it could be up to five (5) years away.

The attached plans contain three (3) 'very' draft options:

- Maintain the 'status Quo'
- Retain the central median and install nibs to define the embayed parking
- Remove the central island, widen the paths, install nibs and plant trees in the parking bays.

Two (2) of the above options 'may' result in some of the Asphalt surface/kerbing being removed/modified in the future.

#### Conclusion

Given the 'poor' condition of the road infrastructure in Oxford Street and the requirement to expend the state funding by the end of 2007, it is considered that the rehabilitation works should be undertaken as soon as possible.

### **CONSULTATION/ADVERTISING:**

N/A

**LEGAL/POLICY**

The Town is responsible for the care control and management of approximately 137 km of roads, which include Primary Distributors, Local Distributors and Access Roads.

**FINANCIAL/BUDGET IMPLICATIONS:**

If the Oxford Street project is not implemented prior to the end of 2007, grant funds of \$80,000 may be lost.

**STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“(d) implement infrastructure upgrade programs, including streetscape enhancements, footpaths, rights of way and roads.”*

**COMMENTS:**

The Oxford Street surface is in poor condition and sections of the kerbing are in a deteriorated state. If the state funding is not expended prior to the end of 2007, the grant monies will be lost. The Town can reapply for funding in the future, however, there is no guarantee these funds will be again made available.

The Council needs to decide whether to expend the funds now or risk losing the funding, bearing in mind that the road infrastructure is in poor condition and that streetscape upgrade works may not occur for at least five (5) years.

Deputy Mayor - Cr Farrell advised that Cr Messina had declared a financial interest in this Item. Cr Messina departed the Chamber at 8.35pm and did not speak or vote on the matter.

**10.3.1 Investment Report as at 30 April 2007**

<b>Ward:</b>	Both	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0005
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	B Wong		
<b>Checked/Endorsed by:</b>	Bee Choo Tan	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Investment Report for the month ended 30 April 2007 as detailed in attachment 10.3.1.*

**COUNCIL DECISION ITEM 10.3.1**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (5-0)**

**(Mayor Catania and Cr Torre had left the meeting. Crs Doran-Wu and Messina were absent from the Chamber and did not vote.)**

**PURPOSE OF REPORT:**

The purpose of this report is to advise the Council of the level of funds available, the distribution of surplus funds in the short term money market and the interest earned to date.

**BACKGROUND:**

Interest from investments is a significant source of funds for the Town, where surplus funds are deposited in the short term money market for various terms as detailed in attachment 10.3.1.

Council's Investment Portfolio is spread across several Financial Institutions in accordance with Policy Number 1.3.8.

**DETAILS:**

Total Investments for the period ended 30 April 2007 were \$17,495,568 compared with \$17,495,252 at 31 March 2007. At 30 April 2006, \$14,753,389 was invested.

Total accrued interest earned on Investments as at 30 April 2007:

	Budget	Actual	%
	\$	\$	
Municipal	370,000	445,707	120.46
Reserve	434,300	512,631	118.04

**COMMENT:**

As the Town performs only a custodial role in respect of monies held in Trust Fund Investments these monies cannot be used for Council purposes, and are excluded from the Financial Statements.

The major contributing factor of the significant increase in funds held in investments over the level of funds held last year, is due to the receipt in November of the \$3.8M loan funds for the Underground Power Project these funds will be called down over the twelve month period of the project.

Cr Messina returned to the Chamber at 8.36pm.

**10.4.2 Loftus Centre Redevelopment, 99 Loftus Street, Leederville - Progress Report No. 14**

<b>Ward:</b>	South	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	Oxford Centre; P4	<b>File Ref:</b>	RES0061
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the Progress Report No. 14 as at 2 May 2007, relating to the Loftus Centre Redevelopment, 99 Loftus Street, Leederville; and*
- (ii) *APPROVES;*
  - (a) *of new Library book shelving to be installed in the new Library/Local History Centre at an estimated cost of \$90,000; and*
  - (b) *an amount of \$95,000 for Library "soft furnishings" being included in the draft Budget 2007/08.*

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**COUNCIL DECISION ITEM 10.4.2**

**Moved Cr Messina, Seconded Cr Maier**

*That the recommendation be adopted.*

Debate ensued.

**CARRIED (6-0)**

**(Mayor Catania and Cr Torre had left the meeting. Cr Doran-Wu was absent from the Chamber and did not vote.)**

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**PURPOSE OF THE REPORT:**

The purpose of the report is to update the Council on the progress of the Loftus Centre Redevelopment, 99 Loftus Street, Leederville and seek approval of funds for the furnishings of the new Library/Local History Centre.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 23 January 2007, the Council considered this matter and resolved to award the building tender to Perkins Builders and for the project to proceed.

## **PROGRESS OF WORKS**

### **Documentation**

1. Belgravia Leisure Group Pty Ltd (Belgravia) - Lease and Contract

The Contract and Lease were signed on 23 February 2007 and is still with the Minister for Lands, awaiting consent (as the Loftus land is a Reserve - vested in the control of the Town).

2. Gymnastics WA- Lease

This lease was signed on 16 March 2007 and is still with the Minister for Lands awaiting consent.

3. Financial Assistance Agreement (FAA)

The Financial Assistance Agreement between the Town and the State Government was signed on 6 March 2007. Payment of the \$1.7 million (of the \$3.7 million agreed funding) to the Town was received on 17 April 2007.

4. Library Board of Western Australia

The plans have been submitted to the Library Board of Western Australia for approval and verbal feedback has been most positive. Minor changes have been recommended and these have been included. No additional cost has been incurred. Written approval is anticipated to be given at a meeting to be held in early May.

### **Program and Progress**

The Builder accepted possession of the site on 6 March 2007 and site works commenced immediately. The site has been adequately fenced and secured.

Regular site meetings between the Builder, Consultants, Architect and Town are being held. In addition, site inspections are carried out as required. Contact with the Site Supervisor, Architect and Consultants is occurring on a daily basis.

Progress payment dates have been agreed between the Town and the Builder, as recommended by the Project Quantity Surveyor.

The Builder has advised that they are slightly ahead of the specified program at this stage.

### **Architectural Services**

The construction drawings have been provided and updated where necessary. Shop drawings are prepared as required.

### **Construction - (See Photographs - Appendix 10.4.2)**

The earthworks are well progressed. The sand on the site will be used to fill areas and adjust the soil levels. Retaining walls have been completed, except for face cladding.

The underground car park and footings for the Library have been completed. Approximately 90% of the Library floor slab was poured on 2 May 2007.

The base for the underground car park was also poured on 2 May 2007.

The floor for the Rhythmic Gymnastics hall is due to be poured in the week 14-18 May 2007.

### **Structural and Civil Engineering**

The retaining walls between the Loftus Centre and Leederville Oval Reserve have been revised; adjustments have been necessary, due to differing ground levels. The Town's Technical Services Division is liaising with the Builder to adjust the level of the pathways. A cost of \$30,000 has been obtained from the Builder to carry out necessary works between the southern boundary of the Centre and the Leederville Child Care Centre. (Cost savings may be achieved whilst the Builder's limestone contractors are working in this area.) This cost is currently being evaluated by the Quantity Surveyor and the Executive Manager Technical Services. The cost is part of the Leederville Oval Public Open Space budget.

### **Hydraulic Services**

The installation of the ring main around the building is currently being finalised and will be installed in early May 2007. This is required for the fire service.

### **Electrical Services**

Conduits and preliminary cables have been installed.

### **Mechanical Services**

A Mechanical Services Contractor has been appointed. An assessment of the existing roof units is being carried out. These are at the end of their life and will be replaced as part of the project.

### **Library**

An amount of \$100,000 has been included in the project for new furniture and relocation. The Library Working Group has prepared a list of "soft furniture" and requirements.

#### Fitout and Shelves - (Brochures "Laid on the Table")

New shelving (incorporating lighting) has been recommended at an approximate cost of \$90,000. There are three main companies in Perth that specialise in Library shelving. Discussions have been held with these three companies and a number of shelving types is still being investigated to ascertain the most suitable for the Town. The existing shelving will be re-used for storage or sold, however these may need to be re-enamelled, once a colour scheme has been selected for the new Library.

The Project Control Group recommends the purchase of new shelving and soft furnishings for the Library, as this will allow for;

- better and improved services to the users;
- improved ergonomics;
- increased capacity;
- colour co-ordination; and
- the latest technology to be incorporated.

A decision on the library shelves is required, as the dimensions are different to the current shelving and this will affect the placing of floor electrical conduit/boxes. Furthermore, it will allow for proper planning to occur.

The purchase of the new shelving is recommended by the Library Working Group and the Project Control Group.

### Relocation Costs

Preliminary quotations have been received from professional removalists at approximately \$9,500 to \$11,000. Relocation will take approximately one week. The quote is being reviewed.

To use Town employees to relocate is estimated to take approximately two weeks and is not recommended, due to health and safety reasons and the potential for injury claims due to heavy lifting involved.

### Soft Furnishings

If the Council approves of new shelving for the Library, additional funds of \$95,000 have been estimated for "soft furnishings".

These include;

- Chairs - employees, public
- Tables - employees, public
- Specialised Desks
- Photocopiers - public and office
- Two new storage compactus (\$13,500 each)
- Display Units
- White boards, multi media equipment.

### **General**

On 15 April 2007, Perth experienced heavy rainfall (40mm) and some flooding of the Recreation Centre Office occurred. Apart from interruption to operations and water to carpets, damage was minimal. A claim is yet to be submitted by Belgravia Leisure.

### **ADVERTISING/COMMUNITY CONSULTATION:**

Not applicable. The Town's Public Relations Officer has created a "Corporate Projects" site on the Town's web page and background information, together with weekly photographs are included on this site. The web-site is being updated on a regular basis.

### **LEGAL/POLICY IMPLICATIONS:**

N/A.

### **STRATEGIC IMPLICATIONS:**

This project is in keeping with the Town's Strategic Plan 2006-2011, Objective 1 - *"Natural and Built Environment"*, in particular, 1.1.6(j) - *"Carry out redevelopment of the Loftus Centre...."*.

### **FINANCIAL/BUDGET IMPLICATIONS:**

The Town's Executive Manager Corporate Services obtained quotations for the Town's loans and these were approved.



The Town received \$1.7 million from the State Government as the first progress payment of the Financial Assistance Agreement on 17 April 2007.

**Builder Progress Claim Payments**

<b>Progress Payment Number</b>	<b>Date Received</b>	<b>Amount Requested</b>	<b>Amount Paid</b>	<b>Date Paid</b>
No. 1	17/04/07	\$247,568 + GST	\$247,568	26/04/07

**COMMENTS:**

Good progress is still being made with the Loftus Centre Redevelopment Project and no major problems have occurred or been identified at this stage. Monthly progress reports will be provided to the Council as the project progresses.

**10.4.3 Statutory Review of Local Laws - Proposed New Fencing Local Law**

<b>Ward:</b>	-	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	D Abel, R Lotznicker, A Smith, John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town's Local Laws;*
- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
  - (a) *its intention to repeal its Local Law Relating to Fences, Floodlights and Other External Lights published in the Government Gazette on 11 February 2000 and amended from time to time;*
  - (b) *its intention to ADOPT a new Fencing Local Law as shown in Appendix 10.4.3 to provide for the regulation, management and control of fences and prescribe the standard of a "sufficient fence";*
  - (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
  - (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks;*
- (iii) *APPROVES the deletion of the following Policies as shown in Appendix 10.4.3:*
  - (a) *No. 2.2.12 – Visual Sightline Truncations – Driveways and Rights of Way (ROW's); and*
  - (b) *2.2.13 – Corner Truncations at Street Intersections;*
- (iv) *APPROVES to adopt new Policy No. 2.2.12 – Truncations; and*
- (v) *AUTHORISES the Chief Executive Officer to:*
  - (a) *advertise the proposed new Policy for a period of twenty-one (21) days, seeking public comment;*
  - (b) *report back to Council with any submissions received; and*
  - (c) *include the proposed policy in the Town's Policy Manual if no public submissions are received; and*
- (vi) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period.*

**Moved Cr Messina, Seconded Cr Chester**

*That the recommendation be adopted.*

Debate ensued.

**Moved Cr Messina, Seconded Cr Chester**

*That clause (ii)(b) being amended to read as follows:*

“(ii) (b) *its intention to ADOPT a new Fencing Local Law as shown in Appendix 10.4.3 to provide for the regulation, management and control of fences and prescribe the standard of a “sufficient fence” subject to a new clause 2.9(3) being added as follows;*

‘2.9 ...

(3) A person shall not alter (whether by removing soil or bringing in fill of any kind) the natural soil levels of the land on the boundary or within 1000 millimetres of a boundary of a lot, by more than 500 millimetres without the approval of the local government.’;”

Debate ensued.

Cr Doran-Wu returned to the Chamber at 8.42pm.

**AMENDMENT CARRIED (7-0)**

(Mayor Catania and Cr Torre had left the meeting.)

**MOTION AS AMENDED CARRIED (7-0)**

(Mayor Catania and Cr Torre had left the meeting.)

**COUNCIL DECISION ITEM 10.4.3**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town’s Local Laws;*
- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
  - (a) *its intention to repeal its Local Law Relating to Fences, Floodlights and Other External Lights published in the Government Gazette on 11 February 2000 and amended from time to time;*
  - (b) *its intention to ADOPT a new Fencing Local Law as shown in Appendix 10.4.3 to provide for the regulation, management and control of fences and prescribe the standard of a “sufficient fence” subject to a new clause 2.9(3) being added as follows;*

*'2.9 ...*

- (3) *A person shall not alter (whether by removing soil or bringing in fill of any kind) the natural soil levels of the land on the boundary or within 1000 millimetres of a boundary of a lot, by more than 500 millimetres without the approval of the local government.'*
- (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
- (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks;*
- (iii) **APPROVES** *the deletion of the following Policies as shown in Appendix 10.4.3:*
- (a) *No. 2.2.12 – Visual Sightline Truncations – Driveways and Rights of Way (ROW's); and*
- (b) *2.2.13 – Corner Truncations at Street Intersections;*
- (iv) **APPROVES** *to adopt new Policy No. 2.2.12 – Truncations; and*
- (v) **AUTHORISES** *the Chief Executive Officer to:*
- (a) *advertise the proposed new Policy for a period of twenty-one (21) days, seeking public comment;*
- (b) *report back to Council with any submissions received; and*
- (c) *include the proposed policy in the Town's Policy Manual if no public submissions are received; and*
- (vi) **NOTES** *that a further report will be submitted to the Council at the conclusion of the statutory consultation period.*

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**PURPOSE OF REPORT:**

The purpose of the report is to advise the Council that no submissions were received at the conclusion of the six (6) week statutory public consultation period of the proposed review of the Town's Local Laws and for the Council to approve of the advertising on a Statewide basis its intention to adopt the revised Fencing Local Law.

**BACKGROUND:**

At the Ordinary Meeting of the Council held on 26 July 2005 the Council considered the matter and resolved as follows:

*"That the Council;*

- (i) **RECEIVES** *the report relating the Statutory Review of Local Laws;*
- (ii) *pursuant to Sections 3.16 of the Local Government Act 1995 the Council AUTHORIZES the Chief Executive Officer to advertise, for a period of six (6) weeks, its intention to review the following Local Laws;*

• <i>Air conditioning Units</i>	• <i>Alfresco Dining</i>
• <i>Beatty Park Leisure Centre</i>	• <i>Display of Items on a Footpath</i>
• <i>Dogs</i>	• <i>Fences, Floodlights and Other External Lights</i>
• <i>Halls and Centres</i>	• <i>Parking Facilities</i>
• <i>Parks and Public Reserves</i>	• <i>Property Numbers</i>
• <i>Removal and Disposal of Obstructing Animals or Shopping Trolleys</i>	• <i>Removal of Refuse, Rubbish and Disused Materials</i>
• <i>Street Lawns and Gardens</i>	• <i>Street Trading</i>
• <i>Streets and Footpaths</i>	• <i>Verandahs and Awnings Over Streets</i>

(iii) *GIVES Statewide public notice that:*

- (a) *the local government proposes to review the local laws;*
- (b) *a copy of the local laws may be inspected or obtained at any place specified in the notice; and*
- (c) *submissions about the local laws may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and*

(iv) *RECEIVES a further report at the conclusion of the advertising period.”*

**DETAILS:**

A review of all the local laws has been carried out by the Town’s officers. The Town has used the Western Australian Local Government Association’s (WALGA’s) Model Local Laws and modified them to suit the Town’s requirements. The Model Local Laws have been approved by the Parliamentary Joint Standing Committee on Delegated Legislation and therefore have been previously checked for legal compliance. The Town has also reviewed a number of other local government’s local laws.

The process has taken longer than anticipated due to the review being carried out “*in-house*” by the Town’s officers.

All local laws have now been reviewed and it is proposed to progressively submit these to Council for approval over the period April to June 2007 (to allow for an acceptable workload).

**FENCING LOCAL LAW**

The main changes in the reviewed local law are:

1. The clauses relating to flood lights and other external lights have been deleted. The control of floodlights and light “*spill*” is now included in the Local Government Act 1995, Sections 3.24 to 3.30 and Schedule 3.1.

**Part 1 - Preliminary**

This part includes all the statutory requirements of citation, objective, commencement, repeal and application of the local law. The interpretation clause is expanded to include a more comprehensive list of definitions. The fees and charges clause prescribes the current process.

## Part 2 - Fences

- 2.1 *Building licence requirements* – this clause prescribes the requirement for a building licence.
- 2.2 *Planning and other approval* – this clause makes it clear that planning approval may also be required in some cases.
- 2.3 *Application for building licence* – this clause prescribes the requirement of the application for a building licence.
- 2.4 *Determination of application* – this new clause prescribes the need for the Town to determine an application.
- 2.5 *Building licence issue* – this new clause prescribes the Town's issuing of a building licence.
- 2.6 *Building Code* – this new clause prescribes the need for fences to comply with the Building Code of Australia.
- 2.7 *Sufficient fence* – this clause is similar to the current local law and requires compliance with a "sufficient fence". It has been expanded to refer to fences on residential, commercial or industrial lots.
- 2.8 *Fences within setback areas* – this new clause refers to front setbacks and formalises the Town's current practice.
- 2.9 *Fences in relation to fill* – this new clause refers to the level of fill against free standing fences
- 2.10 *Maintenance of fences* – this clause reflects the Town's current local law, but has been expanded to be more prescriptive. The requirements of a "dangerous fence" are included.
- 2.11 *Fences and sight lines* – this clause requires compliance with sightlines, truncations and formalises the Town's current practice. It is similar to the current local law.
- 2.12 *Fences across right of way, public accessways, thoroughfares or road reserves* – this clause reflects a clause in the current local law.
- 2.13 *General discretion of the local government* – this new clause gives the Town the authority to approve a non-complying fence where both adjoining land owners agree.
- 2.14 *Pre-used fencing materials* – this clause reflects a clause in the current local law.
- 2.15 *Barbed wire fences and spiked or jagged materials* – this clause reflects a clause in the current local law but has been expanded to be more prescriptive.
- 2.16 *Electrified and razor wire fences* – this new clause specifies the requirements where electrified fences may be used. The requirements of razor wire fences are similar to the current local law.
- 2.17 *Prohibited fencing materials* – this clause is similar to the current local law.

2.18 *Tennis court fencing* – this new clause prescribes the requirements for tennis court fences.

### **Part 3 - Miscellaneous**

This Part includes:

- Appointment of authorised persons; and
- The power for authorised persons to demand the name and address of a person.

### **Part 4 - Notices of Breaches**

This Part is similar to the current local law. A new clause limits the ability of a person to take action against the Town or its employees/agents, where the Town carries out works.

### **Part 5 - Offences**

This Part introduces the power to issue modified penalties for non-compliance. This is new and the Local Government Act 1995 allows it for all local laws.

### **Part 6 - Objections and Appeals**

This Part prescribes the procedure for persons lodging an appeal.

## **FENCE COMPARISONS**

The new Fencing Local Law takes cognisance and complements the Towns' Planning Policy No. 3.2.5 - Street Walls and Fences, mainly under clause 2.8 *Fences within front setback area*, and *Schedule 2 Specifications for a Sufficient Fence on a Residential Lot*, sub-clause A., B.(d) and C.(d) and D. where it states '*height ... except with respect to the front street setback area for which there is no minimum height but which is subject to clause 2.8*'.

The specifications for a "sufficient fence" are detailed in *Schedule 2 Specifications for a Sufficient Fence on a Residential Lot* and *Schedule 3 Specifications for a Sufficient Fence on a Commercial or Industrial Lot*.

The specifications in the new Fencing Local Law differ from the previous local law in the following key provisions:

#### *Schedule 2 Specifications for a Sufficient Fence on a Residential Lot*

- The maximum fence height reduced from 2400 millimetres to 1800 millimetres.
- More comprehensive construction specifications for the different type of fence materials.
- Deletion of reference to comply with the Town's Town Planning Scheme and Policies as this matter is now addressed in clause 2.8.
- It is considered that 1800 millimetres is a more acceptable height. It is also a more common height prescribed in other local governments (eg Cities of Joondalup, Perth, and Stirling, Town of Cambridge and City of Wanneroo (1750-1850mm)).

#### *Schedule 3 Specifications for a Sufficient Fence on a Commercial or Industrial Lot*

- The maximum fence height increased from 2100 millimetres to 2400 millimetres. This increased height is considered to be more appropriate in the contextual scale of commercial development in the Town.
- More comprehensive construction specifications for the different type of fence materials.

## POLICIES RELATING TO TRUNCATIONS AND SIGHTLINES

The Town currently has two (2) policies relating to truncations and sightlines, namely:

- No. 2.2.12 – Visual Sightline Truncations – Driveways and Right of Ways (ROW's)
- No. 2.2.13 – Corner Truncations at Street Intersections.

In recent times the Council has queried the size of truncations requirements in certain situations. The current policies require reviewing to provide greater flexibility and discretion while at the same time ensuring that appropriate safety measures are implemented. The two (2) existing policies have been reviewed and amalgamated into one (1) policy namely policy No 2.2.12.

The revised policy is considered to be more appropriate and accordingly is recommended to be amended as shown in Appendix 10.4.3.

### **CONSULTATION/ADVERTISING:**

The Town's intention to review its local laws was advertised on 10 August 2005 in The West Australian Newspaper and on 12 August 2005 in the Voice News and on the Town's website. Copies were also sent to Precinct Groups and a local public notice was displayed on the official Notice Board.

At the close of the six (6) week public consultation period on 5 October 2005, no submissions were received.

### **LEGAL/POLICY:**

Section 3.16 of the Local Government Act 1995 requires that all of the local laws of local governments must be reviewed within an eight (8) year period after their commencement to determine if they should remain unchanged, be repealed or amended.

The eight year period is taken to be from either when the local law commenced or when the last review of the local law was completed.

### Procedure for Reviewing and Adopting a Local Law

- (1) The local government is to –
  - (a) give Statewide public notice that –
    - (i) the local government proposes to make a local law the purpose and effect.
    - (ii) a copy of the proposed local law may be inspected or obtained;
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice (not less than 6 weeks).
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister; and
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.



- (2) A notice is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and may make the local law \* as proposed or make a local law \* that is not significantly different from what was proposed.

\* *Absolute majority required.*

- (4) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister.
- (5) After the local law has been published in the Gazette the local government is to give local public notice –
  - (a) stating the title of the local law;
  - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.

#### Policies

The Local Government Act does not allow local laws to make reference to local government policies. Policies have no validity for the purposes of the local law. Any policies can only be used as a guide or assistance to applicants and the local government.

#### NCP Public Benefit Test

The provisions relating to the administration of fences are contained in the model "*Fencing*" local law produced by WALGA. This has been assessed for any public benefit test ramifications.

#### **STRATEGIC IMPLICATIONS:**

The matter is in keeping with the Town's Strategic Plan 2006-2011 - Objective 4.12 "*Manage the organisation in a responsible, efficient and accountable manner*".

#### **FINANCIAL/BUDGET IMPLICATIONS:**

The purchase of the WALGA Model Local Laws cost \$1,500.

The cost of advertisements to date was approximately \$1,000. Final advertising will be approximately \$500. An amount of \$5,000 has been included in the Budget for this project. The new local laws are required to be printed in the Government Gazette by the State Law Publisher which will cost approximately \$1,500. All other copying will be carried out in-house and will cost approximately \$500. (Employee costs have not been included.)

#### **COMMENTS:**

Now that the statutory review has been completed, it is recommended that the reviewed and revised Fencing Local Law and proposed new policy be advertised for public comment.

**10.4.4 Statutory Review of Local Laws - Proposed New Trading in Public Places Local Law**

<b>Ward:</b>	-	<b>Date:</b>	2 May 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a>		
<b>Reporting Officer(s):</b>	A Giles, J MacLean, A Smith, John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town's Local Laws;*
- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
  - (a) *its intention to repeal the following Local Laws Relating to:*
    - *Alfresco Dining, published in the Government Gazette of 30 April 1998;*
    - *Display of Items on a Footpath, published in the Government Gazette of 14 June 2000 and amendments; and*
    - *Street Trading, published in the Government Gazette of 22 December 1998.*
  - (b) *its intention to ADOPT a new Trading in Public Places Local Law as shown in Appendix 10.4.4 to provide for the regulation, control and management of outdoor eating facilities, stalls, traders and entertainers in any street or public place within the district by establishing the requirements with which persons must comply in order to undertake those activities;*
  - (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
  - (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks;*
- (iii) *APPROVES to amend the following Policies as shown in Appendix 10.4.4:*
  - (a) *No. 3.8.1 – Outdoor Eating Areas (Alfresco Dining); and*
  - (b) *No. 3.9.11 – Display of Items on a Footpath;*
- (iv) *REQUESTS the Chief Executive Officer to review Policy No. 3.8.1 – Outdoor Eating Areas (Alfresco Dining) Clause 3.8 requiring the current practice of placing the furniture in an outdoor eating area directly against the shop front wall and allowing the outdoor eating area furniture to be placed closer to the kerb (as is the current practice in many cities in Australia) and this review be carried out concurrently during the statutory consultation period.*

- (v) *AUTHORISES the Chief Executive Officer to:*
- (a) *advertise the amended policies for a period of twenty-one (21) days, seeking public comment;*
  - (b) *report back to Council with any submissions received; and*
  - (c) *include the amended policies in the Town's Policy Manual if no public submissions are received; and*
- (vi) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period.*
- 

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

Debate ensued.

**Moved Cr Ker, Seconded Cr Doran-Wu**

*That a new clause (vii) be added as follows:*

“(vii) *REQUESTS the Chief Executive Officer to report to Council on how the impact of trading in public places can best be reflected in requirements for car parking and an appropriate addition be made to clause 2.17 of the proposed local law as follows:*

*‘2.17 ...*

- (g) *the outdoor eating area will comply with the car parking requirements for the premises as specified in the town planning scheme’.*”

**AMENDMENT CARRIED (6-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Deputy Mayor - Cr Farrell	Cr Messina
Cr Chester	
Cr Doran-Wu	
Cr Ker	
Cr Lake	
Cr Maier	

(Mayor Catania and Cr Torre had left the meeting.)

Debate ensued.

**MOTION AS AMENDED CARRIED (7-0)**

(Mayor Catania and Cr Torre had left the meeting.)

**COUNCIL DECISION ITEM 10.4.4**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town's Local Laws;*
- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
  - (a) *its intention to repeal the following Local Laws Relating to:*
    - *Alfresco Dining, published in the Government Gazette of 30 April 1998;*
    - *Display of Items on a Footpath, published in the Government Gazette of 14 June 2000 and amendments; and*
    - *Street Trading, published in the Government Gazette of 22 December 1998.*
  - (b) *its intention to ADOPT a new Trading in Public Places Local Law as shown in Appendix 10.4.4 to provide for the regulation, control and management of outdoor eating facilities, stalls, traders and entertainers in any street or public place within the district by establishing the requirements with which persons must comply in order to undertake those activities;*
  - (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
  - (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks;*
- (iii) *APPROVES to amend the following Policies as shown in Appendix 10.4.4:*
  - (a) *No. 3.8.1 – Outdoor Eating Areas (Alfresco Dining); and*
  - (b) *No. 3.9.11 – Display of Items on a Footpath;*
- (iv) *REQUESTS the Chief Executive Officer to review Policy No. 3.8.1 – Outdoor Eating Areas (Alfresco Dining) Clause 3.8 requiring the current practice of placing the furniture in an outdoor eating area directly against the shop front wall and allowing the outdoor eating area furniture to be placed closer to the kerb (as is the current practice in many cities in Australia) and this review be carried out concurrently during the statutory consultation period.*
- (v) *AUTHORISES the Chief Executive Officer to:*
  - (a) *advertise the amended policies for a period of twenty-one (21) days, seeking public comment;*
  - (b) *report back to Council with any submissions received; and*
  - (c) *include the amended policies in the Town's Policy Manual if no public submissions are received;*
- (vi) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period; and*

- (vii) ***REQUESTS the Chief Executive Officer to report to Council on how the impact of trading in public places can best be reflected in requirements for car parking and an appropriate addition be made to clause 2.17 of the proposed local law as follows:***

*‘2.17 ...*

- (g) ***the outdoor eating area will comply with the car parking requirements for the premises as specified in the town planning scheme.’***

**PURPOSE OF REPORT:**

The purpose of the report is to advise the Council that no submissions were received at the conclusion of the six (6) week statutory public consultation period of the proposed review of the Town’s Local Laws and for the Council to approve of the advertising on a Statewide basis its intention to adopt the Trading in Public Places Local Law.

**BACKGROUND:**

At the Ordinary Meeting of the Council held on 26 July 2005 the Council considered the matter and resolved as follows:

*“That the Council;*

- (i) ***RECEIVES the report relating the Statutory Review of Local Laws;***
- (ii) ***pursuant to Sections 3.16 of the Local Government Act 1995 the Council AUTHORISES the Chief Executive Officer to advertise, for a period of six (6) weeks, its intention to review the following Local Laws;***

• <i>Air conditioning Units</i>	• <i>Alfresco Dining</i>
• <i>Beatty Park Leisure Centre</i>	• <i>Display of Items on a Footpath</i>
• <i>Dogs</i>	• <i>Fences, Floodlights and Other External Lights</i>
• <i>Halls and Centres</i>	• <i>Parking Facilities</i>
• <i>Parks and Public Reserves</i>	• <i>Property Numbers</i>
• <i>Removal and Disposal of Obstructing Animals or Shopping Trolleys</i>	• <i>Removal of Refuse, Rubbish and Disused Materials</i>
• <i>Street Lawns and Gardens</i>	• <i>Street Trading</i>
• <i>Streets and Footpaths</i>	• <i>Verandahs and Awnings Over Streets</i>

- (iii) ***GIVES Statewide public notice that:***
- (a) ***the local government proposes to review the local laws;***
- (b) ***a copy of the local laws may be inspected or obtained at any place specified in the notice; and***
- (c) ***submissions about the local laws may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and***
- (iv) ***RECEIVES a further report at the conclusion of the advertising period.”***

## **DETAILS:**

A review of all the local laws has been carried out by the Town's officers. The Town has used the Western Australian Local Government Association's (WALGA's) Model Local Laws and modified them to suit the Town's requirements. The Model Local Laws have been approved by the Parliamentary Joint Standing Committee on Delegated Legislation and therefore have been previously checked for legal compliance. The Town has also reviewed a number of other local government's local laws.

The process has taken longer than anticipated due to the review being carried out "in-house" by the Town's officers.

All local laws have now been reviewed and it is proposed to progressively submit these to Council for approval over the period April to June 2007 (to allow for an acceptable workload).

### Trading in Public Places Local Law

This Local Law replaces the following existing local laws and amalgamates them into one new local law:

- *Alfresco Dining*, published in the Government Gazette of 30 April 1998;
- *Display of Items on a Footpath*, published in the Government Gazette of 14 June 2000 and amendments; and
- *Street Trading*, published in the Government Gazette of 22 December 1998.

### **Part 1 - Preliminary**

This part includes all the statutory requirements of citation, objective, commencement, repeal and application of the local law. The Interpretation clause is expanded to include a more comprehensive list of definitions.

The fees and charges prescribes the current process.

### **Part 2 - Trading in Thoroughfares and Public Places**

- 2.2 *Stallholder's permit* - this is similar to the Town's current local law.
- 2.3 *Trader's permit* - this is new and allows for traders to apply for a licence.
- 2.4 *No permit required to sell newspapers* - this is the same as the Town's current local law.
- 2.5 *Relevant considerations in determining application for permit* - this is similar to the Town's current local law.
- 2.6 *Conditions of permit* - this is similar to the current local law.
- 2.7 *Exemptions from requirement to pay fee* - this is a new clause and gives discretion to the Town to exempt charitable organisations from fees.
- 2.8 *Conduct of stallholders and traders* - this is similar to the Town's current local law.

- 2.10 *Entertainer's permit required to perform* - this is a new provision (based on the City of Perth local law) and allows for an Entertainers Permit to allow people to perform in a public place.
- 2.11 *Variation of permitted area and permitted time* - this is a new clause, (based on the City of Perth local law) and allows a local government to vary a permit.
- 2.12 *Duration of permit* - this is a new clause (based on the City of Perth local law) – specifies times.
- 2.13 *Cancellation of permit* - this is a new clause (based on the City of Perth local law) allows for the cancellation of a permit.
- 2.14 *Obligations of permit holder* - this is a new clause, (based on the City of Perth local law) and prescribes conditions of obligation.
- 2.16 *Permit required to conduct an outdoor eating area* - this is a new clause (based on the City of Perth local law) and prescribes the need for a permit.
- 2.17 *Matters to be considered in determining application* - this is a new clause (based on the City of Perth local law) – prescribes matters for a local government to consider.
- 2.18 *Obligations of permit holder* - this is a new clause (based on the City of Perth local law) – prescribes conditions for permit holders.
- 2.19 *Removal of an outdoor eating area unlawfully conducted* - this is a new clause (based on the City of Perth local law) – allows for removal of an outdoor eating area.
- 2.20 *Use of an outdoor eating area by public* - this is a new clause (based on the City of Perth local law) – prohibits persons using an outdoor eating area unless they are bonafide customers.
- 2.21 *Temporary removal of an outdoor eating area may be requested* - this is a new clause (based on the City of Perth local law) – allows for removal of an outdoor eating area in the event of public works.
- 2.23 *Itinerant Food Vendor's permit* - this is a new clause to allow for the itinerant food vendors.
- 2.24 -
- 2.34 *Display of Items on a Footpath* - these clauses are similar to the current local law.

### **Part 3 - Permits**

- 3.6 -
- 3.13 These are all new clauses relating to the handling of permits. (Permits are now used instead of licences.)

### **Part 4 - Bond or Security**

- 4.1 *Security for restoration and reinstatement* - this is a new clause which may require payment of a bond or security if required.
- 4.2 *Use by the local government of bond or security* - this is a new clause to allow the town to carry out the works using a bond in the event of a default of a notice.

### **Part 5 - Miscellaneous**

This Part deals with serving of notices, insurance and action to be taken in cases of non-compliance.

### **PART 6 - GENERAL**

This Part deals with authorised persons, impounding of goods and disposal of impounded goods.

### **PART 7 - OFFENCES AND PENALTIES**

This part introduces the power to issue modified penalties for non-compliance. This is new and the Local Government Act 1995 allows it for all local laws.

### **PART 8 - OBJECTIONS AND APPEALS**

This Part prescribes the procedure for persons lodging an appeal.

#### **CONSULTATION/ADVERTISING:**

The Town's intention to review its local laws was advertised on 10 August 2005 in The West Australian Newspaper and on 12 August 2005 in the Voice News and on the Town's website. Copies were also sent to Precinct Groups and a local public notice was displayed on the official Notice Board.

At the close of the six (6) week public consultation period on 5 October 2005, no submissions were received.

#### **LEGAL/POLICY:**

Section 3.16 of the Local Government Act 1995 requires that all of the local laws of local governments must be reviewed within an eight (8) year period after their commencement to determine if they should remain unchanged, be repealed or amended.

The eight year period is taken to be from either when the local law commenced or when the last review of the local law was completed.

#### Procedure for Reviewing and Adopting a Local Law

- (1) The local government is to –
  - (a) give Statewide public notice that –
    - (i) the local government proposes to make a local law the purpose and effect.
    - (ii) a copy of the proposed local law may be inspected or obtained;
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice (not less than 6 weeks).
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister; and
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.



- (2) A notice is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and may make the local law \* as proposed or make a local law \* that is not significantly different from what was proposed.

*\* Absolute majority required.*

- (4) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister.
- (5) After the local law has been published in the Gazette the local government is to give local public notice –
  - (a) stating the title of the local law;
  - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.

#### Policies

The Local Government Act 1995 does not allow local laws to make referral to local government policies. Any policies can only be used as a guide to applicants. They have no legal validity for the purposes of the local law. Policies No. 3.8.1 and No. 3.9.11 have been amended to reflect the proposed new local law.

#### Review of Outdoor Eating Area Layout

As Elected Members may be aware, in most capital cities throughout Australia and parts of the City of Perth, outdoor eating furniture is placed closer to the kerb, allowing clear access between the shop and the furniture. See Appendix 10.4.4(A). It is considered that this layout is more beneficial to visually impaired persons and may also allow greater flexibility in outdoor eating areas where the footpath or public place has sufficient area and in some cases, an increase in the number of tables and chairs.

For some considerable time, the Town's administration has been investigating changing the current policy requiring the current practice of placing the furniture in an outdoor eating area directly against the shop front wall (Figure 1) and allowing the outdoor eating area furniture to be placed closer to the kerb (as is the current practice in many cities in Australia) (Figure 2). A preliminary review of the Town's footpath width in the café strips has already been carried out and in most cases, the footpath width are sufficiently wide enough to allow for a change. Further research will be carried out as part of this review. This review can be carried out concurrently during the statutory consultation period with stakeholders (business proprietors and the community).

#### Changes to Liquor Licensing Act

It should also be noted that new the new Liquor Licensing laws will come into effect on 9 May 2007. With respect to eating houses, a major change will now allow patrons to purchase and consume alcohol in outdoor eating areas without the need to also purchase a meal. Considerable interest has been shown by the Town's restaurateurs.

National Competition Policy (NCP) Public Benefit Test

The provisions relating to the administration of this local law are contained in the model local law produced by WALGA and endorsed by the Department of Local Government. Also, the City of Perth Local Laws relating to Trading in Public Places and Outdoor Eating Areas (gazetted in 2005) have been reviewed. In some instances, the Town's local law clauses have been based on similar clauses in those local laws. This has been assessed for any public benefit test ramifications.

**STRATEGIC IMPLICATIONS:**

The matter is in keeping with the Town's Strategic Plan 2006-2011 - Objective 4.12 "*Manage the organisation in a responsible, efficient and accountable manner*".

**FINANCIAL/BUDGET IMPLICATIONS:**

The purchase of the WALGA Model Local Laws cost \$1,500.

The cost of advertisements to date was approximately \$1,000. Final advertising will be approximately \$500. An amount of \$5,000 has been included in the Budget for this project. The new local laws are required to be printed in the Government Gazette by the State Law Publisher which will cost approximately \$1,500. All other copying will be carried out in-house and will cost approximately \$500. (Employee costs have not been included.)

**COMMENTS:**

Now that the statutory review has been completed, it is recommended that the reviewed and revised Trading in Public Places Local Law be advertised for public comment.

**11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES**

Nil.

**13. URGENT BUSINESS**

**13.1 URGENT BUSINESS: Discharge of Mortgage (Various Documents) Heads of Agreement between the Town of Vincent, Allia Venue Management Pty Ltd, North East Equity Pty Ltd and Nicola Tana and David G. Rodwell (Guarantors) for Members Equity Stadium, 310 Pier Street, Perth**

<b>Ward:</b>	South	<b>Date:</b>	8 May 2007
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	RES0064
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report relating to the request from solicitors for North East Equity Pty Ltd and the Guarantors (Nicola Tana and David Rodwell) to discharge the Mortgage and associated licences and charges, being used as security for the Town's loan for Members Equity Stadium, pursuant to the Heads of Agreement (HOA);*
- (ii) *AUTHORISES the Chief Executive Officer to instruct the Town's Solicitors to prepare;*
  - (a) *a discharge of mortgage;*
  - (b) *a discharge of charge over the water licences;*
  - (c) *a discharge of charge over Allia Venue Management Pty Ltd; and*
  - (d) *a discharge of charge over West Hills;*
- (iii) *APPROVES of the Mayor and Chief Executive Officer to sign the above documents and affix the Council's Common Seal.*

---

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted.*

The Presiding Member advised that the Chief Executive Officer would provide Elected Members with an explanation of the report.

The Chief Executive Officer advised that:

1. The reason for the urgency of the report is to allow sufficient time for the Town's solicitors to prepare all the necessary documents and that a delay to the next meeting of Council to be held on 22 May 2007 would cause considerable pressure to meet the deadline of 30 May 2007.
2. The Heads of Agreement (HOA) contains a clause which allows for early or accelerated payment of the loan.
3. If the loan is fully repaid, the Town must discharge all mortgages and charges on licences.
4. At present, Allia Venue Management pay \$400,000 per annum to the Town, of which \$370,000 is used to pay the loan and the remaining \$30,000 is used as part of the Town's \$50,000 annual contribution to the Stadium Reserve Fund for maintenance. The Town will now be required to pay the \$50,000 from its own funding sources.
5. The HOA default provisions for any significant breaches by Allia will still remain in effect.
6. The full payout of the Town's loan will significantly reduce the Town's liability exposure.

Debate ensued.

Moved Cr Lake, Seconded Cr Ker

*That clause (ii) be amended to read as follows:*

*“(ii) **AUTHORISES the Chief Executive Officer to instruct the Town's Solicitors to prepare;***

- (a) a discharge of mortgage;*
- (b) a discharge of charge over the water licences;*
- (c) a discharge of charge over Allia Venue Management Pty Ltd; and*
- (d) a discharge of charge over West Hills;*

*subject to payout of the loan;*

The Chief Executive Officer advised that this amendment would not be legal as the Heads of Agreement allows for accelerated repayment of the loan and should this occur, the Town must discharge all mortgages and charges.

Cr Lake suggested that the recommendation should contain a reason why the Town is agreeable to a discharge of mortgage and charges. She therefore requested that the amendment be changed as follows, with the consent of the seconder:

*That clause (i) be amended to read as follows:*

- (i) **RECEIVES the report, advising of the Guarantors' intention to payout the balance of the Town's loan and ~~relating to the request from solicitors for North East Equity Pty Ltd and the Guarantors (Nicola Tana and David Rodwell) to discharge the Mortgage and associated licences and charges, being used as security for the Town's loan for Members Equity Stadium, pursuant to the Heads of Agreement (HOA);~~***

**The seconder agreed to the change.**

**AMENDMENT CARRIED (7-0)**

**(Mayor Catania and Cr Torre had left the meeting.)**

**MOTION AS AMENDED CARRIED (7-0)**

**(Mayor Catania and Cr Torre had left the meeting.)**

**COUNCIL DECISION ITEM 13.1**

*That the Council;*

- (i) *RECEIVES the report, advising of the Guarantors' intention to payout the balance of the Town's loan and the request from solicitors for North East Equity Pty Ltd and the Guarantors (Nicola Tana and David Rodwell) to discharge the Mortgage and associated licences and charges, being used as security for the Town's loan for Members Equity Stadium, pursuant to the Heads of Agreement (HOA);*
- (ii) *AUTHORISES the Chief Executive Officer to instruct the Town's Solicitors to prepare;*
  - (a) *a discharge of mortgage;*
  - (b) *a discharge of charge over the water licences;*
  - (c) *a discharge of charge over Allia Venue Management Pty Ltd; and*
  - (d) *a discharge of charge over West Hills;*
- (iii) *APPROVES of the Mayor and Chief Executive Officer to sign the above documents and affix the Council's Common Seal.*

---

**PURPOSE OF REPORT:**

The purpose of this report is to advise the Council of the intention of the Town's Stadium Manager Allia Venue Management Pty Ltd (Allia) and Guarantors to repay the Town's loan in full on 30 May 2007.

**BACKGROUND:**

On 7 May 2007, the Town's solicitors received a letter from Ilberys Lawyers, on behalf of Allia Venue Management Pty Ltd and the Guarantors, advising that sale of Lot 41 Beermullah Road, West Wanerie and the associated sale of water rights held in the name of "West Hills" will occur on 30 May 2007. The letter requests the Town to urgently prepare the following;

- (a) a discharge of mortgage;
- (b) a discharge of charge over the water licences;
- (c) a discharge of charge over Allia Venue Management Pty Ltd; and
- (d) a discharge of charge over West Hills;

and for this to occur as soon as practicable.

The Council previously dealt with this matter at its Ordinary Meeting of Council held on 27 February 2007, whereby it resolved as follows;

*"That the Council;*

- (i) *RECEIVES the report relating to the request from solicitors for North East Equity Pty Ltd and the Guarantors (Nicola Tana and David Rodwell) to vary the requirement of the Stadium Heads of Agreement (HOA), relating to the Mortgage Security;*
- (ii) *APPROVES of the Heads of Agreement (Clause 14 - Security for Guarantee and Indemnity) between the Town, North East Equity Pty Ltd, Allia Holdings Pty Ltd (Allia), Nicola Tana and David Rodwell (Guarantors) being varied by removing the Mortgage Security, subject to;*
  - (a) *the necessary Bank Guarantee (which will be for a diminishing amount as the Town's loan is gradually reduced) must remain in place as a security held by the Town, until the Town's loan is fully repaid;*
  - (b) *payment of all of the Town's legal costs associated with effecting the removal of the Mortgage and substituting the Bank Guarantee;*
- (iii) *AUTHORISES;*
  - (a) *the Chief Executive Officer to instruct the Town's solicitors to prepare the necessary legal documentation, as detailed in this report; and*
  - (b) *the Mayor and Chief Executive Officer to sign the necessary legal documents and affix the Common Seal."*

At the Special Meeting of Council held on 1 July 2003, the Council considered the legal documentation for the Multi-Purpose Rectangular Stadium and resolved inter-alia as follows;

*"That the Council;*

- (i) *APPROVES of the Heads of Agreement (as "Laid on the Table") between the Town and Allia Holdings Pty Ltd for the Provision of Catering Services, Operational Management Services and selling of Naming Rights for the proposed Multi Purpose Rectangular Sports Stadium, Pier Street, Perth, ...;*
- (ii) *AUTHORISES the Chief Executive Officer (in liaison with the Mayor) to make minor variations to the Heads of Agreement, which may arise during the finalisation of the document;*
- (iii) *AUTHORISES the Mayor and the Chief Executive Officer to sign the Heads of Agreement and affix the Common Seal;*
- (iv) *AUTHORISES the Chief Executive Officer to prepare legal contracts to include the details of the Principles contained in the Heads of Agreement; ... "*

On 9 February 2007, the solicitors for Allia, North East Equity and the Guarantors wrote to the Town's solicitors, Minter Ellison and advised that North East Equity proposes to sell the land the subject of the Mortgage Security. (The land at Wanerie comprises 254 hectares and was independently valued in 2003 at \$4 million as vacant possession and \$4.6 million for continuation of the existing use. The land value should have increased significantly since 2003.) They requested the Town to give consideration to removing the Mortgage Security in exchange for the provision of a bank guarantee.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Heads of Agreement at Clause 4.4, state that at any time during the term of the loan, Allia may pay the Town the whole or any part of the balance of the loan. Once the loan has been fully repaid, the Town must release the Guarantors from any covenants and discharge or mortgage security held by the Town. Allia Venue Management Pty Ltd will be required to continue providing all management services for the Stadium.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Strategic Plan 2006-2011, Objective 2.1.6(a) - *"Review leases and commercial contracts to ensure the best return for the Town, whilst being cognisant of its community service obligations."*

**FINANCIAL/BUDGET IMPLICATIONS:**

The Town is required to pay all legal costs associated with the discharge of mortgage security.

**COMMENTS:**

The Town has recently become aware, from newspaper articles, that Mr Nick Tana has recently sold his shares in a number of companies, for a substantial profit, estimated to be in the vicinity of \$50 million.

The Town's loan is indicatively \$3,917,018. A precise payout figure will be requested from the Western Australian Treasury Corporation.

The urgency of this matter preferably requires an early Council decision in order to comply with the legal requirements of the Heads of Agreement and to allow sufficient time for the Town's solicitors to prepare the necessary legal documentation.

Once the loan has been fully repaid, the Town's debt relating to Members Equity Stadium will be extinguished.

**14. CONFIDENTIAL REPORTS (Behind Closed Doors)**

Nil

**15. CLOSURE**

**The Presiding Member, Deputy Mayor - Cr Farrell, declared the meeting closed at 9.10pm with the following persons present:**

Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental and Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicker	Executive Manager, Technical Services
Annie Smith	Minutes Secretary

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 8 May 2007.

Signed: .....Presiding Member  
Mayor Nick Catania, JP

Dated this ..... day of ..... 2007



## SUMMARY OF COMMENTS

**PROPOSED TRAFFIC & PARKING IMPROVEMENTS  
LAWLER STREET, NORTH PERTH  
(OUTSIDE THE KYILLA PRIMARY SCHOOL)**

<b>IN FAVOUR:</b>	7
<b>PARTIALLY IN FAVOUR:</b>	1
<b>AGAINST:</b>	12

Related Comments *In Favour* of proposal

- Fantastic idea. It is becoming more and more dangerous with parked vehicles, children running across the road and other vehicles driving along that street. 45° parking on Lawler St is very welcomed.
- Something does need to be done. Staff and parents park on both sides of Selkirk St, making reversing out of your driveway difficult. Hopefully some of this traffic would park on Lawler St.
- Looking forward to these parking improvements taking place. Many thanks.
- 4 in favour but no further comments.

Related Comments *Partially In Favour* of proposal

- We support the intent of providing improved drop off and parking facilities for parents, however, we believe that a solution can be identified that does not involve the introduction of a one-way traffic flow for a section of Lawler St. Making a section of Lawler St one way would impact on residents 24 hours a day, 365 days of the year. In contrast, the benefits for parents only apply for two short periods of the day for less than 200 days of the year. Add to this the difficulty when approaching Lawler St from the west, of "going around the block" to approach our homes from the east as would be necessary with a one way street. To the north this involves having to make a difficult right hand turn into Walcott St, a busy four lane arterial road. To the south this involves having to use six streets in order to skirt around Kyilla Primary School and the neighbouring park. Possible solutions that improve parking for parents and does not negatively impact on residents could be:
  - Parallel parking rather than angle parking on the south side of Lawler St
  - A voluntary one-way traffic flow system for parents during drop off and pick up times (we understand that this works very successfully at Mt Lawley Primary School), and
  - A "kiss and drop" area for those parents not needing to take their children into the school but need an off the road zone to pull into and safely allow their children to get out of the car (again we understand that this works very well at Mt Lawley Primary School with parent volunteers supervising the "kiss and drop" zone, helping children get out of vehicles safely, helping them with their bags and closing doors and boots).

Related Comments *Against* the proposal

- We do not agree with the proposal in its present form
- I am happy with the street the way it is now. We would have many hassles with detouring into Walcott St with the change

- May I suggest that if the P&C want to make it more convenient to have a children's drop off and pick up zone for parents, they can enter from the Hunter St end and exit via Bedford St, for the sake of 15-20 minutes in the morning and afternoon. This would save the council \$90,000 to modify the road layout dramatically.
- We have grave concerns the laneway at the rear of our house will be used as a substitute for those wishing to cut through due to Lawler St being one way. There are already issues with parking in the laneway due to the increased development onto the laneway. Could speed humps and additional off street parking not solve the problem without having to make the road one way. Seems ridiculous that \$90,000 of our rates money needs to be spent on such a minor issue which is only a problem twice a day for 15 mins. However, residents are affected permanently. Thank you for your consideration.
- Agree increased parking is urgent for Kyilla and north side area BUT why treat the residents of this block of Lawler St in such an awful manner. The traffic is at its peak between 8.45 and 9.00 am and again at 2.45 pm and 3.00 pm. All clear by 3.30 pm. One way traffic is OK but all the limits and restrictions you are wanting against the residents in the block is NOT acceptable. How about some discussion with residents? We live here - school has many holidays. They should co-operate not rule us!
- It would be more practical if parents had a drop off and pick up point installed on the south western side of Lawler St with parents entering from the Hunter St end. The proposal as it stands will cause inconvenience for residents in this section of the street. The drop off and pick up zone would cost considerably less than the \$90,000 required for the proposal. The only times that congestion occurs is for about 15 minutes in the mornings and afternoons.
- I do agree with traffic pacification but NOT a one way street or "no stopping yellow lines". The freedom of choice and the right of access and parking for all residents are non-existent under the proposal. May I suggest a visit to the school by a planner to draw up a "self-managing and policing" traffic plan with parents instigating their own non-invasive traffic plan. Something like a "mental" one way plan where parents determine the direction of the traffic flow and use self-discipline and advertising to maintain it.
- We suggest the Council studies how St Paul's, Mt Lawley, and Aranmore Primary, Leederville, cope with traffic problems. Both have many more pupils than Kyilla and have a traffic management plan for parents/student. We do not want Lawler St to become a one way street.
- What is predominantly a school matter will have a **DRAMATIC NEGATIVE EFFECT** for the Lawler St residents and neighbouring street residents. The proposal will be used 20 minutes in the morning and 20 minutes when school finishes, 5 days a week for 39 weeks in the year, while the rate payers and residents will have to put up with this major disruptive change 24 hours a day, 7 days a week for **EVERY** week in the year **FOREVER!** We cannot see what major benefits this change will achieve for \$90,000 of ratepayers' money. The majority of primary schools in the Town have not resorted to such an everlasting dramatic change. The school bus zone on Bedford St is not frequently used and we wonder if it is not more prudent to use this as a drop off and pick up point. We presume this bus zone is for use for school buses for school excursions, etc. However, the school does not have a bus and public buses do not use Bedford St.
- We are concerned that parking restrictions may be put in place in Selkirk Street to encourage the use of Lawler St for school parking. As owners/residents in Selkirk St, we oppose any parking restriction in Selkirk St. Also, as residents, we have never had any problems with school-associated parking in or around Selkirk/Lawler Sts.
- 2 against but no further comments.

