



TOWN OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

22 MAY 2007

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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 22 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
Cr Steed Farrell (<i>Deputy Mayor</i>)	North Ward
Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Maddalena Torre	South Ward (from 6.07pm)
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
Chris Thomson	Journalist - " <i>The Perth Voice</i> " (until 7.10pm)

Approximately 13 Members of the Public

(c) Members on Leave of Absence:

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

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

1. Mr Matt Turnbull, from Greg Rowe and Associates, 369 Newcastle Street, Northbridge - Item 10.1.2 - Summarised the changes that they have made to the plans. Believes that all the right changes have been made to address the concerns raised. Advised that a chair lift has been added to the front of the building and substantial changes have been made to the basement to increase manoeuvrability and compliance with Australian Standards. Requested Council support the application.

2. Mr Anthony Magri of 41A Cowle Street, West Perth - Item 10.1.1 - Stated that they have addressed concerns in particular with regards to height, east boundary wall and streetscape. Requested that Council approve the application.

Cr Torre entered the meeting at 6.07pm.

3. Mr Anthony Kerr of 32 Ruby Street, North Perth - Item 10.1.5 - Believes the demolition of the dwelling would have a detrimental impact on the character and heritage value of the area. Stated that there are concerns that no redevelopment plans have been submitted and that the new development will not be compatible with the streetscape. Believes the place is a good example of the federation style in one of the most original streetscapes in the area and is in good condition. Referred to the Knutsford Locality Plan Policy Statement.
4. Ms Martina Sedic of 3/36 Monmouth Street, Mt Lawley - Item 10.1.1 - Advised that immediate neighbours have been contacted and they have no objections the proposal. Requested that Council consider this when making their decision.
5. Mr Marco Vittino of 16 Orange Avenue, Perth - Item 10.1.3 - Advised that they have to regularly put up with rowdy behaviour from the property such as loud music until 5.30am. Stated that they would support any change to the situation.

There being no further questions from the public, the Presiding Member, Mayor Nick Catania, JP, closed Public Question Time at 6.15pm.

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

- 4.1 Cr Maddalena Torre for the Special Meeting of Council to be held on 29 May 2007 for family reasons.

Moved Cr Doran-Wu, Seconded Cr Farrell

That Cr Torre's request for leave of absence for the Special Meeting of Council to be held on 29 May 2007, for family reasons, be approved.

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

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 8 May 2007.

Moved Cr Farrell, Seconded Cr Torre

That the Minutes of the Ordinary Meeting of Council held on 8 May 2007 be confirmed as a true and correct record.

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.1 Proposed Local Law Relating to Local Government Property

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 various local laws and proposes to adopt a new Local Law Relating to Local Government Property Item 10.4.3 on tonight's Agenda.

The purpose of this Local Law is to provide for the regulation, control and management of activities and facilities on local government and public property within the district.

The effect of this Local Law is to establish the requirements with which any person using or being on local government or public property within the district must comply.

7.2 Certificate of Appreciation

I wish to advise that Marianne Osboldstone, a Library Technician in the Town's Library will be retiring in early June after thirteen years service with the Town and four and a half years with the former City of Perth. Marianne has been an excellent employee who has always provided her best to the Town and is highly regarded by her work colleagues.

Marianne is unable to attend tonight's presentation and on behalf of the Council may I extend our appreciation for her valuable service to the Town and wish her well in her retirement.

Received with acclamation.

7.3 Stadium Taskforce Report

The Mayor advised that he and the Chief Executive Officer had been invited by the Department of Sport and Recreation to attend a briefing on Wednesday regarding the Stadium Taskforce's report/recommendations to the Government. Mayor Catania read an article from The Western Australian Newspaper's "Inside Cover" dated 22 May 2007. Stated that the Town has wisely not commented because it is premature, no report has been tabled and there has been no comment from the Government as to the location of the Stadium.

Cr Maier departed the Chamber at 6.20pm.
Cr Maier returned to the Chamber at 6.21pm.

8. DECLARATION OF INTERESTS

Nil.

**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 10.1.2, 10.1.1, 10.1.5 and 10.1.3

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, 10.2.1, 10.3.2, 10.4.1 and 10.4.2

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	Items 10.1.6 and 10.1.8
Cr Chester	Nil.
Cr Doran-Wu	Nil.
Cr Torre	Nil.
Cr Lake	Item 10.1.7
Cr Maier	Item 10.4.3
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:

Nil.

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

Items 10.1.4, 10.1.9, 10.1.10, 10.2.2, 10.2.3, 10.3.1, 10.4.4 and 10.4.5

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

Item 14.1

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 10.1.4, 10.1.9, 10.1.10, 10.2.2, 10.2.3, 10.3.1, 10.4.4 and 10.4.5

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

Items 10.1.2, 10.1.1, 10.1.5 and 10.1.3

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

Moved Cr Torre, Seconded Cr Farrell

That the following unopposed items be moved en bloc;

Items 10.1.4, 10.1.9, 10.1.10, 10.2.2, 10.2.3, 10.3.1, 10.4.4 and 10.4.5

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

**10.1.4 No. 164 (Lot 68) Flinders Street (Corner Green Street), Mount Hawthorn
- Proposed Subdivision**

Ward:	North	Date:	14 May 2007
Precinct:	Mount Hawthorn; P01	File Ref:	134 111; 7.2007.14.1
Attachments:	001		
Reporting Officer(s):	S O'Loughlin		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Residential Design Codes, the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission of the application submitted by Giudice Surveys on behalf of the owner P D & M D Maddalena for proposed subdivision of No. 164 (Lot 68) Flinders Street, corner Green Street, Mount Hawthorn, and as shown on plan stamp-dated 14 March 2007 (Subdivision 134 111), subject to the following conditions:

- (i) the street verge tree(s) on Flinders Street adjacent to the subject land being retained and measures being taken to ensure their identification and protection to the satisfaction of the Town prior to commencement of site works;*
- (ii) the land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost. The maximum permitted amount of fill, and height of associated retaining walls, is 500 millimetres above the existing pre-subdivision ground level, and any greater amount of fill or higher retaining wall requires a separate Planning Approval to be applied to and obtained from the Town of Vincent;*
- (iii) all buildings and effluent disposal systems, having the necessary clearance from the new boundaries as required under the relevant legislation;*
- (iv) support of the subdivision is not to be construed as support of the demolition of the existing building(s) and/or any development on the proposed lots;*
- (v) all buildings and structures that have been granted Planning Approval and/or Demolition Licence for demolition being demolished and materials removed from the site and the site made good. A separate Planning Approval and/or Demolition Licence is required from the Town prior to the commencement of any demolition works;*
- (vi) if any portion of the existing building(s) is to be demolished to facilitate the proposed subdivision, a separate Planning Approval and/or Demolition Licence is to be obtained from the Town for the demolition of the existing building(s) prior to the clearance of the Diagram or Plan of Survey by the Town;*
- (vii) a minimum two (2) metres by two (2) metres truncation being provided where Green Street intersects with the right of way. The truncation shall be free of any structures and sealed to the satisfaction of the Town, at the subdivider's cost; and*
- (viii) proposed Lot 681 being truncated to the building line at the corner of Green Street and Flinders Street. The dimensions of the truncation shall be ascertained by a licensed land surveyor.*

COUNCIL DECISION ITEM 10.1.4

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED "EN BLOC" (7-0)

(Crs Ker and Messina on leave of absence.)

Landowner:	P D & M D Maddalena
Applicant:	Giudici Surveys
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
Existing Land Use:	Single House and Single House/ Shop
Use Class:	Single House
Use Classification:	"P"
Lot Area:	577 square metres
Access to Right of Way	Western side, 5.0 metres wide, sealed, privately owned

BACKGROUND:

- 15 November 2001: An application for change of use from local shop to shop (beauty therapy) was approved under delegated authority by the Town.
- 12 December 2002: An application for an additional single house to the existing shop was granted conditional approval under delegated authority by the Town.
- 26 March 2003: The Western Australian Planning Commission granted conditional subdivision approval of the subject property into two lots. This subdivision was not completed within the 3 year approval period.
- 16 December 2003: An application for an additional two-storey single house to existing shop was granted conditional approval by the Council at its Ordinary Meeting.
- 6 September 2006: An application for patio additions to existing single house was granted conditional approval under delegated authority by the Town.

DETAILS:

The proposal involves the subdivision of the subject property into two (2) freehold lots.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	1.92 dwellings/lots R30	2 dwellings/lots R34.6 1.039 per cent density bonus	Supported - <ul style="list-style-type: none"> • variation is considered minor; • proposed subdivision reflects two existing dwellings and will not result in any additional dwellings on site; • area of proposed lots are compliant with minimum lot size requirements; • proposed subdivision is in keeping with Ellesmere Locality Plan No.5 which states <i>'the retention and/or restoration of existing houses which contribute to the overall character of the Locality will be encouraged'</i>. • the existing single house/shop is considered worthy of retention and its retention warrant a density bonus; and • no undue impact on streetscape or surrounding amenity.
Plot Ratio	N/A	N/A	Noted
Consultation Submissions			
The proposed subdivision did not require any community consultation.			
Other Implications			
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

COMMENTS:

Heritage and Streetscape

The corner place comprises a corner shop and attached dwelling. The place at No.164 (Lots 68) Flinders Street, Mount Hawthorn is not currently listed on the Town of Vincent's Municipal Heritage Inventory (MHI). The Wise Post Office Directories indicates that the premises were constructed in the 1930's.

The provision of density bonuses is not restricted to places that are on or meet the threshold for inclusion onto the MHI. As stipulated in the Ellesmere Locality Plan No.5 *"the retention and/or restoration of existing houses which contribute to the overall character of the Locality will be encouraged."*

Corner shops are important components of the Town's original building stock. Prior to the invention and mass production of the motor vehicle, the spatial distribution of the population of Perth metropolitan area developed alongside the public transportation systems such as railway lines and trams. Commercial uses reflected the reliance on public transport. With the advent of the car, the areas between the transport routes could be developed to cater for the everyday requirements of the new neighbourhood's and as a result corner shops were constructed. With the emerging development of the supermarket chains after World War II, the viability of the corner store was weakened.

The corner shop and attached dwelling at No. 164 (Lots 68) Flinders Street, Mount Hawthorn contributes to the historic character of the area and should be retained. Therefore, the provision of a density bonus is supported in this instance.

Conclusion

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

10.1.9 No. 64A (Lot 1) Wasley Street, North Perth - Unauthorised Demolition of a Grouped Dwelling

Ward:	South	Date:	11 May 2007
Precinct:	Norfolk; P10	File Ref:	PRO3523
Attachments:	001		
Reporting Officer(s):	N Wellington		
Checked/Endorsed by:	D Abel, R Boardman, John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council AUTHORISES the Chief Executive Officer to instruct the Town's Solicitors to commence legal proceedings against the owner of No. 64A (Lot 1) Wasley Street, North Perth for contravention of Section 374A (1) of the Local Government (Miscellaneous Provisions) Act 1960 for failing to obtain a Demolition Licence prior to demolishing the dwelling at No. 64A (Lot 1) Wasley Street, North Perth.

COUNCIL DECISION ITEM 10.1.9

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED "EN BLOC" (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

To obtain the Council's approval for the Chief Executive Officer to initiate legal proceedings in accordance with the Town's Prosecution Policy No. 4.1.22 for an alleged unauthorised demolition at 64A (Lot 1) Wasley Street, North Perth.

BACKGROUND:

The development at St Michael's Nursing Home and Independent Living Units, 53-65 Wasley Street, North Perth has been the subject of numerous ratepayer complaints over an extended period of time. The prime complaints have related to the lack of parking in nearby streets and alleged non-compliance of Council development conditions. The following is some relevant history:

25 July 2006

The Council at its Ordinary Meeting granted approval for demolition of the western grouped dwelling and construction of a temporary car park, and change of use of the eastern grouped dwelling to temporary storage associated with the institutional building (St Michael Nursing Home and Independent Living Units) at Nos. 53-65 Wasley Street, corner Norfolk Street, and Forrest Street, North Perth, subject to several conditions, including the following condition:

"(xi) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;"

- 9 August 2006 Approval to Commence Development Serial No. 5.2006.143.1 for demolition of the western grouped dwelling and construction of a temporary car park, and change of use of the eastern grouped dwelling to temporary storage associated with the institutional building (St Michael Nursing Home and Independent Living Units) at Nos. 53-65 Wasley Street, corner Norfolk Street, and Forrest Street, North Perth was issued by the Town.
- 1 May 2007 The Town received a written complaint alleging non-compliance with a number of conditions of the abovementioned Approval.
- 3 May 2007 A site inspection undertaken by the Town's Development Compliance Officer revealed that the western grouped dwelling has been demolished and the temporary car park has been constructed and is being utilised. A search of the Town's records revealed that a Demolition Licence for the subject development had not been applied for and obtained from the Town.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Section 374A(1) of the Local Government (Miscellaneous Provisions) Act 1960 states:

"No person shall commence to take down a building or part of a building until he has submitted to the Local Government an application in prescribed form and the Local Government has approved the application and issued a licence for the work."

STRATEGIC IMPLICATIONS:

This matter is in accordance with the Town's Strategic Plan 2006-2011 – Objective 4.1.2 *Manage the organisation in a responsible, efficient and accountable manner.*"

FINANCIAL/BUDGET IMPLICATIONS:

The 2006/2007 Budget lists \$5,000 for Building - Legal Expenses. The costs associated with undertaking prosecution proceedings, including Solicitors costs, are to be determined. If successful in the prosecution proceedings, the Town may be able to recover associated costs.

This matter is in accordance with Policy No 4.1.22 – Prosecutions.

COMMENTS:

The Town has also written to the owners of the subject development seeking their written advice of the owners' intention to comply with a number of conditions contained within the Approval to Commence Development.

In light of the above, it is recommended that the Chief Executive Officer be authorised to commence prosecution proceedings.

10.1.10 Town of Vincent Local Emergency Recovery Plan

Ward:	Both	Date:	9 May 2007
Precinct:	All	File Ref:	ENS0071
Attachments:	-		
Reporting Officer(s):	J MacLean		
Checked/Endorsed by:	R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *ADOPTS the Town of Vincent Local Emergency Recovery Plan April 2007, as "Laid on the Table";*
- (ii) *AUTHORISES the Manager Ranger Services and Community Safety to make minor procedural changes to the Town of Vincent Local Emergency Recovery Arrangements, should the need arise; and*
- (iii) *REQUESTS that any minor procedural changes, made by the Manager Ranger Services and Community Safety, be reported to the Council annually, for the information of Elected Members.*

COUNCIL DECISION ITEM 10.1.10

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED "EN BLOC" (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to formally adopt the Town of Vincent Emergency Recovery Plan, which will be attached to the Western Central Local Emergency Management Committee Recovery Plan.

BACKGROUND:

Eight Local Governments from the Central Metropolitan Police District have combined for the purposes of Emergency Management and, as a result, the Western Central Local Emergency Management Committee (WC LEMC) was formed in 2005. The WC LEMC consists of representatives from the Towns of Vincent, Cambridge, Claremont, Cottesloe and Mosman Park, the Cities of Nedlands and Subiaco and the Shire of Peppermint Grove.

The Emergency Management Act 2005 places various responsibilities on Local Governments with regard to Emergency Management. A Local Government is to ensure that Local Emergency Management Arrangements are developed, within the framework and guidelines, set out in the Act. However, this does not mean that Local Government is to develop the Arrangements themselves, only that it is to be the "driver" of the process and that the Arrangements are to be developed in partnership with other stakeholders.

DETAILS:

While Local Government is charged with "driving" the development of Local Arrangements, the Emergency Management Act 2005 specifies that the recovery of the community, after an emergency, is a Local Government responsibility and this requires the Local Government to develop Local Emergency Recovery Arrangements.

So as to avoid duplication and a high workload for all eight Local Governments, the members of the WC LEMC formed a "Recovery Working Group", to develop a generic Emergency Recovery Plan, which would be usable throughout the whole region and with appendices that dealt with the many specific vulnerabilities and emergency contacts for each individual Local Government. The appendices also allocate Team-Leader responsibility for the various sub-committees that would be convened to ensure that the recovery phase, of an emergency, is correctly managed.

Given that the Town of Vincent would be responsible for the Recovery of the community, following an emergency and in keeping with the Emergency Management Act 2005, it is important that the Council formally adopts the Emergency Recovery Plan. At the same time, the other seven (7) Local Governments that make up the WC LEMC, will also adopt the Emergency Recovery Plan, for their individual areas.

Because the Town of Vincent Local Emergency Recovery Arrangements is a working document, it may be necessary for minor amendments to be made, to take account of changing situations. Rather than a need to report back to the Council each time a minor change is identified as being appropriate, it is requested that the Council authorise the Manager Ranger Services and Community Safety to make such changes and to report back to the Council on an annual basis. The Manager Ranger Services and Community Safety is currently the Chairperson of the WC LEMC and acts on behalf of the Town of Vincent. In the event that a change, which is not a minor procedural one, is required, the matter would be reported to the Council for their approval.

Local Emergency Recovery Arrangements will enhance the Town's existing co-ordinated and integrated approach to community safety, referred to in the recently adopted Town of Vincent Community Safety and Crime Prevention Plan 2007-10, which will be updated annually. The Local Emergency Recovery Arrangements will co-ordinate with the action plans, contained in the Town of Vincent Community Safety and Crime Prevention Plan 2007-10 and will assist in mapping, holistically, all of the Town actions in the safety arena.

CONSULTATION/ADVERTISING:

The Town of Vincent Local Emergency Recovery Plan is a working document, which sets out the Town's responsibilities and actions to recover from an emergency. At this stage, it is considered appropriate for the Plan to be only considered by the Council Elected Members and Officers. When the Council has formally adopted the Local Emergency Recovery Plan, it will be available for public comment and, since it will be a "living" document, appropriate amendments can be made, if short-comings are identified, or if a new potential emergency presents itself.

LEGAL/POLICY:

Under the Emergency Management Act 2005, there is a legal requirement for the Town of Vincent to develop and adopt a Local Emergency Recovery Plan. Once adopted, it will form the framework for all recovery actions by the Town.

STRATEGIC IMPLICATIONS:

The above report meets the requirements of Strategic Objective 1.1.4(h) *"Develop Emergency Response and Recovery Management Plans, to promote a Prepared community"*,

Strategic Objective 3.1.2 (j) *"Promote the Emergency Management Plan and educate residents and ratepayers to be able to respond to emergencies; and*

Strategic Objective 3.1.2 (d) *"Promote and implement the Safer Vincent Crime Prevention Plan 2006 which aims to support develop and deliver residential and business initiatives that reduces crime and promotes safety and security."*

FINANCIAL/BUDGET IMPLICATIONS:

There are no immediate budget implications associated with the adoption of the Plan, but when the Local Emergency Management Arrangements are completed and the Recovery Arrangements are appended to the document, there will be a small cost associated with advertising and promotion.

COMMENTS:

Approval of the above report will allow the Town of Vincent to meet the legislative requirements of the Emergency Management Act 2005. The Arrangements are similar to those already in place and the report is recommended for approval.

10.2.2 Carbon Neutral Program - Progress Report No. 1

Ward:	Both	Date:	16 May 2007
Precinct:	All	File Ref:	ENS0027
Attachments:	-		
Reporting Officer(s):	J Lockley		
Checked/Endorsed by:	R Lotznicker	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES** the Carbon Neutral Program - Progress Report No. 1;
- (ii) **NOTES** as part of this programme, that two (2) Tree Planting Sessions will be held in July 2007 and August 2007 respectively, as outlined in the report;
- (iii) **APPROVES** the placing of relevant information (including details, maps and locations of the proposed tree planting sessions) on the Town's web site, and provides the Town's precinct groups, Elected Members and staff with this information; and
- (iv) **RECEIVES** further reports as required on future planting programs.

COUNCIL DECISION ITEM 10.2.2

Moved Cr Torre, **Seconded** Cr Farrell

That the recommendation be adopted.

CARRIED "EN BLOC" (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the progress with the Carbon Neutral Program tree planting through *Men of the Trees*, to offset the carbon emissions created from the Town's vehicle fleet.

BACKGROUND:

At its Ordinary meeting held on 10 October 2006, the Council received a comprehensive report on the Carbon neutral program where the following decision was adopted (in part)

"That the Council;

- (ii) **NOTES** that a total of 875 Tonnes of carbon dioxide is produced annually by the Town's vehicle fleet and a total of 3,790 trees would be required to be planted annually, as part of the program, at a cost of \$8,795 per annum to counteract the Town's carbon dioxide emissions;

- (iii) *APPROVES BY AN ABSOLUTE MAJORITY the expenditure of \$4,280 from a source to be identified by the Chief Executive Officer, for the Men of the Trees to plant 1,899 trees, at sites which are deemed to be high priority due to salinity or other environmental problems, to counteract the Town's annual diesel emissions for 2006/2007;*
- (iv) *LISTS for consideration in the 2007/2008 draft budget and subsequent budgets an amount of \$8,600 to fully implement the Carbon Neutral Program and investigates the feasibility and cost of applying the Program to all fuel used by the Town's motor vehicles;*
- (v) *REQUESTS that the Men of the Trees, in liaison with the Town's officers, encourage/notify the Mayor, Elected Members and staff of the Town, community groups and the Town's residents to be involved in the organised planting of the trees at the chosen locations;*
- (vi) *Receives further reports as required on the progress of the planting program; and*
- (vii) *NOTES that this initiative supplements, and does not replace, initiatives to reduce the use of non- renewable energy by the Town in its operations."*

The Town subsequently joined the program in late 2006.

DETAILS:

The following correspondence was received from Men of the Trees in May 2007:

"We are delighted to advise that Carbon Neutral (CN) is now a registered company limited by a guarantee with not for profit status. This will allow CN to expand nationally in compliance with ASIC regulations.

We are in the process of acquiring tax deductibility status for Carbon Neutral Ltd so future donations can be made to CN instead of Men of the Trees Public Environmental Gift Fund saving confusion and administration delays.

Men of the Trees Inc. maintain a controlling interest in Carbon Neutral, ensuring the integrity and accountability of all involved. Therefore to satisfy the demand for more secure, verifiable product Carbon Neutral has decided to provide a product that can be accredited with the Australian Greenhouse Office and are in the process of becoming an Approved "Greenhouse Friendly" Abatement Provider.

Since 2003 CN has been planting trees on sites with 30 year agreements or covenants to protect the trees. This product was based on calculations of an average of 4.3 trees to sequester one tonne of CO2 over 30 years.

We are phasing out this product and replacing it with two new carbon pools (forest sinks) that are secure for 70 years and for which the carbon sequestration will be verified.

Both carbon pools are being established under Greenhouse Friendly (GF) guideline, which include conducting verifiable estimations of carbon to be sequestered. We are using the National Carbon Accounting System (NACS) methods and software (the NCAS Toolbox) to obtain verifiable estimates of carbon sequestration for each site planted."

In accordance with clause (v) of the Council decision Men of the Trees have advised of two (2) planting sessions where the Town's staff, Elected Members and residents can volunteer to plant carbon neutral seedlings as follows:

Planting Session 1 - July 2007

The first session is on Friday 20 July to Sunday 22 July 2007 at Ballidu (north of Perth just outside of Moora) where 37,000 carbon neutral seedlings are set to be planted on a property chosen under threat from rising groundwater table and salt.

Men of the Trees will offer a bus service for the Saturday morning of 21 July returning Sunday evening 22 July. All meals will be provided (except Saturday lunch) and a hall can be used as accommodation for the night (blankets not included).

On Sunday 22 July 2007, a special event to celebrate the foundation of the Men of the Trees in Kenya in 1922 will take place. The Men of the Trees asks for anyone attending the event to donate \$50.

Planting Session 2 - August 2007

The second date available for the Town to volunteer for tree planting is Friday 17 August 2007 to Sunday 19 August 2007. Over 20,000 carbon neutral seedlings consisting of a mixed biodiversity suited to the area have been chosen for a large project to revegetate a major creek line running through a property in Coomberdale just outside of Dalwallinu.

The Men of the Trees will provide transport on Friday 17 August 2007, returning on Sunday 19 August with accommodation provided at the site. Again, blankets will not be included, however all main meals will be provided except for Friday lunch.

Comments

Should officers/residents wish to attend one of the days only, alternative transport would need to be arranged.

CONSULTATION/ADVERTISING:

Details, maps, locations of the proposed tree planting sessions will be posted on the Town's website and the Town's precinct groups, Elected Members and staff will be provided with this information.

LEGAL/POLICY:

Nil

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.4 Minimise negative impacts on the community and environment. *“(c) implement and promote further methods to reduce the impact of pollution.”*

FINANCIAL/BUDGET IMPLICATIONS:

N/A

COMMENTS:

With the rise in awareness of Global Warming, scientists warn us that carbon dioxide (CO₂) is causing increasing levels of atmospheric carbon which is leading to accelerated climate change. One viable way to reduce the pace of global warming is to reduce carbon emissions by planting trees to reduce the greenhouse gases effects.

The Carbon Neutral Program allows the Town to offset the emissions generated from its vehicle fleet. Staff, Elected Members and the community are encouraged to become actively involved in the tree planting sessions as outlined in this report.

10.2.3 International Council for Environmental Initiative's (ICLEI-A/NZ) - Water Campaign™ Program

Ward:	Both	Date:	16 May 2007
Precinct:	All	File Ref:	PLA0114
Attachments:	-		
Reporting Officer(s):	R Lotznicker, J Lockley		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the International Council for Environmental Initiative's (ICLEI-A/NZ) - Water Campaign™ Program;*
- (ii) *ENDORSES the Town of Vincent joining the International Council For Environmental Initiative's (ICLEI-A/NZ) - Water Campaign™ Program and commencing actions to achieve the five (5) milestones at a cost of \$1,650;*
- (iii) *LISTS \$1,650 for consideration in the 2007/2008 draft budget to enable the Town to become a member of the ICLEI-A/NZ - Water Campaign™ Program; and*
- (iv) *RECEIVES progress reports on the program as the respective milestones are achieved.*

COUNCIL DECISION ITEM 10.2.3

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to provide the Council with an overview of the International Council for Environmental Initiative's Water Campaign™ which is being delivered through its Australia/New Zealand Office (ICLEI-A/NZ) and seek Council's approval to join this campaign.

BACKGROUND:

The ICLEI-A/NZ Water Campaign is an international freshwater management program which aims to build the capacity of local government to reduce water consumption and improve local water quality.

The campaign was introduced and piloted in Australia in 2002 with the assistance of five ICLEI member Councils - the Shire of Sutherland and City of Wollongong in NSW, and the Cities of Melbourne, Mitcham and Port Phillip in Victoria.

The program has since expanded and there are now 88 local governments participating in the program in South Australia, Victoria, New South Wales, Western Australia and Tasmania.

The participating local governments within Western Australia are as follows:

Shire of Augusta-Margaret River	City of Mandurah
Town of Bassendean	City of Melville
City of Bayswater	Town of Mosman Park
City of Belmont	Shire of Mundaring
Shire of Boddington	Shire of Murray
City of Bunbury	City of Nedlands
Town of Cambridge	Shire of Peppermint Grove
Shire of Capel	City of Perth
Town of Claremont	City of Rockingham
Town of Cottesloe	City of South Perth
Shire of Cuballing	City of Subiaco
Shire of Harvey	Shire of Serpentine-Jarrahdale
Shire of Kalamunda	Shire of Wandering
Town of Kwinana	Shire of Waroona

The Water Campaign is delivered by ICLEI-A/NZ in collaboration with local and state governments, water authorities and the Australian Government. In Western Australia the program is delivered with the support of the state government.

ICLEI-A/NZ has formed a partnership with the Western Australian Local Government Association (WALGA), who hosts the WA ICLEI-A/NZ Water Campaign Coordinator.

DETAILS:

Issues and options considered:

The Water Campaign provides local governments with a tested program model, covering a broad spectrum of water management issues. The program involves progressing through five (5) milestones, that guide participating local governments through a process of local research, policy making, action planning, implementation and evaluation as follows:

- Milestone 1
Undertake a water consumption inventory and water quality checklist.
- Milestone 2
Establish a water consumption reduction goal and water quality improvement goal.
- Milestone 3
Develop and adopt a local action plan.
- Milestone 4
Implement policies and actions to work towards integrated freshwater resource management and quantify the benefits.
- Milestone 5
Monitor and report on water consumption reductions, water quality improvements and water management initiatives.

The Water Campaign supports the systemic identification and evaluation of the water resource management challenges facing local governments at three levels Corporate, Community and Catchment, as follows:

- Corporate
What local governments can do to control within their own operations.
- Community
How local governments can influence their community through land use planning, education and regulation.
- Catchment
How a collective group of local governments can work together for long-term improvement in water management. ICLEI-A/NZ is currently developing and piloting an approach to assist participants to engage with other Councils and stakeholders to address water management at the catchment level.

Potential Benefits of Membership

According to ICLEI-A/NZ, the following are some of the benefits of participation.

- Achieve environmental and economic benefits through reducing water consumption.
- Expand the capacity of the local government by increasing knowledge in the area of water management.
- Reduce demand on potable water supply and wastewater facilities.
- Demonstrate wiser use of water within local government operations and the local government area.
- Increase use of wastewater and on-site retention of stormwater.
- Reduce peak flow levels in urban waterways.

Support Provided

The Water Campaign supports local governments to:

- Improve environmental performance by using best practice management approaches in the areas of open space, construction and waste collection.
- Save money through the installation of water efficient devices in Council buildings.
- Influence the community through the promotion of water sensitive urban design.
- Change community consumption patterns through influence and community education.
- Demonstrate leadership to the community and amongst other Councils through the sustainable management of water resources.
- Access an extensive peer network of participants from across Australia.
- Protect local water bodies from contaminants entering through drainage systems.

Other

In addition, ICLEI-A/NZ will provide the following for Water Campaign participants:

- Promotion and recognition.
- Presentations by ICLEI-A/NZ staff to Elected Members and senior management.
- Promotion of actions that local governments have implemented.
- Recognition events to celebrate local government milestones and achievements.
- Communication and media materials to help local governments gain local support for their initiatives.
- Assistance with planning local media events.

Technical and program training will include:

- Water campaign Inventory Tool to establish a comprehensive inventory of water consumption and identify the priority areas for action.
- Quantification tool kits to assist with the quantification of benefits resulting from the implementation of actions.
- Training workshops in the milestones and assistance in developing action plans.
- Direct one-to-one support over the phone to follow up the workshops.
- Access to expertise and networks of Councils to exchange ideas and solutions.
- Information and Publications.
- Access to Water Campaign website.
- Workbooks, case studies, monthly bulletins.
- Advice on funding opportunities and programs.
- Access to a network of Councils willing to exchange ideas and solutions regarding water management issues.

Comments

Participating in the Water Campaign will require the allocation of resources to "project manage" the project and associated costs of implementation of action plans.

The Town will be required to identify a primary contact to act as the key contact and facilitate/coordinate the local government's involvement in the program and a cross department team would need to be developed that to provide input into the direction of the program.

ICLEI-A/NZ has advised that experience across participating local governments indicates that the work for the officer to achieve Milestones 1 and 2 would involve approximately one day per week for 12 to 16 weeks. The development of local action plans would then become the responsibility of departments identified through the inventory process as the areas in which water consumption and water quality issues are influenced.

Currently, the Town does not have an Environmental (Sustainability) Officer and tasks such as these are often managed by either Technical Services or Environmental and Development Services. In this instance it is suggested that the Technical Services Division Waste Management Officer be the primary contact with regard to the water campaign program, however, as the matter progresses additional administrative assistance may be required.

Environmental/Sustainability Officer

At the Budget Briefing held on 12 May 2007, the Chief Executive Officer verbally advised that he is currently investigating the appointment of an Environmental or Sustainability Officer. This person will be responsible for the co-ordination of environmental matters. The person will be funded by reviewing current positions in the organisation.

CONSULTATION/ADVERTISING:

A project of this nature has a community component, which will require community consultation and engagement to occur, including community education and promotional campaigns.

LEGAL/POLICY:

N/A

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:

As a member of ICLEI, the Water Campaign participation fee is \$1,650 per annum.

The Town will need to allocate a part-time resource that would co-ordinate, monitor and report the progress of the program.

Further costs will be determined upon completion of milestone 3 when specific projects and programs are identified through the Local Action Plan process.

COMMENTS:

As water is one of our most precious resources and better management of water quality and use can achieve improved future sustainability.

The Town has previously achieved Milestone 5 in the ICLEI – A/NZ Campaign to reduce greenhouse omissions. It is therefore appropriate to participate in this campaign.

The Town, by joining the Water Campaign program, has the opportunity to take a leadership role in the local area and be part of a growing network of local governments, in Western Australia and nationally, who have identified integrated water resource management as a priority for financial, environmental and social reasons.

10.3.1 Financial Statements as at 30 April 2007

Ward:	Both	Date:	10 May 2007
Precinct:	All	File Ref:	FIN0026
Attachments:	001		
Reporting Officer(s):	B C Tan		
Checked/Endorsed by:	M Rootsey	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVES the Financial Reports for the month ended 30 April 2007 as shown in Appendix 10.3.1.

COUNCIL DECISION ITEM 10.3.1

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to present the financial statements for the month ended 30 April 2007.

BACKGROUND:

The Local Government Act and Local Government (Financial Management) Regulations 1996 require monthly reports and quarterly financial reports to be submitted to Council. The Financial Statements attached are for the month ended 30 April 2007.

DETAILS:

The Financial Statements comprise:

- Operating Statement
- Summary of Programmes/Activities
- Capital Works Schedule
- Balance Sheet (Statement of Financial position) and Statement of Changes in Equity
- Reserve Schedule
- Debtor Report
- Rate Report
- Beatty Park Report – Financial Position
- Statement of Financial Activity
- Net Current Asset Position
- Variance Comment Report

Operating Statement and Detailed Summary of Programmes/Activities

The Operating Statement shows revenue and expenditure by Programme whereas the Summary of Programmes/Activities provides detail to Programme/Sub Programme level. Both reports compare actual results for the period with the Budget. The Operating Statement and the Summary of the Programmes Activities reports are in a new format providing a comparison between the year to date actual revenue and expenditure with the year to date budget.

The statements place emphasis on results from operating activity rather than construction of infrastructure or purchase of capital items and principally aim to report the change in net assets resulting from operations.

Operating Revenue

Operating revenue is currently 4.73% over the budget year to date as at the end of the month of April.

General Purpose Funding (Page 1)

General Purpose Funding is showing 101 % of the budget levied to date. This is due to rates being levied for the financial year; the rates revenue represents 100% of the budgeted amount for the rates income. In addition interest income has exceeded budgeted estimates.

Governance (Page 2)

Governance is showing 269 % of the budget received to date; this is due the sale of electoral rolls.

Law Order & Public Safety (Page 3)

Revenue is now showing a 102.80% of budget to date

Health (Page 4)

Health is showing 7 %, over budget this is due to 327 Health Licences being issued for Lodging Houses, Eating Houses and alfresco dining.

Education & Welfare (Page 5)

Education and Welfare is now showing 8 % below budget, this is as a result of the adjustment of the budget to account for the increased operating surplus Leederville Garden Retirement Village.

Community Amenities (Page 6)

Community Amenities is 10 % above the year to date budget, this is the result of 516 planning applications being processed to date and the issue of non rateable and commercial properties for their refuse charges.

Recreation & Culture (Page 9)

The total revenue for Recreation and Culture is on target at 8.9 % above their revenue budget. Beatty Park Leisure Centre revenue is 63 % of the total Recreation and Culture revenue budget and performing favourably with the centre year to date budget of 108%.

Economic Services (Page 12)

Economic Services is 36.3 % over budget which is due to the increase number of building licences issued

Other Property & Services (Page 13)

The total revenue for Other Property & Services is 97.9% over the budget which is due the higher insurance claims for the last 10 months and lease on Tamala Park exceeded budget.

Operating Expenditure

Operating expenditure for the month of April is on budget with the year to date budget.

Capital Expenditure Summary (Pages 18 to 24)

The Capital Expenditure summary details projects included in the 2006/07 budget and reports the original budget and compares actual expenditure to date against these. Capital works show total expenditure including commitment for April amount of \$6,270,119 which is 25% of the revised budget of \$24,892,725

	Budget	Actual to Date	%
Furniture & Equipment	96,800	41,573	43%
Plant & Equipment	905,925	415,278	46%
Land & Building	13,853,014	1,234,879	9%
Infrastructure	10,036,986	4,578,389	46%
Total	24,892,725	6,270,119	25%

**Balance Sheet (Statement of Financial Position) and
Statement of Changes in Equity (Pages 25 & 26)**

The statement shows the current assets of \$20,178,156 and non current assets of \$117,353,588 for total assets of \$137,531,743.

The current liabilities amount to \$3,715,456 and non current liabilities of \$13,770,846 for the total liabilities of \$17,486,302. The net asset of the Town or Equity is \$120,045,442.

Restricted Cash Reserves (Page 27)

The Restricted Cash Reserves schedule details movements in the reserves including transfers, interest earned and funds used, comparing actual results with the annual budget.

Debtors and Rates Financial Summary**General Debtors (Page 28)**

Other Sundry Debtors are raised from time to time as services are provided or debts incurred. Late payment interest of 11% per annum may be charged on overdue accounts.

Sundry Debtors of \$503,990 is outstanding at the end of April. Of the total debt \$14,492 (3%) relates to debts outstanding for over 60 days. The Debtor Report identifies significant balances that are well overdue.

Finance has been following up with debt recovery by issuing reminder when it is overdue.

Rate Debtors (Page 29)

The notices for rates and charges levied for 2006/07 were issued on the 1 August 2006.

The Local Government Act 1995 provides for ratepayers to pay rates by four instalments. The due dates for each instalment are:

First Instalment	5 September 2006
Second Instalment	6 November 2006
Third Instalment	4 January 2007
Fourth Instalment	6 March 2007

To cover the costs involved in providing the instalment programme the following charge and interest rates apply:

Instalment Administration Charge	\$4.00
(to apply to second, third, and fourth instalment)	
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

Pensioners registered with the Town for rate concessions do not incur the above interest or charge.

Rates outstanding are \$404,218 which represents 2.6 % of the outstanding collectable income.

Beatty Park – Financial Position Report (Page 30)

As at 30 April 2007 the operating deficit for the Centre was \$188,413 in comparison to the budgeted year to date deficit of \$538,592 and annual deficit of \$639,155.

The cash position showed a current cash surplus of \$208,085 in comparison to the year to date budget of cash deficit of \$67,562 and an annual budget estimate of a cash deficit of \$81,056. The cash position is calculated by adding back depreciation to the operating position.

Statement of Financial Activity (Page 31)

The closing surplus carry forward for the year to date 30 April 2007 was \$6,283,322.

Net Current Asset Position (Page 32)

The net current asset position is \$16,629,870.

Variance comment Report (Pages 33 to 36)

The comments will be for the favourable or unfavourable variance of greater than 10% of the year to date budgeted.

**10.4.4 Draft Local Government (Rules of Conduct) Regulations 2007 –
Comments to Department of Local Government**

Ward:	Both	Date:	14 May 2007
Precinct:	All	File Ref:	
Attachments:	001		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:		Amended by:	

OFFICER RECOMMENDATION:

That the Council submit the following comments to the Department of Local Government and Regional Development concerning the Draft Local Government (Rules of Conduct) Regulations 2007 as shown in Appendix 10.4.4:

- (a) *amend clause 2(1)(g) to read:*
“treat others with respect, equity and fairness;”
- (b) *amend clause 2(1)(h) to read:*
“not be impaired by mind affecting drugs or substances.”
- (c) *clause 2(2) – this should be changed to require Elected Members to observe the general principles outlined in subclause (1);*
- (d) *amend clause 8(1) to read:*
“A person who is a Council member must accept that their role is out of leadership (and not management or administrative) and must not undertake tasks that contribute to the administration of council functions.”
- (e) *amend clause 9(3)(a) to read:*
“make a public statement that casts aspersions about a local government employee is ~~incompetent or dishonest~~ in a way which adversely reflects on their professional reputation, character, ability integrity, competence or credibility;”

COUNCIL DECISION ITEM 10.4.4

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

To provide the Council with an opportunity to submit comments to the Department of Local Government on the Local Government (Rules of Conduct) Regulations 2007.

BACKGROUND:

On 3 May 2007 the Minister for Local Government wrote to the Town's Mayor seeking comments on the proposed legislation which will be introduced to control Elected Member behaviour under the Local Government (Official Conduct) Bill.

These regulations are to be introduced before the 20 October 2007 Election.

The draft Regulations contain various matters that are already in the Town's existing Code of Conduct, along with several additional matters identified by the Department of Local Government and Regional Development (the Department) in association with the Western Australian Local Government Association (WALGA) and the Local Government Managers Association (LGMA).

Complaints about Elected Members who do not follow the Rules under draft Regulations 3 to 11 will be considered by the new statewide Standards Panel. These Regulations cover conduct relating to the standing orders, use of council information, obtaining personal advantage, misuse of council resources, restrictions on involvement in administration and directing council employees, disclosure of particular interests and subjective principles.

The Minister welcomes the Council identifying any further rules that would be appropriate for the uniform Rules for all local governments and these be submitted to the Department of Local Government by mid June 2007.

DETAILS:

Recommended Changes

- Clause 2

The draft regulations prescribe general principles to guide the behaviour of Council members. These include;

General principles to guide the behaviour of council members

- (a) act with reasonable care and diligence, and
- (b) act with honesty and integrity; and
- (c) act lawfully; and
- (d) avoid damage to the reputation of the local government; and
- (e) be open and accountable to the public; and
- (f) base decisions on relevant and factually correct information; and
- (g) treat others with respect, and fairness; and
- (h) not be impaired by mind affecting drugs.

- Clause 2(1)(g)

This sub-clause should be amended to read as follows;

"(g) treat others with respect, equity and fairness;

Comment

A common complaint about a Council decision often relates to the decision not being treated on an equitable basis to other people, particularly applications. Council decisions should be made on this basis, accordingly, it is appropriate to insert the word "equity".

- Clause 2(1)(h)

A drug is defined by the Health Act and means "any substance, organic or inorganic, used as medicine, or in the composition or preparation of medicines, whether for external or internal use, and includes soap and perfumes, cosmetics, absorbent cotton wool and surgical dressings and also includes therapeutic substances".

A substance is defined as "that of which a thing consists; matter, material, a species of matter of definite chemical composition". Reference: The Macquarie Concise Dictionary.

The draft Regulation is too limited. For example, a person seriously affected by alcohol (which is not defined as a drug) would not be included in the regulation. The addition of the word "substance" would address this situation.

- Clause 2(2) - General Principles

It is considered that Council members should observe the general principles, as these are an essential criteria for good governance.

The draft regulation will allow for local governments to refer to minor breaches of general principles in their own local law, which may call up their Code of Conduct.

However, it is the view of the Chief Executive Officer that as the general principles apply to all Council Members, it should be consistent throughout the state and therefore be included in the draft regulations.

- Clause 8 - Protection against involvement in administration

As currently drafted, this clause does not refer to the role of a Council member, which is one of leadership and policy determination. It would be appropriate to redraft this to read as follows;

8(1) A person who is a Council member must accept their role as one of leadership (and not management or administrative) and must not undertake tasks that contribute to the administration of council functions.

Comment

The use of the term leadership is consistent with the role defined in Sections 2.8, 2.9 and 2.10 of the Local Government Act 1995.

- Clause 9(3)(a)

The draft Regulation only refers to make a statement at an open Council or Committee Meeting.

It states;

- (3) During a Council or committee meeting at which members of the public are present, a person who is a Council member must not, either orally, in writing or by any other means -
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use offensive or objectionable expressions in reference to a local government employee.

Comment

Paragraph 3(a) should be amended to read as follows;

"make a public statement that casts aspersions about a local government employee ~~is incomplete or dishonest in a way which adversely reflects on their professional reputation, character, ability, integrity, competence or credibility;~~"

The reworded paragraph is identical to the Council's Code of Conduct and covers a wide range of matters concerning an employee.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

The current Local Government Act requires all local governments to have a Code of Conduct. However, the Code of Conduct does not have any legislative penalties which can be imposed against Elected Members or employees found to have breached the Code of Conduct.

In early 2007, the Local Government Act was amended to provide for legislative procedures to deal with Elected Members who breach the Code of Conduct.

Regulations (the subject of this report) will be introduced under the amendment to the Act.

STRATEGIC IMPLICATIONS:

This matter is in keeping with the Strategic Plan 2006 – 2011 – Objective 4.1 *“Provide good strategic decision making, governance, leadership and professional management”*.

FINANCIAL/BUDGET IMPLICATIONS:

Nil. However, it should be noted that a Council may be required to pay or contribute to the costs of the Standards Panel Inquiry, where an Elected Member has been found guilty of a breach.

COMMENTS:

The draft regulations are required to provide details to guide the Panel and also guidance for Elected Members. It is considered that the Draft Regulations can be improved if the recommended changes (as detailed in this report) are included.

10.4.5 Information Bulletin

Ward:	-	Date:	16 May 2007
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer(s):	A Smith		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Information Bulletin dated 22 May 2007, as distributed with the Agenda, be received.

COUNCIL DECISION ITEM 10.4.5

Moved Cr Torre, Seconded Cr Farrell

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Crs Ker and Messina on leave of absence.)

DETAILS:

The items included in the Information Bulletin dated 22 May 2007 are as follows:

ITEM	DESCRIPTION
IB01	Letter from State Administrative Tribunal regarding Matter No. DR/476 of 2006 and CC/3208 of 2005- Firestar Enterprises Pty Ltd v Town of Vincent (226 Oxford Street)
IB02	Streamlining Building Control – A New Building Act for Western Australia. Letter from Peter Gow, Executive Director Building Industry Development – Department of Housing and Works.
IB03	Building Standards in Western Australia. Letter from Peter Gow, Executive Director Building Industry Development – Department of Housing and Works.
IB04	Highgate Underground Power Project Business Report for the Period October 2006 to 30 April 2007
IB05	Letter from Hawaiian – Letter of Thanks

10.1.2 Further Report - No. 300 (Lot 7 D/P: 2411) Fitzgerald Street, Perth - Proposed Demolition of Existing Commercial Building and Construction of a Three Storey Mixed Use Development Comprising Offices and Two (2) Single Bedroom Grouped Dwellings with Basement Car Parking

Ward:	South	Date:	16 May 2007
Precinct:	Hyde Park; P12	File Ref:	PRO0944; 5.2006.601.1
Attachments:	001		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	D Abel; R Boardman	Amended by:	-

FURTHER 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 Greg Rowe & Associates on behalf of the owner Regalstone Pty Ltd for proposed Demolition of Existing Commercial Building and Construction of a Three-Storey Mixed Use Development Comprising Offices and Two (2) Single Bedroom Grouped Dwellings with Basement Car Parking, at No. 300 (Lot 7 D/P: 2411) Fitzgerald Street, Perth, and as shown on site survey plan stamp-dated 16 March 2007, elevations, ground floor and basement plans stamp-dated 15 May 2007, coloured perspective dated 26 April 2007 and first and second floor plans stamp-dated 8 May 2007 and revised elevations dated 22 May 2007, subject to the following conditions:

- (i) first obtaining the consent of the owners of No. 296 Fitzgerald Street and No. 304 Fitzgerald Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 296 Fitzgerald Street and No. 304 Fitzgerald Street in a good and clean condition;*
- (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) doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (iv) 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 Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (v) the total gross floor area of the office component shall be limited to 768 square metres, as shown on the plans;*
- (vi) prior to the first occupation of the development, four (4) class 1 or 2 bicycle parking facilities shall be provided at a location convenient to the entrances of 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;*

- (vii) *any new street/front wall, fence and gate between the Fitzgerald Street 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;*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *further articulation and appropriate design features being incorporated into the north-western blank wall of the front façade (western elevation) of the building;*
 - (b) *the laundry of the residential dwellings being located in a separate room and not located in a room in which food is prepared, stored, served or consumed. The opening between a laundry and kitchen/dining area shall not extend for more than half the width of the room in the residential dwellings. It shall be not less than 760 millimetres, and not more than 1.2 metres. The wall separating the laundry facilities from the kitchen is to be at least 1.8 metres high;*
 - (c) *end of trip bicycle facilities being provided in accordance with the Town's Policy relating to Parking and Access;*
 - (d) *a bin compound being provided in accordance with the Town's Health Services Specifications, divided into commercial and residential areas and sized to contain:*
 - *Residential*
 - 1 x Mobile Garbage Bin per Unit;*
 - 1 x General Recycle Bin per 2 Units;*
 - *Commercial/Office*
 - 1 x Mobile Garbage Bin per Unit; and*
 - 1 x Paper Recycle Bin per Unit, or per 200 square metres of floor space;*

- (e) *bins and bin placement area being provided and located on site adjacent to the rear right of way, marked on site and not placed on the right of way or the right of way widening area, to the satisfaction of the Town's Technical Services Division.*
- (f) *standard visual truncations being provided, in accordance with the Town's Policy and/or to the satisfaction to the Town's Technical Services Division, at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised. Details of all required visual truncations shall be included on final drawings submitted for Building Licence requirements;*
- (g) *car parking space No. 3, being allocated and clearly marked and signposted for the use of small cars only; and*
- (h) *access, car parking and toilet facilities for people with disabilities being provided on-site in accordance with the Building Code of Australia and Australian Standard 1428.1.*

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

- (ix) *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;*
- (x) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xi) *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;*
- (xii) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*
- (xiii) *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 the following:*
 - (a) *proprietors and/or (prospective) purchasers of the residential units/dwellings that 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) *proprietors and/or (prospective) purchasers of the residential and commercial units that the Town of Vincent will not issue a residential or commercial visitor car parking permit to any owner or occupier of the residential and commercial 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;

- (xiv) *a construction management plan addressing noise, hours of construction, traffic, footpath and vehicle access, parking of trade person vehicles, use of right of way (ROW), collection of rubbish, loading/unloading processes, dust and any other appropriate matters (such as notifying all affected landowners/occupiers of commencement of construction works), shall be submitted to and approved by the Town prior to the issue of a Building Licence, and thereafter implemented and maintained by the owner(s)/occupier(s);*
- (xv) *prior to the first occupation of the development, each apartment shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
- (xvi) *any proposed vehicular entry gates adjacent to the car parking area shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the commercial and residential tenancies 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;*
- (xvii) *the on-site car parking for the offices/non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
- (xviii) *the car parking area shown for the offices/new residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xix) *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;*
- (xx) *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 (\$11,550) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$11,550, 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 Services 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);*

- (xxi) *the developer engages a suitably qualified aboricultural consultant to inspect the trees in the adjacent property likely to be affected by the development, make recommendations in view that any potential impact on the trees is minimised and oversee any tree surgery works required. Details of the recommendations shall be submitted to and approved by the Town prior to the issue of a Building Licence;*
- (xxii) *prior to the first occupation of the development, two (2) car parking spaces, provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development and*
- (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.*

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

Moved Cr Farrell, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

Moved Cr Chester, Seconded Cr Doran-Wu

That:

1. *clause (viii) (a) be amended to read as follows:*

"(viii) (a) further articulation and appropriate design features being incorporated into the north-western blank wall of the front façade (western elevation) of the building, in the form of colour, texture and finishes similar to the panel to the south-west side of the front facade of the building facing Fitzgerald Street;"

2. *a new clause (viii) (i) be added as follows:*

"(viii) (i) the south-west and north-east boundary wall elevations being further treated with colour, texture and finishes to present a modular pattern to the sides of the building."

Debate ensued.

Cr Lake requested that the amendment be put in two parts. The Presiding Member agreed to this request.

Clause (viii)(a) was put.

AMENDMENT clause (viii)(a) CARRIED (5-2)

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

(Crs Ker and Messina on leave of absence.)

Clause (viii)(i) was put.

AMENDMENT clause (viii)(i) CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

Cr Chester departed the Chamber at 6.40pm.

MOTION AS AMENDED CARRIED (6-0)

(Crs Ker and Messina on leave of absence. Cr Chester was absent from the Chamber and did not vote.)

COUNCIL DECISION ITEM 10.1.2

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 Greg Rowe & Associates on behalf of the owner Regalstone Pty Ltd for proposed Demolition of Existing Commercial Building and Construction of a Three-Storey Mixed Use Development Comprising Offices and Two (2) Single Bedroom Grouped Dwellings with Basement Car Parking, at No. 300 (Lot 7 D/P: 2411) Fitzgerald Street, Perth, and as shown on site survey plan stamp-dated 16 March 2007, ground floor and basement plans stamp-dated 15 May 2007, coloured perspective dated 26 April 2007 first and second floor plans stamp-dated 8 May 2007 and revised elevations dated 22 May 2007, subject to the following conditions:

- (i) first obtaining the consent of the owners of No. 296 Fitzgerald Street and No. 304 Fitzgerald Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 296 Fitzgerald Street and No. 304 Fitzgerald Street in a good and clean condition;*
- (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) doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (iv) 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 Sign Licence application, being submitted and approved prior to the erection of the signage;*

- (v) *the total gross floor area of the office component shall be limited to 768 square metres, as shown on the plans;*
- (vi) *prior to the first occupation of the development, four (4) class 1 or 2 bicycle parking facilities shall be provided at a location convenient to the entrances of 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;*
- (vii) *any new street/front wall, fence and gate between the Fitzgerald Street 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;*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) *further articulation and appropriate design features being incorporated into the north-western blank wall of the front façade (western elevation) of the building, in the form of colour, texture and finishes similar to the panel to the south-west side of the front facade of the building facing Fitzgerald Street;*
 - (b) *the laundry of the residential dwellings being located in a separate room and not located in a room in which food is prepared, stored, served or consumed. The opening between a laundry and kitchen/dining area shall not extend for more than half the width of the room in the residential dwellings. It shall be not less than 760 millimetres, and not more than 1.2 metres. The wall separating the laundry facilities from the kitchen is to be at least 1.8 metres high;*
 - (c) *end of trip bicycle facilities being provided in accordance with the Town's Policy relating to Parking and Access;*

- (d) *a bin compound being provided in accordance with the Town's Health Services Specifications, divided into commercial and residential areas and sized to contain:*
- *Residential*
1 x Mobile Garbage Bin per Unit;
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1 x Mobile Garbage Bin per Unit; and
1 x Paper Recycle Bin per Unit, or per 200 square metres of floor space;
- (e) *bins and bin placement area being provided and located on site adjacent to the rear right of way, marked on site and not placed on the right of way or the right of way widening area, to the satisfaction of the Town's Technical Services Division.*
- (f) *standard visual truncations being provided, in accordance with the Town's Policy and/or to the satisfaction to the Town's Technical Services Division, at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised. Details of all required visual truncations shall be included on final drawings submitted for Building Licence requirements;*
- (g) *car parking space No. 3, being allocated and clearly marked and signposted for the use of small cars only;*
- (h) *access, car parking and toilet facilities for people with disabilities being provided on-site in accordance with the Building Code of Australia and Australian Standard 1428.1; and*
- (i) *the south-west and north-east boundary wall elevations being further treated with colour, texture and finishes to present a modular pattern to the sides of the building.*

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

- (ix) *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;*
- (x) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xi) *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;*
- (xii) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*

(xiii) *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 the following:*

(a) *proprietors and/or (prospective) purchasers of the residential units/dwellings that 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) *proprietors and/or (prospective) purchasers of the residential and commercial units that the Town of Vincent will not issue a residential or commercial visitor car parking permit to any owner or occupier of the residential and commercial 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;

(xiv) *a construction management plan addressing noise, hours of construction, traffic, footpath and vehicle access, parking of trade person vehicles, use of right of way (ROW), collection of rubbish, loading/unloading processes, dust and any other appropriate matters (such as notifying all affected landowners/occupiers of commencement of construction works), shall be submitted to and approved by the Town prior to the issue of a Building Licence, and thereafter implemented and maintained by the owner(s)/occupier(s);*

(xv) *prior to the first occupation of the development, each apartment shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*

(xvi) *any proposed vehicular entry gates adjacent to the car parking area shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the commercial and residential tenancies 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;*

(xvii) *the on-site car parking for the offices/non-residential component shall be available for the occupiers of the residential component outside normal business hours;*

(xviii) *the car parking area shown for the offices/new residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*

(xix) *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;*

- (xx) *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 (\$11,550) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$11,550, 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 Services 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);*
- (xxi) *the developer engages a suitably qualified aboricultural consultant to inspect the trees in the adjacent property likely to be affected by the development, make recommendations in view that any potential impact on the trees is minimised and oversee any tree surgery works required. Details of the recommendations shall be submitted to and approved by the Town prior to the issue of a Building Licence;*
- (xxii) *prior to the first occupation of the development, two (2) car parking spaces, provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development and*
- (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.*

ADDITIONAL INFORMATION:

The revised north-west elevation dated 22 May 2007 is to accurately reflect the stairs on the ground floor plan dated 15 May 2007.

FURTHER REPORT:

The Council at its Ordinary Meeting held on 27 March 2007 considered the subject proposal and resolved the following:

"That the Item be DEFERRED to allow for alternative plans be submitted that show articulation of the frontage, disability access and parking."

The applicants have submitted plans dated 20 April 2007 and 8 May 2007 with the following changes and comments, including a written submission dated 19 April 2007 (attached):

- change to the colour and texture of the front fascia panel facing Fitzgerald Street to reflect a modular pattern;
- second set of stairs have been removed from the basement car park thereby providing better manoeuvrability;
- provision of access, car parking and toilets for people with disabilities in the basement car park. Access from the basement car park is via a lift to the floors above. *"At the council meeting it was suggested that we have not provided disabled access to the front of the building. While our revised drawings include a vertical hoist for disabled access, I would suggest that this not be included for the following reasons.*

(a) There is no parking on the east side of the street and a bus stop is directly in front of our building.

(b) The nearest parking is in the side street or across the road from our building. From this side street it would be easier to access our building from the ROW rather than from Fitzgerald Street. This side street is only 1 block away from our site."

There is no ramped access over kerb to get access onto pavement in front of the building, for someone who has parked on the opposite side of street. The addition of the hoist for people with disabilities will reduce the width of the front stairs and would not be keeping with the aesthetics of the building. Hoist access will have to be pre-arranged with tenants/building owners prior to usage, to prevent vandals misusing hoist during the day.

- Changes to the location of the bin storage areas.

The revised plans do not propose any other further variation to the Town's Policies, and do not have an undue impact on the amenity of the area, and as such there is no need to further re-advertise the proposal.

The Town's Officers recommend that a hydraulic passenger lift for people with disabilities be installed in front of the building so as to cater for people with disabilities who may visit the site via the front entrance, as some may walk to the site, while others may arrive via public transport (bus or taxis). The hydraulic passenger lift for people with disabilities will be required to comply with the Building Code of Australia (BCA) requirements Part E 3.6 and also AS 1735.12. The installation of the hydraulic passenger lift will result in the development complying with the relevant disability requirements in the BCA. It is the responsibility of tenants/owners to implement and undertake suitable measures to manage the claimed issue of vandalism.

The proposed changes to the front of the building and articulation of the building are considered to slightly improve the front facade. It is recommended that additional design features be incorporated on the north-western portion of the front facade of the building facing Fitzgerald Street as per condition (viii) (a).

The proposed change to the bin storage area is supported by the Town's Technical Services. The applicant's submission is "*Laid on the Table*".

In light of the above, the previous Officer Recommendation for approval remains unchanged, except for appropriate conditions addressing the above matters.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 27 March 2007.

"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 Greg Rowe & Associates on behalf of the owner Regalstone Pty Ltd for proposed Demolition of Existing Commercial Building and Construction of a Three-Storey Mixed Use Development Comprising Offices and Two (2) Single Bedroom Grouped Dwellings with Basement Car Parking, at No. 300 (Lot 7 D/P: 2411) Fitzgerald Street, Perth, and as shown on plans stamped 16 March 2007, subject to the following conditions:

- (i) *first obtaining the consent of the owners of No. 296 Fitzgerald Street and No. 304 Fitzgerald Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 296 Fitzgerald Street and No. 304 Fitzgerald Street in a good and clean condition;*
- (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) *doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (iv) *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 Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (v) *the total gross floor area of the office component shall be limited to 768 square metres, as shown on the plans;*
- (vi) *prior to the first occupation of the development, four (4) class 1 or 2 bicycle parking facilities shall be provided at a location convenient to the entrances of 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;*
- (vii) *any new street/front wall, fence and gate between the Fitzgerald Street 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;*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) *further articulation and appropriate design features being incorporated into the blank wall of the front façade (western elevation) of the building;*

- (b) *the laundry of the residential dwellings being located in a separate room and not located in a room in which food is prepared, stored, served or consumed. The opening between a laundry and kitchen/dining area shall not extend for more than half the width of the room in the residential dwellings. It shall be not less than 760 millimetres, and not more than 1.2 metres. The wall separating the laundry facilities from the kitchen is to be at least 1.8 metres high;*
- (c) *end of trip bicycle facilities being provided in accordance with the Town's Policy relating to Parking and Access;*
- (d) *a bin compound being provided in accordance with the Town's Health Services Section's Specifications, divided into commercial and residential areas and sized to contain:-*
- *Residential*
1 x Mobile Garbage Bin per Unit;
1 x General Recycle Bin per 2 Units;
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1 x Mobile Garbage Bin per Unit; and
1 x Paper Recycle Bin per Unit, or per 200 square metres of floor space;
- (e) *bins and bin placement area being provided and located on site adjacent to the rear right of way, marked on site and not placed on the right of way or the right of way widening area, to the satisfaction of the Town's Technical Services Division.*
- (f) *standard visual truncations being provided, in accordance with the Town's Policy and/or to the satisfaction to the Town's Technical Services Division, at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised. Details of all required visual truncations shall be included on final drawings submitted for Building Licence requirements; and*
- (g) *car parking space No. 3, being allocated and clearly marked and signposted for the use of small cars only.*

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

- (ix) *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;*
- (x) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xi) *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;*
- (xii) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*

- (xiii) *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 the following:*
- (a) *proprietors and/or (prospective) purchasers of the residential units/dwellings that 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) *proprietors and/or (prospective) purchasers of the residential units/dwellings that the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/dwellings. 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;*
- (xiv) *a construction management plan addressing noise, hours of construction, traffic, footpath and vehicle access, parking of trade person vehicles, use of right of way (ROW), collection of rubbish, loading/unloading processes, dust and any other appropriate matters (such as notifying all affected landowners/occupiers of commencement of construction works), shall be submitted to and approved by the Town prior to the issue of a Building Licence, and thereafter implemented and maintained by the owner(s)/occupier(s);*
- (xv) *prior to the first occupation of the development, each apartment shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
- (xvi) *any proposed vehicular entry gates adjacent to the car parking area shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the commercial and residential tenancies 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;*
- (xvii) *the on-site car parking for the offices/non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
- (xviii) *the car parking area shown for the offices/new residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xix) *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;*
- (xx) *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 (\$11,550) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$11,550, 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 Services 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);*

- (xxi) *the developer engages a suitably qualified aboricultural consultant to inspect the trees in the adjacent property likely to be affected by the development, make recommendations in view that any potential impact on the trees is minimised and oversee any tree surgery works required. Details of the recommendations shall be submitted to and approved by the Town prior to the issue of a Building Licence; and*
- (xxii) *prior to the first occupation of the development, two (2) car parking spaces, provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development.*

COUNCIL DECISION ITEM 10.1.6

Moved Cr Messina, Seconded Cr Ker

That the recommendation be adopted.

Debate ensued.

Moved Cr Maier, Seconded Cr Messina

That a new clause (viii)(h) be added as follows:

- “(viii) (h) *access, parking and toilet facilities for people with disabilities being provided on-site in accordance with the Building Code of Australia and Australian Standard 1428.1.”*

AMENDMENT CARRIED (8-0)

(Cr Farrell on leave of absence.)

Debate ensued.

Moved Cr Messina, Seconded Cr Torre

That the Item be DEFERRED to allow for alternative plans be submitted that show articulation of the frontage, disability access and parking.

CARRIED (8-0)

(Cr Farrell on leave of absence.)

<i>Landowner:</i>	<i>Regalstone Pty Ltd</i>
<i>Applicant:</i>	<i>Greg Rowe & Associates</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial</i>
<i>Existing Land Use:</i>	<i>Shop and Office</i>
<i>Use Class:</i>	<i>Office Building and Grouped Dwelling</i>
<i>Use Classification:</i>	<i>"P" and "AA"</i>
<i>Lot Area:</i>	<i>496 square metres</i>
<i>Access to Right of Way</i>	<i>East side, 5.03 metres wide, sealed, privately owned.</i>

BACKGROUND:

No specific background directly relates to the proposal.

DETAILS:

The proposal involves demolition of existing commercial building and construction of a three-storey mixed use development comprising offices and two (2) single bedroom grouped dwellings with basement car parking at the subject property.

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

ASSESSMENT:

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Density</i>	<i>2.7 multi-bedroom grouped dwellings</i> <i>Or</i> <i>4.1 single bedroom grouped dwellings</i> <i>R80</i>	<i>2 single bedroom grouped dwellings</i> <i>R26.9</i>	<i>Noted - no variation.</i> <i>Noted - no variation.</i>
<i>Plot Ratio:</i> <i>Unit 1</i>	<i>60 square metres and 0.65</i>	<i>60 square metres and 0.12</i>	<i>Noted - no variation.</i>
<i>Unit 2</i>	<i>60 square metres and 0.65</i>	<i>60 square metres and 0.12</i>	<i>Noted - no variation.</i>
<i>Total Plot Ratio for Residential Component</i>	<i>0.65</i>	<i>0.24</i>	<i>Noted - no variation.</i>
<i>Building Height:</i> <i>Hyde Park Precinct</i>	<i>Buildings with two storeys (including loft) are strongly encouraged. A third storey (including loft) can be considered, provided that the amenity of the adjacent residential area is protected in terms of privacy, scale and bulk.</i>	<i>3.5 storeys</i>	<i>Supported - refer to 'Comments'.</i>

	<i>Three storey height requirement is 10 metres.</i>	<i>West - 11.1 metres - 11.6 metres North - 9.3 metres - 11.3 metres South - 9.8 metres - 11.9 metres East - 9.3 metres - 9.8 metres</i>	<i>Supported - refer to 'Comments'. Supported - refer to 'Comments'. Supported - refer to 'Comments'. Supported - refer to 'Comments'.</i>
<i>Front Facade</i>	<i>Front facades to non-residential buildings with ground-level street frontages must contribute to the appearance of the area. The solid portion of the front façade measured vertically from the adjacent footpath is to be no greater than 700 millimetres.</i>	<i>Solid to 1.4 to 2 metres above adjacent footpath level.</i>	<i>Supported in part - this solid portion is required due to the basement car parking, however it is considered that the front façade could be more interactive with Fitzgerald Street by incorporating greater articulation of the façade and appropriate design features. This has been addressed in the Officer Recommendation.</i>
<i>Consultation Submissions</i>			
<i>The proposal was referred to the Department for Planning and Infrastructure (DPI) for comment and recommendation for a period of 30 days in which it advised on 14 February 2007 that it has no objections to the proposed development on regional transport planning grounds.</i>			
<i>Support</i>	<i>Nil</i>	<i>Noted.</i>	
<i>Objection</i>	<i>Nil</i>	<i>Noted.</i>	
<i>Concern (1)</i>	<i>One submission was received requesting that the following concerns be considered:</i>		
	<ul style="list-style-type: none"> <i>• Noise - concern about the noise of construction on the adjoining property as it operates as psychiatric practice and requires a peaceful environment.</i> <i>• Existing trees - when excavating for the basement car park, the existing trees on the adjacent property may be detrimentally affected. Request that measures be undertaken to ensure minimum impact to these existing trees.</i> 		<i>Noted - addressed at the Building Licence stage and is required to comply with the Environmental Protection (Noise) Regulations 1997. Supported - addressed in the Officer Recommendation.</i>
	<ul style="list-style-type: none"> <i>• The glare factor of the wall on the southern elevation - request that the colour of the external wall be of a more calming and non-glaring tone to minimise glare and heat generation.</i> 		<i>Not supported - the proposed colour of the development is 'sandy' and is considered to not have an undue impact on surrounding properties in terms of glare and heat generation.</i>

<i>Other Implications</i>		
<i>Legal/Policy</i>	<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>	
<i>Strategic Implications</i>	<i>Nil</i>	
<i>Financial/Budget Implications</i>	<i>Nil</i>	
<i>Commercial Car Parking Component</i>		
<i>Car parking requirement (nearest whole number) Office -1 space per 50 square metres of gross floor area (768 square metres) = 15.36 car bays</i>	<i>15 car bays</i>	
<i>Apply the parking adjustment factors.</i> <ul style="list-style-type: none"> ▪ <i>0.85 (within 400 metres of a bus stop)</i> ▪ <i>0.85 (within 400 metres of one or more public car parks in excess of 75 spaces)</i> ▪ <i>0.90 (the proposed development provides 'end of trip' facilities for bicycle users, in addition to the facilities specified in the Bicycle Parking Requirements.</i> 	<i>(0.65025)</i> <i>9.75 car bays</i>	
<i>Minus the car parking provided on-site.</i>	<i>10</i>	
<i>Minus the most recently approved on-site car parking shortfall</i>	<i>Nil</i>	
<i>Resultant surplus</i>	<i>0.25 car bay</i>	
<i>Bicycle Parking</i>		
<i>Requirements</i>	<i>Required</i>	<i>Provided</i>
<i>Office 1 space per 200 square metres of gross floor area (class 1 or 2)</i>	<i>3.84 spaces Total = 4 spaces</i>	<i>Not indicated on plans - addressed in the Officer Recommendation.</i>

* 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.

COMMENTS:

Demolition

The former dwelling, now travel agent at No.300 Fitzgerald Street, Perth was constructed in the Federation Bungalow style of architecture. The place has had numerous alterations undertaken to its original façade, which include the replacement of the original verandah; the introduction of large Doric columns, the removal of the original roof sheeting and chimneys and the introduction of a poured concrete verandah floor.

The former dwelling is first listed in the Wise Post Office Directories in 1906 with Charles Fisher as the inhabitant of the place up until 1920. The occupants of the place changed numerous times after this up until 1940 with John Lee listed in 1924, M Connor a nurse listed in 1930 and Zulman Kurrek listed in 1949. The dwelling is one of three remaining original dwellings, from seven that fronted the portion of Fitzgerald Street between, Glendower and Vincent Streets. Today this streetscape is dominated by multi-storey commercial premises.

The subject property is not listed on the Town's Municipal Heritage Inventory and it is not considered to have any specific cultural heritage value that would make it eligible for consideration for inclusion onto the Inventory. The dwelling is considered to require no further investigation and that a full Heritage Assessment is not warranted. Images and an extract from the Metropolitan Sewerage Map Plans are included as an attachment to this report. Therefore it is recommended that the application to demolish the place be approved, subject to a quality archival record and other standard conditions.

Building Height

The building height is considered acceptable in this instance for the following reasons:

- *The building height is consistent with the existing development at Nos. 308 - 312 Fitzgerald Street and is therefore in keeping with the existing Fitzgerald Street streetscape;*
- *The proposed building height will not unduly impact on the residential area as the right of way forms a barrier between the proposed development and the residential area and the development height is reduced to 2.5 storeys adjacent to the right of way so the residential area is protected in terms of privacy, scale and bulk;*
- *The subject site is sloping; and*
- *No objections to height received.*

Grouped Dwellings vs. Multiple Dwellings

Clause 20 (4) (e) does not permit multiple dwellings within the Hyde Park Precinct.

For mixed use developments within areas where multiple dwellings are not allowed, where residential development are proposed above ground floor commercial development, these developments can be considered as either grouped or multiple dwellings. To facilitate development of these sites, which would otherwise not be able to be developed as mixed use developments, the Residential Component, such as the subject proposal, should be treated as grouped dwellings, on the basis that the residential dwellings are self-contained and do not involve further self-contained residential above or below them.

Summary

In general, the proposal is considered to enhance and improve the streetscape and surrounding area through the redevelopment of an under-utilised site and to have adequately address the Town's requirements and objectives for the area.

The planning application is therefore recommended for approval, subject to standard and appropriate conditions to address the above matters."

The Presiding Member advised that there had been a request for deferral from the applicant for Item 10.1.8. He ruled that the Item would be brought forward and considered next.

Cr Chester returned to the Chamber at 6.41pm.

10.1.8 Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth - Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval)

Ward:	North	Date:	16 May 2007
Precinct:	North Perth; P08	File Ref:	PRO2700; 5.2006.615.1
Attachments:	001		
Reporting Officer(s):	B McKean, O Hammond		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by B Di Paulo on behalf of the owners D Dissisomino, K Hall and S Rogers for Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval), at Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth and as shown on plans stamp-dated 21 December 2006, for the following reasons:*
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
 - (b) *the non-compliance with the Town's Policy relating to Street Setbacks as the carports are required to be unenclosed except to the extent that abuts the existing dwelling and being without doors or panels unless these doors and/or panels are visually permeable such as with open grilles;*
 - (c) *the non-compliance with the Town's Policy relating to Street Walls and Fences as the pillars exceed a maximum height of 1.8 metres above the adjacent footpath level; and*
 - (d) *the front fence requirements proposed to be varied is as specified in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements; and*
- (ii) *the Council ADVISES the applicant and owners that the unauthorised roller doors and front fencing shall be removed within twenty-eight (28) days of notification, and the Council AUTHORIZES the Chief Executive Officer to proceed with legal proceedings should the above roller doors and front fencing remain after this twenty-eight (28) days period.*

COUNCIL DECISION ITEM 10.1.8

Moved Cr Farrell, Seconded Cr Torre

That the Item be DEFERRED at the request of the applicant.

CARRIED (6-1)

<p><u>For</u> Mayor Catania Cr Chester Cr Doran-Wu Cr Farrell Cr Lake Cr Torre</p>	<p><u>Against</u> Cr Maier</p>
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(Crs Ker and Messina on leave of absence.)

Landowner:	D Dissisomino, K Hall and S Rogers
Applicant:	B Di Paulo
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R60
Existing Land Use:	Three Single Houses
Use Class:	Single House
Use Classification:	"P"
Lot Area:	574 square metres
Access to Right of Way	N/A

BACKGROUND:

11 May 2004 The Council at its Ordinary Meeting granted conditional approval for the demolition of an existing single house and construction of three two-storey single houses. Conditions (v) and (vii) of this approval state as follows:

- “(v) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Charles Street and Haynes Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*

- (vii) *the carports shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the proposed dwelling;”.*

11 April 2006 The Council at its Ordinary Meeting resolved to refuse the application for proposed three solid garage roller door additions to existing three two-storey single houses at the subject property for the following reasons:

“(i) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*

(ii) *non-compliance with the Town's Policy relating to Street Setbacks”.*

22 November 2006 The application for side walls and roller doors additions to existing single houses (application for retrospective approval) was refused by the Town under delegated authority from the Council for the following reasons:

“(i) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*

(ii) *the non-compliance with the Town's Policy relating to Street Setbacks as the carports are required to be unenclosed except to the extent that abuts the existing dwelling and/or a property boundary on one side, and being without a doors or panels unless these doors and/or panels are visually permeable such as with open grilles; and*

(iii) *the non-compliance with the Town's Policy relating to Street Walls and Fences as the pillars exceed a maximum height of 1.8 metres above the adjacent footpath level”.*

DETAILS:

The proposal involves seeking retrospective approval for front fence and roller door additions to existing three two-storey single houses.

The applicant's submissions are "*Laid on the Table*" and summarised as follows:

- Applicant raises the point that the current carport/garage doors installed has 60 per cent visual permeability with dark glazing.
- The owners agree to reduce the height of the internal carport/garage walls to Unit 2 and 3 from 1.8 metres to 1.2 metres.
- Applicant does not wish to reduce front fence to Units 2C (Unit 3) and 2A (Unit 1) due to design appearance, as it would require the height of the fence to be varied as a result of the sloping land.
- Evidence of nominations and award for State and National Building Design Awards.
- Support for the current design from surrounding neighbours.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Plot Ratio	N/A	N/A	Noted

<p>Carports: Town's Policy relating to 'Street Setbacks'</p>	<p>Unenclosed except to the extent that abuts the existing dwelling and being without a doors or panels unless these doors and/or panels are visually permeable such as with open grilles.</p>	<p>Roller door with 60 per cent visual permeability.</p>	<p>Not supported –</p> <ul style="list-style-type: none"> • Non compliant with the Town's Policy relating to 'Street Setbacks'; • non-compliant with condition (vii) of conditional approval granted by the Council at its Ordinary Meeting of Council held on 11 May 2004; and • considered to have an undue impact on the streetscape and the surrounding amenity.
<p>Street Fence: Primary Street (Haynes Street)</p>	<p>Not to exceed a maximum height of 1.8 metres above the adjacent footpath level within the front setback.</p>	<p>Pillars range from 1.76 metres – 2.4 metres in height.</p>	<p>Not supported –</p> <ul style="list-style-type: none"> • Non compliant with Town's Policy relating to 'Street Walls and Fences'; • proposes variations as outlined in the Town's Policy relating to 'Non Variation of Specific Development Standards and Requirements';
			<ul style="list-style-type: none"> • non-compliant with condition (v) of conditional approval granted by the Council at its Ordinary Meeting of Council held on 11 May 2004; and
			<ul style="list-style-type: none"> • considered to have an undue impact on the streetscape and surrounding amenity.
	<p>The solid portion of the wall or fence excepting piers is to be a maximum height of 1.2 metres above the adjacent footpath level within the front setback</p>	<p>1.8 metres high wall west of the carport to Unit 3 and between the carport for Unit 1 and the carport for Unit 2 within the front setback.</p>	<p>Not supported –</p> <ul style="list-style-type: none"> • Non compliant with Town's Policy relating to 'Street Walls and Fences'; • proposes variations as outlined in the Town's Policy relating to 'Non Variation of Specific Development Standards and Requirements'; and

			<ul style="list-style-type: none"> considered to have an undue impact on the streetscape and surrounding amenity.
	The pillars not to exceed 350 millimetres wide.	Pillars are 700 millimetres wide east of the carport to Unit 1 and west of the carport to Unit 2.	Not supported – considered to have an undue impact on the streetscape and surrounding amenity.
Consultation Submissions			
Consultation is not required as this Category 3 application is not supportable and is being referred to the Council for determination.			
Other Implications			
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:

The proposed front fence and roller doors additions to existing three two-storey single houses are non-compliant with the Town's Policies relating to Street Setbacks and Front Walls and Fences respectively and proposes variations outlined in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements.

The proposed front fence and roller doors additions are considered to have an undue impact on the streetscape and surrounding amenity and is therefore recommended for refusal.

10.1.1 Further Report – No. 4 (Lot 36 D/P: 2358) Salisbury Street, Leederville - Proposed Two (2) Two-Storey Single Houses

Ward:	North	Date:	16 May 2007
Precinct:	Leederville; P03	File Ref:	PRO3076; 5.2006.602.1
Attachments:	001		
Reporting Officer(s):	O Hammond		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

FURTHER CEO AND EMEDS 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 S Radalj on behalf of the owner Y Cimen, M Falcone, A Magri and M Sedic for proposed Two (2) Two-Storey Single Houses, at No. 4 (Lot 36 D/P: 2358) Salisbury Street, Leederville, and as shown on plans stamp-dated 9 May 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;*
- (ii) first obtaining the consent of the owners of Nos. 2 and 6 Salisbury Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 2 and 6 Salisbury Street in a good and clean condition;*
- (iii) any new street/front wall, fence and gate between the Salisbury Street 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;*

- (iv) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Salisbury Street verge 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); ~~and~~*
- (v) *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; and*
- (vi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *for unit 1, the windows to bedroom 1 on the western elevation, the sitting room on the western elevation, bedroom 3 on the southern and northern elevations, and the 'timber screen' adjacent to the staircase, on the first floor, 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings 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 owners of No. 6 Salisbury Street stating no objection to the respective proposed privacy encroachments;*
- (b) *for unit 2, the windows to bedroom 1 on the eastern elevation, the sitting room on the eastern elevation, bedroom 3 on the southern and northern elevations, and the 'timber screen' adjacent to the staircase, on the first floor, 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings 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 owners of No. 2 Salisbury Street stating no objection to the respective proposed privacy encroachments; and*
- (c) *the total building height not exceeding a maximum height of 7 metres above the natural ground level.*

The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and 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.

COUNCIL DECISION ITEM 10.1.1

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

Debate ensued.

Moved Cr Farrell, Seconded Cr Doran-Wu

That the Item be DEFERRED for further consideration.

CARRIED (6-1)

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

(Crs Ker and Messina on leave of absence.)

FURTHER REPORT:

The Council considered the application at its Ordinary Meeting held on 24 April 2007 and resolved as follows:

“That the item be DEFERRED at the request of the applicant.”

The main differences between the revised plans dated 9 May 2007 and the plans dated 6 March 2007, which were considered by the Council at its Ordinary Meeting held on 24 April 2007, are summarised as follows:

- The rear elevation (Elevation 3) for Unit 1 has been reduced from 72 courses to 70 courses.
- The rear elevation (Elevation 3) for Unit 2 has been reduced from 71 courses to 69 courses.
- The northern end of the two storey parapet/boundary wall shown on the west elevation (Elevation 2), has been reduced from 6.4 metres to 6.2 metres, while the southern end has been reduced from 6.25 metres to 6.1 metres. This has reduced the overall average height of the parapet/boundary wall on Elevation 2 from 4.3 metres to 3.865 metres.
- The southern end of the two storey parapet/boundary wall shown on the east elevation (Elevation 4), has been reduced from 6.45 metres to 6.3 metres, while the northern end has been reduced from 6.6 metres to 6.4 metres. This has reduced the overall average height of the parapet/boundary wall on the Elevation 4 from 4.58 metres to 4.02 metres.
- The overall building height for Unit 1 has been reduced from 7.1 metres to 7 metres.
- The overall building height for Unit 2 has been reduced from 7.3 metres to 7 metres.
- The west upper floor major openings of bedroom 3 and the sitting room for Unit 1 have been screened/non-permeable to create walls with no major openings; as such, the required setback has been reduced from 6.4 metres to 2.8 metres and conditions requiring screening has been removed.

- The east upper floor major openings of bedroom 3 and the sitting room on Unit 2 have been screened/non-visually permeable to create walls with no major openings; as such, the required setback has been reduced from 6.4 metres to 2.8 metres and conditions requiring screening has been removed.

The Assessment Table has been amended to reflect the changes proposed in the revised plans dated 9 May 2007.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	1.92 dwellings/lots R30	2 dwellings/lots R 34.6 3.9 per cent density bonus	Noted – subdivision to create proposed lots supported by the Council on 25 July 2006 and approved by the WAPC on 6 September 2006. Absolute Majority of Council is required to approve subject density bonus.
Average Lot/Site Area	300 square metres	289 square metres	Noted - as above
Plot Ratio	N/A	N/A	Noted.
Building Height: Unit 1 (West)	7 metres for concealed roof	7 metres	Supported – no variation.
Unit 2 (East)	7 metres for concealed roof	7 metres	Supported – no variation.
Building Setbacks: Unit 1 (West) - Ground Floor West	1.5 metres	Nil – 1 metres – 2 metres	Supported – no undue impact on neighbouring property.
- Upper Floor West	2.8 metres	Nil – 1.030 metres	Supported – minimal undue impact on neighbouring property and no submissions from affected neighbour received during advertising period.
Unit 2 (East) - Ground Floor East	1.5 metres	Nil – 1 metres – 2 metres	Supported – no undue impact on neighbouring property.

- Upper Floor East	2.8 metres	Nil – 1.030 metres	Supported – minimal undue impact on neighbouring property and no submissions from affected neighbour received during advertising period.
Unit 1 Garage - West	1 metre	Nil	Supported – no undue impact on neighbouring property.
Unit 2 Garage - East	1 metre	Nil	Supported – no undue impact on neighbouring property.
Building on Boundary: Unit 1	Build on 1 boundary. Maximum height 3 metres. Average height 3.5 metres.	Build on 3 boundaries. Maximum height 6.2 metres. Average height 3.865 metres.	Supported – boundary wall has been reduced in length and height, and no objections submitted by affected neighbour.
Unit 2	Build on 1 boundary. Maximum height 3 metres. Average height 3.5 metres.	Build on 3 boundaries. Maximum height 6.4 metres. Average height 4.02 metres.	Supported – as above
Privacy Setbacks: Unit 1 Upper Floor - Bed 1	4.5 metre setback or screening in accordance with the R Codes	1.030 metres to western boundary.	Supported – no undue impact due to overlooking into front setback area.
Unit 2 Upper Floor - Bed 1	4.5 metre setback or screening in accordance with the R Codes	1.030 metres to eastern boundary.	Supported – as above
Consultation Submissions			
Support	Nil		Noted
Objection (1)	<ul style="list-style-type: none"> Objection to not meeting the R30 density requirement as it impacts on the infrastructure and facilities which are only required to cope with R30 standards. By not rezoning the area, the other ratepayers are disadvantaged. 		The subdivision has already been granted conditional approval by the WAPC.

	<ul style="list-style-type: none"> • Objection to the height limit as the proposed development would look directly down onto the rear yard of the neighbouring property compromising their privacy. 	The height has been addressed through the submission of compliant amended plans.
Other Implications		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Financial/Budget Implications		Nil

The amended plans do not propose any further variation to the Residential Design Codes and the Town’s Policies, and do not have an undue impact on the amenity of the area, and as such there is no requirement to further advertise the proposal. On the above basis, the previous CEO and EMEDS Recommendation for refusal has been modified to approval, subject to standard and appropriate conditions to address the above matters.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 24 April 2007.

“CEO and EMEDS RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by S Radalj on behalf of the owner Y Cimen, & M Falcone, & A Magri & M Sedic for proposed Two (2) Two-Storey Single Houses, at No.4 (Lot 36 D/P: 2358) Salisbury Street Leederville, and as shown on plans stamp-dated 6 March 2007, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the upper floor setbacks, upper floor building on boundary, building height and privacy requirements of the Residential Design Codes;*
- (iii) the non-compliance with the Town’s Policy relating to Leeder Residential Locality Statement given the undue impact of the boundary/parapet walls on an intact streetscape; and*
- (iv) consideration of objection received.*

CEO AND EMEDS COMMENTS:

The CEO and EMEDS have changed the Officer Recommendation for the following reasons:

- *The Town’s Officers recommended refusal of the proposed subdivision of the property into two lots for the following reasons:*
 - “(i) the subdivision is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
 - (ii) the non-compliance with the average site area requirements pertaining to the R30 coding of the Residential Design Codes”.*
- *The existing Salisbury Street streetscape predominantly comprises detached single storey, single houses with side setbacks and this is strongly encouraged in the Leeder locality.*

- *The number and extent of variations to the development requirements, especially the number and bulk and scale of the boundary walls of the proposed dwellings, is considered to unduly impact the amenity of the neighbouring properties and the streetscape of Salisbury Street.*

The CEO and EMEDS have amended the Agenda Report as shown by strikethrough and underline.

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 S Radalj on behalf of the owner Y Cimen, & M Falcione, & A Magri & M Sedie for proposed Two (2) Two Storey Single Houses, at No.4 (Lot 36 D/P: 2358) Salisbury Street, Leederville, and as shown on plans stamp dated 6 March 2007, subject to the following conditions:

- (i) — prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) — the total building height being reduced to a maximum height of 7 metres above the natural ground level;*
 - (b) — the upper floor parapet walls adjacent to bedroom 3 of the dwellings being reduced to a maximum length of 4.06 metres for the section above 3.6 metres;*
 - (c) — for unit 1, the windows to bedroom 1 on the western elevation, the sitting room on the western elevation, and bedroom 3 on the southern and northern elevations, on the first floor, 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings 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 owners of No. 6 Salisbury Street stating no objection to the respective proposed privacy encroachments; and*
 - (d) — for unit 2, the windows to bedroom 1 on the eastern elevation, the sitting room on the eastern elevation, and bedroom 3 on the southern and northern elevations, on the first floor, 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings 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 owners of No. 2 Salisbury Street stating no objection to the respective proposed privacy encroachments.*

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

- ~~(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) — first obtaining the consent of the owners of Nos. 2 and 6 Salisbury Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 2 and 6 Salisbury Street in a good and clean condition;~~
- ~~(iv) — any new street/front wall, fence and gate between the Salisbury Street 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;~~
- ~~(v) — a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Salisbury Street verge 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); and~~
- ~~(vi) — 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.~~

COUNCIL DECISION ITEM 10.1.1

Moved Cr Messina, Seconded Cr Ker

That the Item be DEFERRED at the request of the applicant.

CARRIED (6-0)

(Cr Farrell on leave of absence. Crs Chester and Torre were apologies.)

Cr Maier queried why Item 11.1 - Notice of Motion was not being brought forward for consideration as it was the subject of comment during public question time.

The Presiding Member ruled that Notices of Motion are not brought forward even though they may have been the subject of a comment during public question time.

Moved Cr Lake, Seconded Cr Maier

Dissent with the Presiding Member's ruling.

PROCEDURAL MOTION PUT AND LOST (2-4)

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

(Cr Farrell on leave of absence. Crs Chester and Torre were apologies.)

<i>Landowner:</i>	<i>Y Cimen, M Falcone, A Magri & M Sedic</i>
<i>Applicant:</i>	<i>S Radalj</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30</i>
<i>Existing Land Use:</i>	<i>Vacant</i>
<i>Use Class:</i>	<i>Single House</i>
<i>Use Classification:</i>	<i>"P"</i>
<i>Lot Area:</i>	<i>577 square metres</i>
<i>Access to Right of Way</i>	<i>North side, 5 metres wide, sealed, Town owned</i>

BACKGROUND:

The Council at its Ordinary Meeting held on 12 April 2005 granted conditional approval for the demolition of existing single house and construction of a two-storey single house.

The Council at its Ordinary Meeting held on 25 July 2006 recommended conditional approval of the subdivision of the property for two (2) freehold lots. The Western Australian Planning Commission (WAPC) conditionally approved the subdivision on 6 September 2006. Subsequently, the Town cleared the relevant conditions and endorsed the Diagram of Survey on 8 December 2006. The proposed lots have not yet been created on Certificate of Title.

DETAILS:

The proposal involves the construction of two (2) two-storey single houses.

ASSESSMENT:

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Density</i>	<i>1.92 dwellings/lots R30</i>	<i>2 dwellings/lots R 34.6 3.9 per cent density bonus</i>	<i>Noted – subdivision to create proposed lots supported by the Council on 25 July 2006 and approved by the WAPC on 6 September 2006. Absolute majority of Council is required to approve subject density bonus.</i>
<i>Average Lot/Site Area</i>	<i>300 square metres</i>	<i>289 square metres</i>	<i>Noted - as above</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>	<i>Noted.</i>
<i>Building Height: Unit 1 (West)</i>	<i>7 metres for concealed roof</i>	<i>7.1 metres</i>	<i>Not supported – excessive bulk and scale. conditioned to comply.</i>
<i>Unit 2 (East)</i>	<i>7 metres for concealed roof</i>	<i>7.3 metres</i>	<i>Not supported – excessive bulk and scale. conditioned to comply.</i>
<i>Building Setbacks: Unit 1 (West) - Ground Floor West</i>	<i>1.5 metres</i>	<i>Nil – 1 metres – 2 metres</i>	<i>Supported – no undue impact on neighbouring property.</i>
<i>- Upper Floor West</i>	<i>6.4 metres (or 2.8 metres if no major opening).</i>	<i>Nil – 1.030 metres</i>	<i>Not supported – undue impact on neighbouring property. and major openings conditioned to be screened reducing the required setback.</i>
<i>Unit 2 (East) - Ground Floor East</i>	<i>1.5 metres</i>	<i>Nil – 1 metres – 2 metres</i>	<i>Supported – no undue impact on neighbouring property.</i>
<i>- Upper Floor East</i>	<i>6.4 metres (or 2.8 metres if no major opening).</i>	<i>Nil – 1.030 metres</i>	<i>Not supported – undue impact on neighbouring property. and major openings conditioned to be screened reducing the required setback.</i>

Unit 1 Garage - West	1 metre	Nil	Supported – no undue impact on neighbouring property.
Unit 2 Garage - East	1 metre	Nil	Supported – no undue impact on neighbouring property.
Building on Boundary: Unit 1	Build on 1 boundary. Maximum height 3 metres. Average height 3.5 metres.	Build on 3 boundaries. Maximum height 6.25 metres. Average height 4.3 metres.	Not supported – excessive bulk and scale, and undue impact on existing streetscape and existing side setbacks. Upper boundary wall conditioned to be reduced in length.
Unit 2	Build on 1 boundary. Maximum height 3 metres. Average height 3.5 metres.	Build on 3 boundaries. Maximum height 6.45 metres. Average height 4.58 metres.	Not supported – excessive bulk and scale, and undue impact on existing streetscape and existing side setbacks. Upper boundary wall conditioned to be reduced in length.
Privacy Setbacks: Unit 1 Upper Floor - Bed 1	4.5 metre setback or screening in accordance with the R Codes	1.030 metres to western boundary.	Not supported – undue impact. and has been conditioned to comply.
- Bed 3	4.5 metre setback or screening in accordance with the R Codes	0.2 metre to western boundary.	Not supported – undue impact. and has been conditioned to comply.
- Sitting Room	6 metre setback or screening in accordance with the R Codes	1.030 metres to western boundary.	Not supported – undue impact. and has been conditioned to comply.
Unit 2 Upper Floor - Bed 1	4.5 metre setback or screening in accordance with the R Codes	1.030 metres to eastern boundary.	Not supported – undue impact. and has been conditioned to comply.
- Bed 3	4.5 metre setback or screening in accordance with the R Codes	0.2 metre to eastern boundary.	Not supported – undue impact. and has been conditioned to comply.

- Sitting Room	6 metre setback or screening in accordance with the R Codes	1.030 metres to eastern boundary.	Not supported – undue impact. and has been conditioned to comply.
<i>Consultation Submissions</i>			
<i>Support</i>	<i>Nil</i>		<i>Noted</i>
<i>Objection (1)</i>	<ul style="list-style-type: none"> • <i>Objection to not meeting the R30 density requirement as it impacts on the infrastructure and facilities which are only required to cope with R30 standards. By not rezoning the area, the other ratepayers are disadvantaged.</i> • <i>Objection to the height limit as the proposed development would look directly down onto the rear yard of the neighbouring property compromising their privacy.</i> 		<i>Supported in part – the subdivision has already been granted conditional approval by the WAPC. <u>The Height has been can be conditioned to comply with Town of Vincent requirements.</u></i>
<i>Other Implications</i>			
<i>Legal/Policy</i>			<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>
<i>Strategic Implications</i>			<i>Nil</i>
<i>Financial/Budget Implications</i>			<i>Nil</i>

* 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.

COMMENTS:

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

10.1.5 No. 37 (Lot 75 D/P: 3002) Ruby Street, North Perth - Proposed Demolition of Existing Single House

Ward:	North	Date:	11 May 2007
Precinct:	North Perth; P8	File Ref:	PRO3909; 5.2007.108.1
Attachments:	001		
Reporting Officer(s):	S Kendall		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

- (i) *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 P A Cianfagna for proposed Demolition of Existing Single House, at No. 37 (Lot 75 D/P: 3002) Ruby Street, North Perth and as shown on plans stamp-dated 25 March 2007, subject to the following conditions:*
- (a) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
 - (b) *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;*
 - (c) *a redevelopment proposal for the subject property shall be submitted to and approved by the Town prior to the issue of a Demolition Licence;*
 - (d) *support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
 - (e) *demolition of the existing dwelling may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No. 1 and associated Policies for the retention of existing dwellings valued by the community; and*
 - (f) *any redevelopment on the site shall be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies; and*
- (ii) *the Council STRONGLY ENCOURAGES the applicant to retain all or part of the existing building as part of any new development for the site in order to maintain the amenity of the existing Ruby Street streetscape, and this may attract appropriate development bonuses from the Town.*

Cr Torre departed the Chamber at 6.42pm.

COUNCIL DECISION ITEM 10.1.5

Moved Cr Farrell, Seconded Cr Chester

That the recommendation be adopted.

Debate ensued.

Cr Torre returned to the Chamber at 6.45pm.

LOST (0-7)

(Crs Ker and Messina on leave of absence.)

Reasons:

- 1. Maintains an intact and amenity of the existing Ruby Street streetscape.**
- 2. Non-compliance with the objectives and provisions of the Knutsford Locality Statement.**
- 3. Consideration of objections received.**

Landowner:	P A Cianfagna & A L Manners
Applicant:	P A Cianfagna
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30/40
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	491 square metres
Access to Right of Way	N/A

BACKGROUND:

No specific background directly relates to the proposal.

DETAILS:

The proposal involves the demolition of the brick and iron dwelling at No. 37 Ruby Street, North Perth. The application is for demolition only. The applicant has advised no intention to spend a considerable amount of money engaging an architect without the Council's endorsement for the demolition of the place.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Plot Ratio	N/A	N/A	Noted.
Consultation Submissions			
Support	Nil		Noted.
Objection (4)	<ul style="list-style-type: none"> • The demolition of the dwelling would have a very detrimental impact on the character and heritage values of the area. • Concern that no redevelopment plans have been submitted for the site and that the new development will not be compatible with the streetscape. 		Noted. Noted - a condition of planning approval requires a redevelopment proposal for the subject property to be submitted and approved by the Town prior to the issue of a Demolition Licence.

	<ul style="list-style-type: none"> • The place is a good example of the Federation style in one of the most original streetscapes in the area. • The house exemplifies what is commonly referred to as a North Perth character house and its aesthetic value could not be questioned. • The place is in good condition. • The new houses built in the last few years represent the latest trends in building and do not match the historic streets. • The character of the area is not just made up by the 419 properties listed in the Town's Heritage List but by all properties, which represent architectural heritage of the suburbs in the Town of Vincent. • If the Town allows the demolition of such a house, its image as a "heritage area" of Perth will erode very quickly. 	<p>Supported - the Heritage Assessment identified that the place is a good example of a Federation Bungalow. However, it does not meet the minimum threshold for inclusion onto the Municipal Heritage Inventory.</p> <p>Supported - the Heritage Assessment identified that the place contributes to the suburban landscape of North Perth. However, this is a streetscape issue. The place as an individual dwelling does not meet the minimum threshold for inclusion onto the Municipal Heritage Inventory.</p> <p>Noted - Condition is not a determining factor in the assessment of cultural heritage significance.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
Other Implications		
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:

Heritage

A detailed Heritage Assessment is included as an attachment to this report.

The existing house at No. 37 (Lot 75 D/P: 3002) Ruby Street, North Perth is a brick and iron dwelling built in the Federation Bungalow style of architecture. Constructed circa 1917, the place remains substantially unchanged from its date of construction. Some alterations to the dwelling have been made, including the addition of the timber and iron skillion in 1991; however, these do not compromise the overall authenticity of the place.

However, the dwelling is not rare; it has little scientific, aesthetic or social value and no specific links of historic significance have been identified. The place is not considered to meet the threshold for consideration of entry onto the Town's Municipal Heritage Inventory in accordance with the Town's Policy No. 3.6.2 relating to Heritage Management - Assessment. In light of this, it is considered reasonable that the proposed demolition be approved.

Streetscape

As seen from the above Assessment Table, there is community concern regarding the proposed demolition and the potential impact that a new development could have on the Ruby Street streetscape. The Town's Officers recognise that the section of Ruby Street, which the subject place is located, is dominated by Federation Bungalows with comparable traditional setbacks, scale and proportion. However, its presentation as a historic streetscape is impacted by the introduction of a number of carports within the street setback and as there is a sporadic dispersion of Bungalows, which have been significantly altered in the Post-war period. Ruby Street is alike many other streets in North Perth, which illustrate an early display of Federation dwellings.

The Town's Officers appreciate the sensitivities associated with the demolition of the subject place and, in accordance with good sustainability principles and in an attempt to retain the character of the area, it is considered prudent to encourage the applicant to investigate options to retain all or part of the place as part of any new development for the site as per the Officer Recommendation.

10.1.3 Further Report - No. 6 (Lot 28 D/P: 1598) Hope Street, Perth- Proposed Alterations and Additions to Outbuilding at Existing Single House (Application for Retrospective Approval) - Reconsideration of Conditions

Ward:	South	Date:	16 May 2007
Precinct:	Hyde Park; P12	File Ref:	PRO3478; 5.2007.93.1
Attachments:	001		
Reporting Officer(s):	L Mach; O Hammond; N Wellington; R Rasiah		
Checked/Endorsed by:	D Abel, R. Boardman	Amended by:	-

FURTHER 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 Vantora Investments Pty Ltd for proposed Alterations and Additions to Outbuilding at Existing Single House (Application for Retrospective Approval) at No. 6 (Lot 28 D/P: 1598) Hope Street, Perth, and as shown on plans stamp-dated 19 March 2007, subject to the following conditions:

- (i) the outbuilding (garage) shall not be used for industrial, commercial or habitable purposes, and is for the sole personal use of the inhabitants of the main dwelling only;*
- (ii) the sink, fridge, cupboard, shower and toilet within the outbuilding (garage) shall be used in conjunction with the swimming pool only;*
- (iii) limited amount of storage is allowed to be kept in the outbuilding (garage), and adequate area for the parking of 2 motor vehicles (5.4 metres in width and 5.5 metres in length) shall be available at all times; and*
- (iv) all home entertainment equipment, beds/mattresses, and lounge furniture and the like shall be stored within the store area as shown on the approved plans, and not used at any time within the outbuilding (garage).*

At 6.51pm The Presiding Member ruled that this Item would be dealt with at the conclusion of the Items due to the confidential information contained in the appendix circulated to Elected Members prior to the meeting. (The confidential information related to the personal affairs of a person.)

(Refer to page 115 for decision and report)

10.1.6 No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street Leederville - Proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House

Ward:	North	Date:	16 May 2007
Precinct:	Leederville; P03	File Ref:	PRO3843; 5.2006.610.1
Attachments:	001		
Reporting Officer(s):	O Hammond		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

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 owners S and C E Clocherty for proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House, at No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street, Leederville, and as shown on plans stamp-dated 20 March 2007 and 10 May 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;*
- (ii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) *the porch of the proposed dwelling being setback a minimum of 1 metre from the Shakespeare Street boundary;*
 - (b) *the window to bedroom 2 on the northern elevation, and the balcony on the western elevation, on the first floor, 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 window can be top hinged and the obscure portion of the window 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 walls, so that it is not considered to be 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 owners of No. 35 Anzac Road stating no objection to the respective proposed privacy encroachments; and*
 - (c) *a visual truncation of a minimum 2.0 metre by 2.0 metre being provided at the corner of the lot between the existing right of way and Shakespeare Street.*

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

- (iii) *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;*
- (iv) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (v) *first obtaining the consent of the owners of No. 35 Anzac Road for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 35 Anzac Road in a good and clean condition;*
- (vi) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Anzac Road and Shakespeare Street 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);*
- (vii) *the carport to the existing dwelling shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling; and*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Shakespeare Street boundary and Anzac Road 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 and a minimum 2.0 metres by 2.0 metres truncation at the corner of the lot between the existing right of way and Shakespeare Street. 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.*

The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and 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.

COUNCIL DECISION ITEM 10.1.6

Moved Cr Farrell, Seconded Cr Doran-Wu

That the recommendation be adopted.

Debate ensued.

Moved Cr Farrell, Seconded Cr Doran-Wu

That the Item be DEFERRED for further consideration.

CARRIED (6-1)

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

(Crs Ker and Messina on leave of absence.)

Landowner:	S & C E Clocherty
Applicant:	S & C E Clocherty
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	599 square metres
Access to Right of Way	Southern side, 5.02 metres wide, sealed, privately owned

BACKGROUND:

No subdivision proposal for the subject property has been lodged with the Town.

DETAILS:

The proposal involves an additional two storey single house and partial demolition of and carport addition to existing single house.

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

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	1.99 dwellings R 30	2 dwellings R 33.38 0.1667 per cent density bonus.	Supported – subject site has frontage to Shakespeare Street and right of way, whilst retaining the existing streetscape of Anzac Road and no undue impact on the amenity of the area. The variation is considered minor and neighbouring examples of similar subdivision exists along Shakespeare Street.
Minimum Site Area – Proposed Rear Site.	270 square metres	258 square metres	Supported – as above
Average Site Area	300 square metres	299.5 square metres	Supported – as above
Plot Ratio	N/A	N/A	Noted
Building Setbacks: East/Street - Ground Floor	2.5 metres to main building line	1.5 – 2 metres	Supported – no undue impact on streetscape and further variations to requirement already evident in street.
- Upper Floor	1.5 metres to porch/portico 6 metres 6 metres	0.8 metre 2 metres to main building line 2.1 metres to balcony	Not supported – undue impact on streetscape and condition requiring 1 metre setback applied. Supported – no undue impact on streetscape and further variations to requirement already evident in street.
West - Ground Floor	1.5 metres	Nil – 1.2 metres	Supported – no undue impact on adjoining property and no objections received from the affected neighbour.
- Upper Floor	1.6 metres	1.2 – 1.5 metres	Supported – no undue impact on adjoining property and no objection received from the affected neighbour.

Building on Boundary	3.5 metres maximum height 3 metres average height	3.7 metres 3.6 metres	Supported – no undue impact on adjoining property and no objection received from the affected neighbour. Supported – as above.
Privacy Setbacks: North Elevation - Bed 2 - Balcony	4.5 metres *Or screening in accordance with the R Codes 7.5 metres *Or screening in accordance with the R Codes	2.1 metres to western boundary 4 metres to northern boundary	Not supported – undue impact on neighbouring property and condition applied to comply. Supported – internal overlooking as applicant owns both sites.
Consultation Submissions			
Support	Nil		Noted
Objection	Nil		Noted
Other Implications			
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.

COMMENTS:

Density Bonus

The density bonus is considered supportable pursuant to clause 20(2)(b) of the Town of Vincent Town Planning Scheme No. 1, given that the proposed site has frontage to Shakespeare Street and right of way whilst retaining the existing streetscape of Anzac Road with the retention of the existing dwelling. The variation is considered minor with no undue impact created on the amenity of the area.

Street Setbacks

Shakespeare Street currently has 2 examples of lots subdivided in the same manner to that proposed for the subject property. The dwelling at No. 30A Salisbury Street which has frontage onto Shakespeare Street, has a ground floor setback of nil-1 metre for the portico, 1.5 metres for the garage and 2.03 metres for the main dwelling. The upper floor is setback 2.03 metres from Shakespeare Street to the main dwelling. The dwelling at No. 28A appears to be setback approximately 1 metre from Shakespeare Street on the ground floor. It is on this basis that the proposed development is considered supportable, due to existing precedence and no further undue impact on the existing streetscape.

Summary

In light of the above, approval is recommended subject to standard and appropriate conditions to address the above matters.

10.1.7 No. 30 (Lot 8 D/P: 51138) Bulwer Street, Perth - Proposed Demolition of Existing Hostel and Construction of Twelve (12) Two- Storey Multiple Dwellings with Basement Car Parking

Ward:	South	Date:	16 May 2007
Precinct:	Forrest; P14	File Ref:	PRO0311; 5.2006.489.1
Attachments:	001		
Reporting Officer(s):	L Mach, S Kendall		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

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 Q Mesghin on behalf of the owner Filton Pty Ltd for proposed Demolition of Existing Hostel and Construction of Twelve (12) Two- Storey Multiple Dwellings with Basement Car Parking, at No. 30 (Lot 8 D/P: 51138) Bulwer Street, Perth, and as shown on plans stamp-dated 13 January 2007 (overshadowing plan), 3 April 2007 (undercroft and first floor plans and elevations) and 9 May 2007 (site/ground floor plan), subject to the following conditions:

- (i) prior to the issue of a Building Licence, revised plans and details shall be submitted and approved demonstrating the following:*
 - (a) the terraces on the first floor being setback a minimum of 5.0 metres from the Bulwer Street boundary;*
 - (b) the northern and western elevations of the terrace of Unit 12 on the first floor being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level within the cone of vision to the northern property. 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 owners of Nos. 11-15 Wright Street, stating no objections to the respective proposed privacy encroachment;*
 - (c) the car bay marked 'disable' be allocated as general car parking bay;*
 - (d) all storerooms having a minimum dimension of 1.5 metres and area of 4.0 square metres;*
 - (e) the external wall height being a maximum of 6.0 metres as projected from the natural ground level directly below; and*
 - (f) an interpretive plaque recognising the former use and history of the site, which is visible to the public along the Bulwer Street frontage being incorporated into the development. The proposed plaque shall be undertaken in accordance with 'Heritage Management Policy No.3.6.4 - Interpretive Signage'.*

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

- (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) *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;*
- (iv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Bulwer Street boundary and the main building, including along the side boundaries within this front setback area, complying 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;*
 - (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 Bulwer 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;

- (v) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Bulwer Street verge 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);*
- (vi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*

- (vii) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (viii) *first obtaining the consent of the owners of No. 34 Bulwer Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 34 Bulwer Street in a good and clean condition;*
- (ix) *any proposed vehicular entry gates adjacent to Bulwer Street shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors 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; and*
- (x) *the sun shade sail over the 'BBQ area' shall be subject to a separate Planning Application being submitted and approved prior to the erection of the sun shade sail, unless it complies with the Town's Policy relating to Minor Nature Development.*

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

Debate ensued.

Moved Cr Maier, Seconded Cr Lake

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

"(i)(b) the northern elevation and the northern end of the western elevations for 3.6 metres of the terrace of Unit 12 on the first floor being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level within the cone of vision to the northern property. 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 owners of Nos. 11-15 Wright Street, stating no objections to the respective proposed privacy encroachment;"

Debate ensued.

AMENDMENT CARRIED (5-2)

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

(Crs Ker and Messina on leave of absence.)

Debate ensued.

MOTION AS AMENDED CARRIED (5-2)

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

(Crs Ker and Messina on leave of absence.)

COUNCIL DECISION ITEM 10.1.7

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 Q Mesghin on behalf of the owner Filton Pty Ltd for proposed Demolition of Existing Hostel and Construction of Twelve (12) Two- Storey Multiple Dwellings with Basement Car Parking, at No. 30 (Lot 8 D/P: 51138) Bulwer Street, Perth, and as shown on plans stamped 13 January 2007 (overshadowing plan), 3 April 2007 (undercroft and first floor plans and elevations) and 9 May 2007 (site/ground floor plan), subject to the following conditions:

- (i) prior to the issue of a Building Licence, revised plans and details shall be submitted and approved demonstrating the following:*
 - (a) the terraces on the first floor being setback a minimum of 5.0 metres from the Bulwer Street boundary;*
 - (b) the northern elevation and the northern end of the western elevation for 3.6 metres of the terrace of Unit 12 on the first floor being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level within the cone of vision to the northern property. 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 owners of Nos. 11-15 Wright Street, stating no objections to the respective proposed privacy encroachment;*
 - (c) the car bay marked 'disable' be allocated as general car parking bay;*
 - (d) all storerooms having a minimum dimension of 1.5 metres and area of 4.0 square metres;*
 - (e) the external wall height being a maximum of 6.0 metres as projected from the natural ground level directly below; and*
 - (f) an interpretive plaque recognising the former use and history of the site, which is visible to the public along the Bulwer Street frontage being incorporated into the development. The proposed plaque shall be undertaken in accordance with 'Heritage Management Policy No.3.6.4 - Interpretive Signage'.*

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

- (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) *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;*
 - (iv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Bulwer Street boundary and the main building, including along the side boundaries within this front setback area, complying 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;*
 - (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 Bulwer 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;*
- (v) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Bulwer Street verge 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);*
 - (vi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*

- (vii) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (viii) *first obtaining the consent of the owners of No. 34 Bulwer Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 34 Bulwer Street in a good and clean condition;*
- (ix) *any proposed vehicular entry gates adjacent to Bulwer Street shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors 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; and*
- (x) *the sun shade sail over the 'BBQ area' shall be subject to a separate Planning Application being submitted and approved prior to the erection of the sun shade sail, unless it complies with the Town's Policy relating to Minor Nature Development.*

Landowner:	Filton Pty Ltd
Applicant:	Q Meshgui
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R80
Existing Land Use:	Hostel
Use Class:	Multiple Dwellings
Use Classification:	"P"
Lot Area:	1737 square metres
Access to Right of Way	N/A

BACKGROUND:

- 13 August 2002 The Council at its Ordinary Meeting resolved to refuse an application for the demolition of the existing building at the subject property.
- 9 August 2005 The Council at its Ordinary Meeting resolved to refuse an application for the demolition of the existing hostel and construction of thirteen (13) two- storey with loft multiple dwellings and associated carparking.
- 16 September 2005 Application lodged with the State Administrative Tribunal (SAT) to review the Council's decision of 9 August 2005.
- 14 March 2006 The SAT on 14 March 2006 determined the above review application and ordered as follows:

*"1. The application for review is dismissed.
 2. Development approval for the demolition of a two storey building and outbuildings and for the erection of 12 grouped dwellings on two buildings at Lot 8 (No.30) Bulwer, Street Perth is refused."*

DETAILS:

The proposal involves demolition of existing hostel and construction of twelve (12) two-storey multiple dwellings with basement car parking at the subject property.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	13.89 dwellings R 80	12 dwellings R 69	Supported- no variation.
Plot Ratio	1.0 - 1737 square metres	0.73 -1276 square metres	Supported- no variation.
Wall Height	6.0 metres	Up to 6.3 metres	Not supported- undue impact on amenity of area and applicant has agreed for this matter to be conditioned accordingly.
Storerooms	Minimum dimension of 1.5 metres and area of 4.0 square metres.	Not demonstrated for 6 storerooms.	Not supported - as above.
Building Setbacks:- Ground Floor: -West (First Aid, DHR, WC) Upper Floor -South	1.0 metre 6.0 metres	Nil (compliant with Cl.3.3.2- Building on Boundary) 4.0 (terrace) – 6.4 metres (main building)	Supported- no undue impact on neighbouring property and no objections received. Not supported- undue impact on streetscape, however, 5.0 metres to the terrace is supported and has been conditioned accordingly.
-North (Unit 12) -East (Unit 8)	4.0 metres (or 2.0 metres if no major opening) 3.9 metres (or 1.9 metres if no major opening)	1.5 metres 1.5-2.1 metres	Supported- no undue impact on neighbouring property and no objections received in relation to this matter. Supported - as above.
Privacy Setbacks	Outdoor habitable areas -7.5 metres or appropriately screened.	Unit 12- Terrace- 1.73 metres to north.	Not supported- undue impact on neighbouring property and has been conditioned to comply.
Excavation	Excavation or filling between the street alignment and building, or within three metres of the street alignment, whichever is the lesser, not exceeding 0.5 metre.	Up to 0.6 metre	Supported- no undue impact, minor variation in this instance and excavation is required to allow adequate gradient to basement car park.

Consultation Submissions		
The Department for Planning and Infrastructure has advised it has no objections to the subject proposal on regional transport planning grounds.		
Support	Nil	Noted.
Objection (1)	<ul style="list-style-type: none"> • Does not object to proposal, however, requests that rear/northern fence be increased in height for safety, security and privacy. 	Not supported- civil matter to be resolved between two neighbours. Notwithstanding this, it is noted that significant excavation is proposed on the subject site and privacy will be adequately addressed with the proposed 1.8 metres dividing fence.
Other Implications		
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.

COMMENTS

Heritage

A detailed Heritage Assessment forms part of the attachment.

The two-storey brick and tile place at No. 30 Bulwer Street, Perth was constructed as a private residence circa 1914 in the Federation Queen Anne Style of architecture. The place, having been used for the purposes of a former private maternity hospital (1920s-1940s), former Wanslea Children's Hostel (1943-1946), private hospital (1946-1960s) and guesthouse (1970s-2002), is considered to have local cultural heritage significance in accordance with the Town's Heritage Management Assessment Policy No.3.6.2.

As outlined earlier in the report, the Council refused an application for the demolition and the redevelopment of the subject site, at its Ordinary Meeting held on 9 August 2005, which was later subject to a State Administrative Tribunal (SAT) Review. Whilst the application, which was heard on 14 March 2006, was dismissed and the development approval was refused on the premise that the development did not conform to the Residential Design Codes, the Tribunal noted that "*the demolition should not be refused on heritage grounds. The cultural heritage significance of the place had been significantly reduced by very substantial physical works on each of the four facades of the building, including demolition of the original verandahs and two storey additions and alterations. The extent of the physical works fundamentally altered what was a Federation residence in the Queen Anne style into an unexceptional building of incongruous architectural character.*"

In addition to these comments, the SAT noted that the historic and social value of the site could be appropriately recognised by the naming of new development and by suitable interpretive materials installed at the street frontage of the site. In light of the Tribunal's comments it recommended that the place be approved for demolition, subject to the provision of a quality archival record and an interpretation proposal being submitted to and approved by the Town prior to the issue of the Demolition Licence.

Redevelopment

The Town's Technical Services has advised that the car bay provided by the applicants for people with disabilities does not comply with the relevant Australian Standards for access to ground level. Therefore, it has been conditioned that this car bay be allocated as a general car bay as a car bay for people with disabilities is not required as part of the development.

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

10.2.1 Proposed Introduction of an ACROD 2.5 Parking Bay Adjacent to 5 Cavendish Street, Highgate

Ward:	South	Date:	15 May 2007
Precinct:	Hyde Park (P12)	File Ref:	PKG0131
Attachments:	-		
Reporting Officer(s):	A Munyard		
Checked/Endorsed by:	R Lotznicher	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES** the report on the proposed introduction of an ACROD 2.5 Parking Bay adjacent to 5 Cavendish Street, Highgate;
- (ii) **APPROVES** the introduction of one (1) ACROD 2.5 parking bay at an approximate cost of \$300, adjacent to 5 Cavendish Street, Highgate, subject to:
 - (a) the bay remaining in effect only for the period that the applicant is a holder of a current ACROD permit; and
 - (b) the applicant advising the Town when the bay is no longer required;
- (iii) **PLACES** a moratorium on issuing infringement notices for a period of two (2) weeks from the installation of the new parking restriction signs; and
- (iv) **ADVISES** the applicant of the Council's decision.

COUNCIL DECISION ITEM 10.2.1

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

Moved Cr Lake, Seconded Cr

That a new Clause (v) be added as follows:

“(v) **In accordance with Section 5.42 of the Local Government Act 1995, APPROVES BY AN ABSOLUTE MAJORITY to delegate to the Chief Executive Officer the power to approve ACROD 2.5 Parking Bays; as follows**

<i>Delegation Number</i>	<i>Responsible Area</i>	<i>Authority to;</i>	<i>Assignee</i>	<i>Conditions</i>
44A	Engineering Design Section	(i) Approve ACROD 2.5 Parking Bays adjacent to residents.	EMTS	Subject to: 1. A report being received from the Town's Disability Access Officer, supporting any application for such bay and Manager Ranger Services & Community Safety, providing comments on enforcement matters.

<i>Delegation Number</i>	<i>Responsible Area</i>		<i>Assignee</i>	<i>Conditions</i>
				2. <i>Any approvals to be in accordance with Policy 3.9.9 - Introduction of Kerbside "ACROD 2.5" Parking Bays in Residential Areas.</i> 3. <i>A Register of ACROD Bays being kept and updated annually."</i>

The Presiding Member would not accept the amendment as it was a procedural matter and did not relate to the actual item's recommendation. He believed it should be dealt with as a Notice of Motion or at the time of the adoption of the Delegations Register which occurs in July of each year.

MOTION CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to seek the Council's approval for the introduction of an ACROD 2.5 parking bay adjacent to 5 Cavendish Street, Highgate.

BACKGROUND:

In accordance with the Town's Policy No. 3.9.9 *Introduction of Kerbside "ACROD 2.5" Parking Bays in Residential Areas*, residents who hold a valid ACROD permit may apply for an ACROD bay to be installed kerbside adjacent to their properties where no suitable alternative parking can be provided on site. The Town is in receipt of such an application from the resident of 5 Cavendish Street, Highgate.

DETAILS:

An application has been received for an ACROD 2.5 bay to be installed outside 5 Cavendish Street. The resident suffered a stroke three (3) years ago, and is the holder of a current ACROD permit.

Should the Council approve the installation of the ACROD bay, the bay would be available for use by any holder of an ACROD permit, however it would be of particular benefit to the resident's family, who transport him to medical appointments on a daily basis.

It is therefore proposed that an "ACROD 2.5" parking bay be installed immediately at the front of the property. Should the Council approve the installation of the ACROD bay, it will be recorded on a register and the applicant contacted twelve (12) monthly to ensure the ACROD permit is still applicable.

CONSULTATION/ADVERTISING:

There is no requirement to consult regarding the installation of ACROD bays.

LEGAL/POLICY:

There is no legal impediment to the introduction of the ACROD bay. A two (2) week moratorium from infringement will be in place following the installation of the ACROD bay.

The introduction of an ACROD 2.5 bay is in accordance with Policy No. 3.9.9. *Introduction of Kerbside "ACROD 2.5" Parking Bays in Residential Areas.*

At the Ordinary Meeting of Council held on 10 April 2007, the Council amended Policy 3.9.9 to allow for the bay to remain in effect for the period that the applicant is the holder of a current ACROD Permit, to require the applicant to advise the Town when the bay is no longer required and for the Town's Administration to maintain a register of such bays.

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. *"(p) Develop a strategy for parking management in business, residential and mixed use precincts, that includes - parking facilities that are appropriate to public needs;"*

FINANCIAL/BUDGET IMPLICATIONS:

The cost to implement the ACROD bay would be approximately \$300.00.

COMMENTS:

The applicant has provided proof that he is a holder an ACROD permit and there is no doubt that the installation of the ACROD bay will be of great benefit to the applicant. It is therefore recommended that the Council approve the introduction of the "ACROD 2.5" bay.

10.3.2 Fees and Charges for 2007/2008

Ward:	-	Date:	14 May 2007
Precinct:	-	File Ref:	FIN0025
Attachments:	001		
Reporting Officer(s):	M Rootsey		
Checked/Endorsed by:	John Giorgi	Amended by:	

OFFICER RECOMMENDATION:

That the Council APPROVES BY ABSOLUTE MAJORITY the Schedule of Fees and Charges, as shown in Appendix 10.3.2, for adoption for the 2007/2008 financial year.

COUNCIL DECISION ITEM 10.3.2

Moved Cr Farrell, Seconded Cr Doran-Wu

That the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

To present the Fees and Charges for the financial year 2007/2008 for approval.

BACKGROUND:

The Town of Vincent, as all other local authorities, applies charges for services provided and for the use of facilities available for hire. All such fees are required to be reviewed annually.

The Local Government Act 1995 allows fees and charges to be adopted and included in the Annual Budget without having to be gazetted separately.

DETAILS:

The attached schedule outlines details of Fees and Charges proposed for the 2007/2008 year with a comparison to last year's fees, where there has been a change from last year the particular item has been highlighted in bold italics.

A number of fees are determined by legislation, these include Dogs and Building/Planning Fees and a number of fees are raised under the Health Act.

Fees and Charges that are raised where the Town is engaged in what is deemed to be commercial activity, GST must be applied. Fees where GST is applicable are marked with a tick in the last column of the schedule.

Local Government Fees and Charges that are raised under legislation or local laws are in general GST free by way of exemption through Division 81 of the GST Legislation.

New fees recommended for 2007/2008 include:

Sundry Information - Page 8.7

Three fees have been introduced in relation to the provision of Heritage advice on properties.

Building Fees - Page 8.8

A new fee has been introduced for the Inspection of Unauthorised Developments.

Development Applications - Page 8.10

Two new fees have been included relating to the demolition of properties where Heritage assessments have been undertaken.

Work Bonds - Page 8.13

A new category has been included this year for Verge Tree Replacement which includes removal.

Increased charges have been recommended in most cases, particularly in the following areas:

Car parking and kerbside fees

Increases are proposed for all the categories of car parking and kerbside fees for this financial year.

Dog Pound

The fee for the seizure and impounding of dogs is proposed to be increased.

Health Services

The Executive Director of Public Health now reviews prescribed fees on an annual basis to prevent periodic substantial increases.

The Health Service fees that are in the control of the Town have been recommended for increase this financial year.

Rubbish Charges

It is recommended there be an across the board increase in the domestic commercial recycling fees for additional services.

An increase in the fees for worm farms for non-residents in the Town has been recommended.

Sundry Information

The recommended increases for information are to be more in line with cost-recovery of the services required.

General Planning and Fees

The cash in lieu for parking is recommended to be increased to \$2,700 per car parking bay.

Works Bonds

These have been increased to be more in line with the actual cost of repairs, where damage or non-compliance occurs.

Hire of Halls and Community Centres

There is an across the board increase for the Hire of Halls and Community Centres.

These fees have remained constant for a number of years, however there needs to be an increase to meet the increasing costs of maintenance, in particular cleaning.

There has been a significant increase in the bonds required, as in cases where damage has occurred the value of the bond doesn't meet the costs of the damage and subsequent repair costs required. This is particularly for hire, where alcohol is being consumed.

Beatty Park

An annual review of the Beatty Park Leisure Centre fees is undertaken to benchmark against other local government centres. Beatty Park fees and charges are adjusted each year to minimise significant increase and to ensure that the Centre remains financial sustainable as well as maintaining its community obligations. This year there has been an increase in the majority of the fees, this has not occurred for two years and therefore it is appropriate to raise them this year. Even with these increases the Beatty Park is at the lower end of the fees in comparison with other centres.

CONSULTATION/ADVERTISING:

Advertised as part of the Annual Budget document.

LEGAL/POLICY:

In accordance with Local Government Act (1995) S6.16, 6.17 and 6.18.

STRATEGIC IMPLICATIONS:

The new and amended charges have been included in the preparation of the Draft 2007/2008 Budget.

FINANCIAL/BUDGET IMPLICATIONS:

N/A

COMMENTS:

It is recommended that the Fees and Charges contained in the attached schedule be adopted for the 2007/2008 Budget so that Council can apply these from 1 July 2007 (or subsequent date where nominated).

10.4.1 Appointment to Statutory Bodies/Authorities, Committees and Advisory Groups - Extension of Term

Ward:	-	Date:	16 May 2007
Precinct:	-	File Ref:	ADM0030
Attachments:	001		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION

That the Council APPROVES BY AN ABSOLUTE MAJORITY to extend the term of all Elected Members, Officers and Community Representatives appointed at the Special Meeting of Council held on 10 May 2005 (and amended thereafter), as shown in Appendix 10.4.1, until 20 October 2007 (- as a result of amendments to the Local Government Act 1995 to allow for the local government elections).

COUNCIL DECISION ITEM 10.4.1

Moved Cr Farrell, Seconded Cr Doran-Wu

That the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of the report is to extend the term of Elected Members, Officer and Community Representatives, appointed to Statutory Bodies/Authorities, Committees and Advisory Groups until 20 October 2007, as a result of a change in election date from May 2007 until 20 October 2007.

BACKGROUND:

The Council is represented on a wide range of Statutory Bodies/Authorities, Committees and Advisory Groups. It is necessary to ensure that the Council is still represented, it is recommended that the current membership be extended until the election date of 20 October 2007.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

The Local Government Act requires an absolute majority decision of the Council to appoint persons to Committees, or extend terms.

STRATEGIC IMPLICATIONS:

This matter is in keeping with the Town's Strategic Plan 2006-2011 - Objective 4.1.2 - *"Manage the organisation in a responsible, efficient and accountable manner."*

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The extension of term for current incumbents will allow for the Town to continue its normal business until the election on 20 October 2007.

10.4.2 Review and Adoption of Members Fees and Expenses 2007/2008

Ward:	Both	Date:	9 May 2007
Precinct:	All	File Ref:	ADM0051
Attachments:	001		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:		Amended by:	

OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY for 2007/2008 the financial support that will be provided to Elected Members through the payment of allowances, fees and reimbursement of expenses incurred and insurance cover while performing the official functions and duties of office as detailed in Policy 4.2.7 - "Elected Member Allowances, Fees and Re-imbursement of Expenses" subject to the following amendment (as shown in Appendix 10.4.2);

(i) *clause 3.3(b) be amended to read as follows:*

“3.3 (b) the cost, on production of receipts, for one internet connection fee up to ~~80 per cent of the actual fee to a maximum of \$300~~ \$150 per annum plus one ADSL modem up to a cost of \$150 for each Elected Member’s term, and up to 80 per cent of the actual monthly fee to a maximum of \$480 per annum;”

COUNCIL DECISION ITEM 10.4.2

Moved Cr Farrell, Seconded Cr Doran-Wu

That the recommendation be adopted.

Debate ensued.

Moved Cr Torre, Seconded Cr Farrell

That the Item be DEFERRED to allow for a further report to be prepared relating to the Mayor’s Vehicle.

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to review and adopt the fees and expenses applicable to Elected Members for 2007/2008, as required by the Local Government Act 1995.

BACKGROUND:

At the Ordinary Meeting of the Council held on 8 June 2004, the Council approved the Policy - Elected Members Allowance, Fees and Re-imbursement of Expenses, policy number 4.2.7. The Policy prescribes that Council review annually the Elected Member Allowances, Fees and Reimbursements.

Reimbursement of Telecommunications Expenses – Clause 3.3(b)

The amended clause is to remove ambiguity and provide for a more realistic reimbursement. It will allow for:

- (a) internet connection fees up to \$150 per annum; and
- (b) re-imbursement of up to 80% of the actual monthly fee to maximum of \$480 per annum.

A reasonable broadband monthly service fee varies from \$30 to \$50 per month depending upon usage/download. Assuming that 80% of the internet is used for Council business purposes, re-imbursement will be \$480 per annum, based on a monthly account fee of \$50. In addition, an ADSL modem is required for a broadband internet service. These cost between \$100 and \$150 each.

This clause was last reviewed in May 2003. There has been significant changes in internet services in the past 2-3 years, particularly with broadband internet services being provided.

The increase reflects the current costs of broadband internet services currently offered.

CONSULTATION/ADVERTISING:

The Council's Policy relating to Elected Member Fees and Expenses was previously advertised for public comment in May 2003.

In view of the very minor nature of the proposed amendment which does not materially affect the principle conditions of the policy, it is recommended that the amendments to fees and expenses not be advertised separately for public comment, but considered as part of the Budget process.

LEGAL/POLICY:

The Local Government Act provides that a Member has a legal right to be reimbursed for rental on one telephone line and one facsimile line and in addition, can claim child care costs incurred whilst attending to Council business.

The Local Government (Administration) Regulations also provide:

“The extent to which an expense ...can be reimbursed is the actual amount, verified by sufficient information”.

The above criteria must be met before any reimbursement can be made. That is:

- the Council must first approve the types of expenses which can be reimbursed (and may set limits to these);
- the expense must be incurred in performing a function as a council member;
- reimbursement is limited to the actual expense incurred; and
- the expense must be verified by sufficient information.

STRATEGIC IMPLICATIONS:

This matter is in keeping with the Strategic Plan 2006 – 2011 – Leadership, Governance and Management – Objective 4.1.2 “*Manage the organisation in a responsible, efficient and accountable manner*”.

FINANCIAL/BUDGET IMPLICATIONS:

The above costs associated with this policy are included in the Annual Budget 2007/2008.

COMMENTS:

The expenses and allowances approved by the Town of Vincent are comparable with other local governments of a similar size and budget to the Town of Vincent.

10.4.3 Statutory Review of Local Laws - Proposed New Local Government Property Local Law

Ward:	-	Date:	16 May 2007
Precinct:	-	File Ref:	
Attachments:	001 ; 002		
Reporting Officer(s):	D Abel, J van den Bok, C Wilson, D Morrissy A Smith, John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

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; and*
- (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:*
 - *Air-conditioning Units, published in the Government Gazette on 4 November 1997;*
 - *Beatty Park Leisure Centre, published in the Government Gazette on 30 November 1998;*
 - *Halls and Centres, published in the Government Gazette on 30 April 1998;*
 - *Parks and Public Reserves, published in the Government Gazette on 22 December 1998 and amended on 23 March 2004;*
 - *Property Numbers, published in the Government Gazette on 25 September 1998;*
 - *Removal and Disposal of Obstructing Animals or Shopping Trolleys, published in the Government Gazette on 22 December 1998;*
 - *Removal of Refuse, Rubbish and Disused Materials, published in the Government Gazette on 1 May 1998;*
 - *Local Law Relating to Street Lawns and Gardens, published in the Government Gazette on 22 December 1998;*
 - *Streets and Footpaths, published in the Government Gazette on 14 June 2000; and*
 - *Verandahs and Awnings over Streets, published in the Government Gazette on 22 December 1998;*

- (b) *its intention to ADOPT a new Local Government Property Local Law as shown in Appendix 10.4.3 to provide for the regulation, control and management of activities on local government property and public property within the district;*
 - (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; and*
- (iii) **APPROVES the rescission of the following Policies as shown in Appendix 10.4.3:**
 - (a) *No. 2.1.2 – Street Trees - Planting, Shaping and Removal;*
 - (b) *No. 2.1.3 – Existing Street Verge Trees Adjacent to Property Developments;*
 - (c) *No. 2.2.4 - Levelling of Verges to the Property Line;*
 - (d) *No. 2.2.3 – Road Verges – Mowing and Cleaning of;*
- (iv) **APPROVES to adopt the:**
 - (a) *following new Policies as shown in Appendix 10.4.3:*
 - (1) *No. 2.1.2 – Street Trees; and*
 - (2) *No. 2.2.4 – Verge Treatments, Plantings and Beautifications;*
 - (b) *Street Tree Management Plan 2007;*
- (v) **AUTHORISES the Chief Executive Officer to:**
 - (a) *advertise the proposed new Policies and the Street Tree Management Plan 2007 for a period of four weeks, seeking public comment;*
 - (b) *report back to Council with any submissions received; and*
 - (c) *include the proposed policies in the Town's Policy Manual, and implementation of the Street Management Plan 2007 if no public submissions are received;*
- (vi) **ADOPTS the Amended Policy No. 3.5.2 relating to Signs and Advertising in the interim until the formal adoption of the Amended Policy;**
- (vii) **ADVERTISES the Amended Policy No. 3.5.2 relating to Signs and Advertising 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 Amended Policy once a week for four 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 subject Amended Policy; and*

- (c) *forwarding a copy of the subject Amended Policy to the Western Australian Planning Commission;*
- (viii) *after the expiry of the period for submissions:*
 - (a) *REVIEWS the Amended Policy No. 3.5.2 relating to Signs and Advertising, having regard to any written submissions; and*
 - (b) *DETERMINES the Amended Policy No. 3.5.2 relating to Signs and Advertising with or without amendment, to or not to proceed with them; and*
- (ix) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period;*

Moved Cr Maier, Seconded Cr Farrell

That the recommendation be adopted subject to clauses (ii)(b) and (iv) being amended to read as follows:

- “(ii) (b) *its intention to ADOPT a new Local Government Property Local Law as shown in Appendix 10.4.3 to provide for the regulation, control and management of activities on local government property and public property within the district subject to the following amendment;*

“clause 6.4 (a)(iv) to be amended to read as follows:

- ‘(iv) *not be placed in any position other than immediately in front of the building or the business to which the sign relates and be located not closer than 300 millimetres to the kerb or further than ~~1500~~ 1200 millimetres from the kerb so as to ensure the free passage of persons using the path;*’

- (iv) *APPROVES to adopt the:*

- (a) *following new Policies as shown in Appendix 10.4.3:*

- (1) *No. 2.1.2 – Street Trees subject to the following amendment;*

- (A) *Policy – Clause 7 being amended to read as follows:*

- ‘7. *Unauthorised Interference, Removal, Pruning or Damage to Street Trees*

The Town will pursue legal action (issue of an Infringement Notice/Modified Penalty or prosecution), where there is sufficient evidence to do so, against any person who wilfully interferes, removes, prunes or damages a street tree, without the prior approval of the Town.’

(B) *Policy and Guidelines – clause 3 (iv) being amended to read:*

‘(vi) Residents/occupants may seek to ~~have a prune an adjacent~~ street tree under powerlines pruned in advance or out of the programmed schedule and requests for the Town’s approval must be submitted in writing to the Executive Manager Technical Services or nominee.’

(C) *Policy and Guidelines – clause 4(ii) being amended to read as follows:*

‘(ii) Requests from residents for the pruning of street trees not located under powerlines to reduce their height (therefore reducing leaf/fruit drop or improving light penetration), shall be made received in writing. Such requests will be considered on their merits by the Town’s Parks Services. Where, in the opinion of the Executive Manager Technical Services or nominee, the pruning is considered significant or beyond what is “normal tree maintenance” a recommendation will be made to the Council, based on the following criteria:’; and

(2) No. 2.2.4 – Verge Treatments, Plantings and Beautifications;

(b) Street Tree Management Plan 2007 subject to clause 4.2(b) being amended to read as follows;

“(b) Species selection will be ~~recommended~~ approved by Council in consultation with residents from a list of acceptable street tree species compatible with ~~in~~ local conditions and requirements.”

Debate ensued.

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

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; and

(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:

- Air-conditioning Units, published in the Government Gazette on 4 November 1997;*

- *Beatty Park Leisure Centre, published in the Government Gazette on 30 November 1998;*
 - *Halls and Centres, published in the Government Gazette on 30 April 1998;*
 - *Parks and Public Reserves, published in the Government Gazette on 22 December 1998 and amended on 23 March 2004;*
 - *Property Numbers, published in the Government Gazette on 25 September 1998;*
 - *Removal and Disposal of Obstructing Animals or Shopping Trolleys, published in the Government Gazette on 22 December 1998;*
 - *Removal of Refuse, Rubbish and Disused Materials, published in the Government Gazette on 1 May 1998;*
 - *Local Law Relating to Street Lawns and Gardens, published in the Government Gazette on 22 December 1998;*
 - *Streets and Footpaths, published in the Government Gazette on 14 June 2000; and*
 - *Verandahs and Awnings over Streets, published in the Government Gazette on 22 December 1998;*
- (b) *its intention to ADOPT a new Local Government Property Local Law as shown in Appendix 10.4.3 to provide for the regulation, control and management of activities on local government property and public property within the district subject to the following amendment:*
- “clause 6.4 (a)(iv) to be amended to read as follows:*
- ‘(iv) not be placed in any position other than immediately in front of the building or the business to which the sign relates and be located not closer than 300 millimetres to the kerb or further than ~~1500~~ 1200 millimetres from the kerb so as to ensure the free passage of persons using the path;’*
- (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; and*
- (iii) *APPROVES the rescision of the following Policies as shown in Appendix 10.4.3:*
- (a) *No. 2.1.2 – Street Trees - Planting, Shaping and Removal;*
 - (b) *No. 2.1.3 – Existing Street Verge Trees Adjacent to Property Developments;*

- (c) *No. 2.2.4 - Levelling of Verges to the Property Line;*
- (d) *No. 2.2.3 – Road Verges – Mowing and Cleaning of;*
- (iv) (a) *following new Policies as shown in Appendix 10.4.3:*
- (1) *No. 2.1.2 – Street Trees subject to the following amendment;*
- (A) *Policy – Clause 7 being amended to read as follows:*
- ‘7. Unauthorised Interference, Removal, Pruning or Damage to Street Trees*
- The Town will pursue legal action (issue of an Infringement Notice/Modified Penalty or prosecution), where there is sufficient evidence to do so, against any person who wilfully interferes, removes, prunes or damages a street tree, without the prior approval of the Town.’*
- (B) *Policy and Guidelines – clause 3 (iv) being amended to read:*
- ‘(vi) Residents/occupants may seek to have a prune an adjacent street tree under powerlines pruned in advance or out of the programmed schedule and requests for the Town’s approval must be submitted in writing to the Executive Manager Technical Services or nominee.’*
- (C) *Policy and Guidelines – clause 4(ii) being amended to read as follows:*
- ‘(ii) Requests from residents for the pruning of street trees not located under powerlines to reduce their height (therefore reducing leaf/fruit drop or improving light penetration), shall be made received in writing. Such requests will be considered on their merits by the Town’s Parks Services. Where, in the opinion of the Executive Manager Technical Services or nominee, the pruning is considered significant or beyond what is “normal tree maintenance” a recommendation will be made to the Council, based on the following criteria:’; and*
- (2) *No. 2.2.4 – Verge Treatments, Plantings and Beautifications;*
- (b) *Street Tree Management Plan 2007 subject to clause 4.2(b) being amended to read as follows;*
- “(b) Species selection will be ~~recommended~~ approved by Council in consultation with residents from a list of acceptable street tree species compatible with ~~in~~ local conditions and requirements.”*

- (v) ***AUTHORISES the Chief Executive Officer to:***
- (a) ***advertise the proposed new Policies and the Street Tree Management Plan 2007 for a period of four weeks, seeking public comment;***
 - (b) ***report back to Council with any submissions received; and***
 - (c) ***include the proposed policies in the Town's Policy Manual, and implementation of the Street Management Plan 2007 if no public submissions are received;***
- (vi) ***ADOPTS the Amended Policy No. 3.5.2 relating to Signs and Advertising in the interim until the formal adoption of the Amended Policy;***
- (vii) ***ADVERTISES the Amended Policy No. 3.5.2 relating to Signs and Advertising 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 Amended Policy once a week for four 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 subject Amended Policy; and***
 - (c) ***forwarding a copy of the subject Amended Policy to the Western Australian Planning Commission;***
- (viii) ***after the expiry of the period for submissions:***
- (a) ***REVIEWS the Amended Policy No. 3.5.2 relating to Signs and Advertising, having regard to any written submissions; and***
 - (b) ***DETERMINES the Amended Policy No. 3.5.2 relating to Signs and Advertising with or without amendment, to or not to proceed with them; and***
- (ix) ***NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period;***
-

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 Local Government Property 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>Airconditioning 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).

Local Government Property

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

- Air-conditioning Units, published in the Government Gazette on 4 November 1997;
- Beatty Park Leisure Centre, published in the Government Gazette on 30 November 1998;
- Halls and Centres, published in the Government Gazette on 30 April 1998;
- Parks and Public Reserves, published in the Government Gazette on 22 December 1998 and amended on 23 March 2004;

- Property Numbers, published in the Government Gazette on 25 September 1998;
- Removal and Disposal of Obstructing Animals or Shopping Trolleys, published in the Government Gazette on 22 December 1998;
- Removal of Refuse, Rubbish and Disused Materials, published in the Government Gazette on 1 May 1998;
- Local Law Relating to Street Lawns and Gardens, published in the Government Gazette on 22 December 1998;
- Streets and Footpaths, published in the Government Gazette on 14 June 2000; and
- Verandahs and Awnings over Streets, published in the Government Gazette on 22 December 1998.

New Local Government Act Powers

The Local Government Act was amended in 2004 and now contains a number of powers (and procedures) which were previously contained in several local laws.

Section 3.25 gives powers to local governments to deal with matters listed in Schedule 3.1. These include:

Things a notice may require to be done:

1. Prevent water from dripping or running from a building on the land onto any other land.
2. Place in a prominent position on the land a number to indicate the address.
3. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.
4. Ensure that land is suitably enclosed.
5. Ensure that unsightly land is enclosed.
6. Ensure that overgrown vegetation, rubbish, or disused material is removed from land that the local government considers to be untidy.
7. Minimising sand drifts.
8. Ensure that land is not overgrown.
9. Remove all or part of a tree that is obstructing prejudicially affecting a thoroughfare.
10. Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.
11. Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
12. Ensure that an unsightly, dilapidated or dangerous fence or gate is modified or repaired.

13. Take specific measures to prevent:
 - (a) artificial light being emitted from the land; and
 - (b) natural or artificial light being reflected from something on the land, creating a nuisance.
14. Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare.

New Local Government Property Local Law

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 - Determinations in respect of local government property and buildings

- 2.1 *Determinations as to use of local government property and buildings* – Determinations are a new concept for this local law and in essence allows the Council to make decisions/rules which are now known as "*determinations*". Determinations whilst not having the same rigorous process as a new local law, nevertheless have legal status if adopted as part of the local law. At this stage, no determinations are recommended for approval.
- 2.2 *Procedure for making a determination* – This prescribes the procedure for making a determination.
- 2.7 *Activities which may be pursued on specified local government property and buildings* – This clause is self explanatory and prescribes an extensive list of what Council can make a determination.
- 2.8 *Activities which may be prohibited on specified local government property and buildings* – This clause is self explanatory and prescribes an extensive list of what Council can prohibit in a determination

Part 3 - Permits

This Part prescribes the requirements for making application for a permit and decisions and conditions that may be imposed. It also prescribes the duration, renewal, transfer and cancellation of a permit and any activities which are subject to a permit.

Part 4 - Behaviour on local government property and in buildings

This Part includes:

- Community facilities - this a new clause which controls behaviour at a community facility and primarily replaces the same provisions in the former Beatty Park Leisure Centre and Halls and Reserves local laws.
- Fishing and boat launching - this a new clause.
- Fenced or closed property - this is a new clause.

- Air conditioning units - this is almost identical to our previous local law, other than new clause numbers.
- Awnings, balconies and verandahs - this is almost identical to our previous local law, other than new clause numbers.

Part 6 - Advertising signs on thoroughfares

This Part includes new clauses to control portable (movable or free standing) signs and also conditions relating to the placement of election signs.

Part 7 - Obstructing vehicles and shopping trolleys

This Part includes:

- Animals and vehicles;
- Shopping trolleys;

and is similar to our existing locals laws.

Part 8 - Bond or security

This part allows for the payment of a bond or security if required and also use by the local government of the bond or security in case of a default of a notice.

Part 9 - Works on local government property or in a public place

- 9.2 *Works in a public place or on local government property* – this prohibits persons carrying out works without written approval of the local government.
- 9.3 *Footpath, verge and street tree protection* – this prescribes conditions for protection of footpaths, trees etc.
- 9.4 *Verge treatment* - this prescribes conditions to protect verges.
- 9.5 *Permissible verge treatments* - this in essence replaces the current Street Lawns and Gardens local law.
- 9.6 *Owner's or occupier's responsibility for verge treatments* - this prescribes the responsibilities of a person who installs a street verge.
- 9.8 *Public works on verges* - this prescribes the requirements for carrying out public works.
- 9.9 *Vehicle crossing treatment* - this clause formalises the current practice.
- 9.10 *Permissible treatments for standard vehicle crossing* - this clause formalises the current specification for vehicle crossings.

Part 10 - Activities on local government property or in a public place

This Part prescribes a number of conditions for the control of activities on local government property and in public places.

Part 11 - Notices of breach

This Part allows for the serving of notices in the event of a breach.

Part 12 - Objections and appeals

This Part prescribes the procedure for persons lodging an appeal.

Part 13 - Miscellaneous

This Part relates to authorised persons, disposal of lost property, impounding of goods, liability for damage to local government property, insurances and the payment of entry fees.

Part 14 - Offences

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

Review of Policies Relating to the Use of Verges and Maintenance

At the Ordinary Meeting of Council held on 8 August 2006, the Council considered an item 10.2.1 - Proposed Northbridge Landscape Restoration Plan. As a result of discussions the following subsequent motion was adopted by the Council:

"That the Town's policy relating to Verge Maintenance and Use of Verges be reviewed."

At the Ordinary Meeting of Council held on 10 October 2006, Cr. Ian Ker presented a "Notice of Motion" - Review of Policies Relating to Maintenance and Use of Verges as follows:

That the Council:

- (i) as part of its review of the maintenance and use of verges, investigates ways of encouraging and assisting property owners and residents to maintain street verges in ways that retain and enhance their aesthetic contribution to streetscapes whilst minimising water usage; and*
- (ii) REQUESTS that the City of Fremantle policy - verge Beautification Program, should be specifically considered as part of the review; and*
- (iii) INVESTIGATES ways to landscape verges, in particular narrow verges, without contributing to storm water pollution.*

The Town's policy manual contains various policies which provide guidance to the Town's Administration for day to day management issues and also to Elected Members for decision making.

Existing Policies relating to verges

The Town currently has two (2) policies in regard to verges as follows:

- Policy No. 2.2.3 Road verges – Mowing and Cleaning
- Policy No. 2.2.4 Levelling of Verges to Property Line

As detailed in Policy No's: 2.2.3 and 2.2.4, the Town undertakes the minimum requirements regarding their obligations to residents in terms of the care/maintenance of street verges within the Town.

Both the above policies are to be rescinded and new policies adopted to cover these matters.

Proposed New Policy

The new Policy No. 2.2.4 – Verge Treatments, Plantings and Beautification will amalgamate two current policies, namely:

- Policy No. 2.1.2 – Street Trees – Planting, Shaping and Removal; and
- Policy No. 2.1.3 – Existing Street Trees Adjacent to Property Developments.

The maintenance and beautification of street verges has always been a contentious issue with owner/occupiers. Some residents have taken ownership of the street verge and have beautified and maintained them to a high standard. Other owner/occupiers have chosen to neglect the street verge.

The Town has endeavoured to encourage residents to take more pride in the street verge by having a specific category in the Annual Garden competition - "Best Kept Verge." This has achieved moderate success in terms of an improvement to streetscapes within the Town.

As indicated above, a brochure – “Guidelines for Verge Planting and Beautification” was produced by Parks Services staff in the late 1990’s and is similar to the City of Fremantle’s “Verge Planting Guidelines.”

The brochure has been very popular with residents and provides details on details low growing plant species suitable for verge areas, including suitable street verge trees which will be provided and planted by the Town. It also details the process required by the Town in order to get approval for any proposed works on the street verge.

The existing brochure has been amended to include a wider range of waterwise plants suitable for verge planting and also includes other relevant information pertaining to verge beautification based on the City of Fremantle’s verge beautification program.

The new policy will basically reflect what is outlined in the amended brochure – “Guidelines for Verge Planting and Beatification” and also refers to the Local Government Property Local Law which applies to works carried out on Council property.

Review of Related Policies – Street Trees

As the proposed local law covers street trees and following a recent complaint concerning the removal of a street tree on the verge outside a new development, it is considered appropriate to review and refine two related policies, namely:

- No. 2.1.2 – Street Trees, Planting, Shaping and Removal; and
- No. 2.1.3 – Existing Verge Trees Adjacent to Property Development.

It is recommended that the above two current policies be rescinded and a new policy be adopted in their place. The new policy will incorporate the content of the previous two policies and will contain more information, guidelines and procedures.

Street Tree Management Plan

At the Ordinary Meeting of Council held on 18 January 1999 the Council adopted a Street Tree Management Plan.

This Plan has been reviewed and it is recommended the revised "*Street Tree Management Plan 2007*" (as shown in Appendix 10.4.3) be adopted and advertised, together with the revised policies.

The Management Plan supplements the Street Tree Policy.

Review of Planning Policy 3.5.2 - Signs and Advertising

The Town's current Planning Policy 3.5.2 relating to Signs and Advertising deals with signage on private property, and not signage on footpaths and thoroughfares. Signage on footpaths and thoroughfares is addressed in the Town's Local Laws and this will continue to be the case under the proposed new Local Government Property Local Law.

Clause 2) i) of the Signs and Advertising Policy states "*All advertisement signs are to: ... h) not protrude over Council property, including footpaths (unless allowed under a verandah or attached to a fascia) or neighbour's property*".

Nevertheless, the Signs and Advertising Policy also refers to 'ground based signs' which are similar in scale and nature as 'portable signs' under the proposed new Local Government Property Local Law. Clause 2) viii) of the Signs and Advertising Policy states that "*A Ground Based Sign is to: a) be located adjacent to the building to which the sign relates and be located on the footpath immediately adjacent to the building*".

In order to remove any anomaly between ground based signs (under the Planning Policy) and portable signs (under the new Local Law), it is recommended that clause 2) viii) a) of the Signs and Advertising Policy be amended to read as follows (Amendment No. 45 to Planning and Building Policies):

"2) viii) a) *A Ground Based Sign is to:*

- a) *be located ~~adjacent to the building~~ on the property to which the sign relates ~~and be located on the footpath immediately adjacent to the building;~~ ..."*

If approved, the control of portable signs on footpaths and public places will be controlled by the new local law.

The amended Policy is included as an attachment to this report.

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.

Statutory consultation for a six (6) week period will now be carried out. Town policies are normally advertised for twenty-one (21) days, however, in this case, as the Planning and Building Policy is to be advertised for four (4), it is appropriate to standardise the consultation advertising period for the sake of consistency.

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 reference 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. Policy Numbers 2.2.3 and 2.2.4 have been rescinded and new policies will be introduced to cover the subject matter.

NCP Public Benefit Test

The provisions relating to the administration of local government property are contained in the model 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 Local Government Property Local Law, proposed new policies and Street Tree Management Plan 2007 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

Nil.

14. CONFIDENTIAL REPORTS (Behind Closed Doors)

At 7.10pm Moved CrFarrell, Seconded Cr Torre

That the meeting proceed "behind closed doors" to consider Items 10.1.3 and 14.1 as the report contain legal advice obtained or which may be obtained and matters relating to the personal affairs of a person.

CARRIED (7-0)

Journalist Chris Thomson left the meeting. There were no members of the public present.

10.1.3 Further Report - No. 6 (Lot 28 D/P: 1598) Hope Street, Perth- Proposed Alterations and Additions to Outbuilding at Existing Single House (Application for Retrospective Approval) - Reconsideration of Conditions

Ward:	South	Date:	16 May 2007
Precinct:	Hyde Park; P12	File Ref:	PRO3478; 5.2007.93.1
Attachments:	001		
Reporting Officer(s):	L Mach; O Hammond; N Wellington; R Rasiah		
Checked/Endorsed by:	D Abel, R. Boardman	Amended by:	-

FURTHER 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 Vantora Investments Pty Ltd for proposed Alterations and Additions to Outbuilding at Existing Single House (Application for Retrospective Approval) at No. 6 (Lot 28 D/P: 1598) Hope Street, Perth, and as shown on plans stamp-dated 19 March 2007, subject to the following conditions:

- (i) the outbuilding (garage) shall not be used for industrial, commercial or habitable purposes, and is for the sole personal use of the inhabitants of the main dwelling only;*
- (ii) the sink, fridge, cupboard, shower and toilet within the outbuilding (garage) shall be used in conjunction with the swimming pool only;*

-
- (iii) *limited amount of storage is allowed to be kept in the outbuilding (garage), and adequate area for the parking of 2 motor vehicles (5.4 metres in width and 5.5 metres in length) shall be available at all times; and*
- (iv) *all home entertainment equipment, beds/mattresses, and lounge furniture and the like shall be stored within the store area as shown on the approved plans, and not used at any time within the outbuilding (garage).*
-

At 6.51pm The Presiding Member ruled that this Item would be dealt with at the conclusion of the Items due to the confidential information contained in the appendix circulated to Elected Members prior to the meeting. (The confidential information related to the personal affairs of a person.)

COUNCIL DECISION ITEM 10.1.3

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

Debate ensued.

Cr Farrell departed the Chamber at 7.18pm.

Cr Farrell returned to the Chamber at 7.19pm.

LOST (0-7)

(Crs Ker and Messina on leave of absence.)

Reasons:

1. **The development is not consistent with the orderly and proper planning and the preservation of the amenity of the locality.**
 2. **Consideration of objections received, particularly the adverse impact caused by the outbuilding being used for habitable and entertainment purposes.**
-

FURTHER REPORT:

The Council at its Ordinary Meeting held on 27 March 2007 considered the subject application and resolved the following:

"That the Item be DEFERRED to allow the officers to reconsider the conditions provided and to give further advice to Elected Members as to what can be done, given the further information that has been provided. Also, information to be provided on how the conditions can be monitored."

The previous Officer Recommendation with regard to the subject alterations and additions to outbuilding remains unchanged, as the Town can only impose conditions that are relevant and relate directly to the subject application, being alterations and additions to the outbuilding only.

Enforcement

In addition to the additional information sought by the Council, two members of the public also addressed the Council at the Ordinary Meeting held on 27 March 2007 seeking clarification as to how the Town intends to monitor the use of the outbuilding and compliance with the above conditions.

Conditions applied to retrospective Planning Approvals that require action within a given time period are followed up by the Town's Development Compliance Officer in accordance with the relevant provisions of the Local Government Act 1995, and the Town's Town Planning Scheme No. 1. Should compliance not be achieved, the Town may issue Written Directions under Section 214 of the Planning and Development Act 2005 and/or commence prosecution proceedings in accordance with the Act and the Town's Policies. However it is not the Town's current practice, nor is it practical for the Town's Officers to monitor all conditions applied to all development approvals. The Town, therefore, to some extent, relies upon written complaints in this regard. The Town may also require complainants to act as witnesses in prosecution proceedings for the Town to be successful in this regard.

Should the Town receive written allegations of the outbuilding being used for sleeping purposes, this matter would be dealt with by the Town's Health Services under Section 349 (3) of the Health Act 1911. If sufficient evidence is obtained, the Town may commence legal proceedings for breach of Clause 23 of the Health Local Laws 2004 which states "*the owner or occupier of a dwelling house shall not permit - (c) any garage or shed to be used for sleeping purposes*".

If the Town receives written complaints alleging the use of the dwelling for Short Term Accommodation (STA), then this matter will be dealt with in accordance with the Town's STA Policy (for example, the owner may be requested to provide copies of lease agreements and/or statutory declaration stating there are 6 or less occupants for a period not less than 6 months). Should this information not be provided and complaints are still received, and the Town can gather sufficient evidence, then the Town can pursue the matter in accordance with the provisions of the Local Government Act 1995, Planning and Development Act 2005 and/or prosecution proceedings.

If the Town receives written complaints alleging the use of the dwelling as a Lodging House, then the matter will be dealt with in accordance with the STA Policy, and in liaison with Health Services (Local Government Act 1995, Planning and Development Act 2005 and Health Act 1911).

Noise complaints are dealt with by Health Services in accordance with the Town's procedures and Environmental Protection (Noise) Regulations 1997.

Further Inspection

A further inspection of the outbuilding by the Town's Officers at 8.30am on Saturday, 12 May 2007 revealed that the outbuilding appears to be being used legitimately as a garage with storage. A vehicle is being housed in the outbuilding whilst one of the owners is overseas, the overhead projector and associated cabling has been removed and goods stored do not appear to be being used. It is to be noted that the outbuilding has an air-conditioner fitted to the building. This is depicted in the attached photographs.

The owner does not deny consuming beverages in the outbuilding with friends on occasion. It is however, apparent that the dominant use of the garage has changed in recent months. The previous dominant use of the outbuilding could have been considered to be "studio" and/or entertainment purposes; however, the current dominant use is considered to be garage and storage. The Town is unlikely to be successful in prosecution proceedings for use of the garage for entertainment purposes when the dominant use could be argued as garage and storage.

The Town has recently received further written complaints regarding the property, which are circulated separately for Elected Members' consideration on a confidential basis.

The following is a verbatim copy of the Minutes for the item placed before the Council at its Ordinary Meeting held on 27 March 2007.

"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 Vantora Investments Pty Ltd for proposed Alterations and Additions to Outbuilding at Existing Single House (Application for Retrospective Approval) at No .6 (Lot 28 D/P: 1598) Hope Street, Perth, and as shown on plans stamp-dated 19 March 2007, subject to the following conditions:

- (i) the outbuilding (garage) shall not be used for industrial, commercial or habitable purposes, and is for the sole personal use of the inhabitants of the main dwelling only;*
- (ii) the sink, fridge, cupboard, shower and toilet within the outbuilding (garage) shall be used in conjunction with the swimming pool only;*
- (iii) limited amount of storage is allowed to be kept in the outbuilding (garage), and adequate area for the parking of 2 motor vehicles (5.4 metres in width and 5.5 metres in length) shall be available at all times; and*
- (iv) all home entertainment equipment, beds/mattresses, and lounge furniture and the like shall be stored within the store area as shown on the approved plans, and not used at any time within the outbuilding (garage).*

COUNCIL DECISION ITEM 10.1.3

Moved Cr Doran-Wu, Seconded Cr Ker

That the recommendation be adopted.

Cr Torre departed the Chamber at 6.58pm.

Debate ensued.

Moved Cr Doran-Wu, Seconded Cr Lake

That the Item be DEFERRED to allow the officers to reconsider the conditions provided and to give further advice to Elected Members as to what can be done, given the further information that has been provided. Also, information to be provided on how the conditions can be monitored.

CARRIED (7-0)

(Cr Farrell on leave of absence. Cr Torre was absent from the Chamber and did not vote.)

ADDITIONAL INFORMATION:

In response to various enquiries of Councillor Dudley Maier and Councillor Helen Doran-Wu in relation to this matter, the following additional information is provided in relation to the subject dwelling and outbuilding particularly prior to the lodgement of the application for alterations and additions to outbuilding at existing single house lodged with the Town on 31 August 2006 and conditionally approved under delegated authority on 12 January 2007.

- 15 December 2005 *The Town received complaint that No. 6 Hope Street, Perth was converting the existing garage to a "flat" and the "premises" to a "backpackers".*
- The Town's Development Compliance Officer (DCO) attended the subject property. Access was not available and a contact card was left requesting access to the property for an internal inspection.*
- 16 December 2005 *The Town received a complaint of "extreme noise pollution" at the subject premises.*
- 20 December 2005 *Inspection of subject property to be performed by the Town's Officers as previously arranged; however, the owners' representative failed to attend, therefore, access was not pursued.*
- 5 January 2006 *Written request was made by the Town to the owner's lawyer as requested, to perform an inspection on the subject property with regard to alleged unauthorised use and works at premises.*
- 17 January 2006 *The Town received a (new) complaint alleging unauthorised construction works at the subject property and associated noise complaint.*
- Complainant advised that the owner of the subject property had been informed of noise complaints.*
- 19 January 2006 *Inspection of the subject dwelling and outbuilding by the Town's Officers revealed the following:*
- *five bedrooms and nine beds in the main dwelling; however only 4 appeared to be in use. Owner advised the dwelling is never let to more than six tenants and for a minimum period of 3 months;*
 - *outbuilding contained timber floor, kitchen sink, kitchen cupboards, home theatre equipment. Owner also advised a locked room contained a shower; however, "could not remember if it contained a toilet"; and*
 - *unfenced swimming pool.*
- 20 January 2006 *Swimming pool inspection request sent to the Town's Contractor.*
- The Town received a complaint alleging an unauthorised window in the outbuilding and that it has been converted to a "granny annexe".*
- 24 January 2006 *The Town received a complaint that loud drunken parties were occurring "basically every night in the pool".*
- 25 January 2006 *Enquiry received by the Town with regard to action being taken on the garage conversion and alleged "backpacker" issue.*
- 6 February 2006 *Written complaint received with regard to noise issues and occupation of outbuilding.*
- 8 February 2006 *The Town received a complaint that the outbuilding is being used "as a dwelling".*

- 15 February 2006 *The Town wrote to the owner's lawyers advising that the inspection undertaken by the Town's Officers on 19 January 2006 revealed that the garage at the rear of the property was being used for "habitable studio purposes" and that the necessary approval had not been granted by the Town. The owners were requested to cease the use of the "converted studio" as habitable accommodation with immediate effect and to remove unauthorised shower room and kitchen and to reinstate the studio conversion to a garage within fourteen days of notification.*
- 16 February 2006 *The Town received written complaint that there appeared to be 8-10 persons residing at the property, increase in the use of the right of way between Hope and Stuart Streets, installation of air-conditioning unit to garage and use of the garage for habitable purposes.*
- 21 February 2006 *The Town received written complaint that the outbuilding at the subject property has a working air-conditioning unit and venetian blinds installed and that it is occupied Monday to Friday and empty at weekends.*
- 7 March 2006 *The Town received a written request from the owner's lawyer requesting an extension of time to comply with the Town's letter dated 15 February 2006.*
- 13 March 2006 *Written complaint received by the Town with regard to the alleged "backpacker" short term accommodation, use of outbuilding for habitable purposes and parking difficulties in the street.*
- 26 April 2006 *An unannounced inspection of the subject property was performed by the Town's Officers. Inspection of main dwelling revealed four occupants who advised they were living at the property for periods of between two weeks and two months. Access to the outbuilding was denied.*
- 28 April 2006 *Written advice received from the owner's lawyer in response to noise allegations.*
- Written advice received from the owner's lawyer alleging improper and unlawful conduct of the Town's Officers with respect to unannounced inspection.*
- 28 April 2006 *The Town received written correspondence from local resident as a result of recent publicity, in support of the Town's actions and advise loud parties and music, use of the property as a "boarding house", parking issues, anti-social behaviour and noise.*
- 3 May 2006 *The Town received written advice from the owner's lawyer advising that the shower room and kitchen to the garage were "plumbed and fixed at the time of purchase and have simply been partitioned and refurbished by our client. Further we advise that the garage is not used for sleeping purposes but rather, is a non-habitable building which is utilised for the storage of different items and various other social activities. The garage is a Class 10 structure as defined in the Building Code of Australia 1996, and is not used and never has been used as habitable accommodation, and our client strongly refuses any allegation that it has made any change in the use of the building which would result in a change of classification....Our client strongly*

denies the Town's assertions with respect to alleged contraventions concerning internal improvements both to the existing dwelling and the garage on the Property... Further, our client is confident that the Property falls within the Residential Design Codes of Western Australia definition of "dwelling" as it is a permanent building which is used for the purpose of human habitation and no more than six persons who do not comprise a single family occupy the Property at any one time".

10 May 2006 The Town wrote to the owner's lawyer in response to their written correspondence to the Town.

12 May 2006 Meeting held at the Town's Administration and Civic Centre with the owner and their legal representative. Arrangements were made for internal inspection of the subject property by the Town's senior staff. The owner advised that the garage will not be used for sleeping purposes and will confirm this in writing.

18 May 2006 The owner's lawyer wrote to the Town summarising agreements reached at the meeting held on 12 May 2006 and confirmation of site inspection on 19 May 2006.

19 May 2006 Meeting held at the subject property on 19 May 2006 between Ms. Andrea Layt, Mr. Tom Lukich, the Town's Executive Manager Environmental and Development Services (EMEDS), Rob Boardman, the Town's (Former) Manager Health Services (MHS), Deon Brits, the Town's (Former) Development Compliance Officer (DCO), Andy Neilson and the Town's Acting Manager Planning, Building and Heritage Services, (A/MPBHS) Rasaratnam Rasiah.

9 June 2006 Letter from the Town to the owners Lawyers confirmed the following agreements:

- "1. Your written agreement that the main house at the property will be occupied by "no more than six (6) tenants at any one time who will occupy the property on a permanent basis and that the property will be occupied at all times as a "dwelling" as defined by the Residential Design Codes of Western Australia" is accepted by the Town. On this basis, it is confirmed that the Town will take no further action with respect to this matter.*
- 2. The Town has inspected the internal alterations within the dwelling that have been carried out to form bedrooms through the installation of internal partitions and found that this work, that was carried out without the prior approval of the Town, does not further contravene the provisions of the Building Code of Australia 2004. On this basis, it is confirmed that the Town will take no further action with respect to this matter.*
- 3. Your client advised at the meeting that the garage is currently being used for "entertainment facilities associated with the external swimming pool" and it was agreed that the remainder of the converted garage would only be used in the future for garage and storage purposes. It was further agreed that your client would submit an application for*

retrospective Planning Approval for the change of use of part of the garage and for the alterations that have been carried out to the garage. The appropriate applications forms are enclosed for your convenience.

Please ensure that all unauthorised internal alterations and installations of fittings which have been undertaken in the garage are shown on the submitted drawings. It is confirmed that the Town will deal with this application for the current extent of use under delegated authority.

4. *Your client also advised that he wishes to carry our minor alterations to the front veranda at the subject property and it is recommended that brief written details/sketches of these proposed alterations be submitted so that I can formally advise of any consents that may be required from the Town for the works to be undertaken."*

4 July 2006 The Town wrote to the owner's lawyer requesting the application for retrospective Planning Approval to be lodged within 30 days from the date of the letter.

31 August 2006 Application for alterations and additions to outbuilding at existing single house (application for retrospective approval) received by the Town.

12 September 2006 The Town received a written complaint alleging the continued use of the dwelling for "backpackers" and "short term accommodation", the use of the garage for "entertainment purposes", especially on weekends and not associated with the "external swimming pool" and casual overnight accommodation.

23 October 2006 Site inspection of subject premises revealed five persons in the dwelling at the time of inspection; however, eight beds existed. The owner verbally agreed to keep only six beds at the premises. The portion of the garage being used for recreational facilities (couches, home theatre, desk, etc) had not been removed and reverted back for garage purposes.

24 October 2006 Complainants alleging excessive noise issues were provided with a reference number for access to the Town's After Hours Emergency Service.

12 January 2007 Conditional approval for alterations and additions to outbuilding at existing single house (application for retrospective approval) was granted under Delegated Authority from the Council.

13 February 2007 Written request sent from the Town to the owner's lawyers to arrange for a site inspection of the subject outbuilding to ensure compliance with the above Approval, in particular, the following condition:

- "(v) all home entertainment equipment, stored beds/mattresses, lounge furniture and air-conditioning shall be removed from the outbuilding (garage), within 28 days of this Planning Approval."*

- 20 February 2007 *Written advice sent from the Town to the owner's lawyers exercising Section 3.32 of the Local Government Act 1995 to perform an inspection of the subject property.*
- 21 February 2007 *Inspection of the outbuilding by the Town's Officers revealed the following:*
- *Not all home entertainment equipment has been removed. Entertainment equipment remains in display unit, with associated wiring/cords. Projector unit and cords attached. Screen and speakers possibly removed.*
 - *Stored beds/mattresses remain.*
 - *Lounge furniture moved to one side.*
 - *Air-conditioning unit remains.*
- 23 February 2007 *The Town served a Written Direction on the owners of the subject property for the non-compliance with condition of Planning Approval.*
- 28 February 2007 *Mayor and EMEDS met with the owner of the subject property, where the conditions of Planning Approval dated 12 January 2007 were discussed. Arrangements were made for EMEDS and MPBHS to meet the owner on-site.*
- 6 March 2007 *EMEDS and MPBHS met with the owner of the subject property, where it was agreed an application for re-consideration of conditions could be submitted to the Town. EMEDS advised that action on the Written Direction will be stayed pending outcome of the new application.*

<i>Landowner:</i>	<i>Vantora Investments Pty Ltd</i>
<i>Applicant:</i>	<i>Vantora Investments Pty Ltd</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R80</i>
<i>Existing Land Use:</i>	<i>Single House</i>
<i>Use Class:</i>	<i>Single House</i>
<i>Use Classification:</i>	<i>"P"</i>
<i>Lot Area:</i>	<i>499 square metres</i>
<i>Access to Right of Way</i>	<i>North side, 3 metres wide, unsealed, privately owned</i>

BACKGROUND:

The Town has received numerous complaints regarding alleged activities occurring at the subject property, and includes the following:

- *28 February 2007 - alleged use of outbuilding for habitable purposes.*
- *23 February 2007 - alleged use of outbuilding for habitable purposes.*
- *22 February 2007 - alleged use of outbuilding for habitable purposes. Alleged number of tenants of dwelling exceeding 6 persons.*
- *21 February 2007 - alleged use of outbuilding for habitable purposes.*
- *14 February 2007 - alleged use of outbuilding for weekend entertainment and habitation.*
- *6 December 2006 - alleged use of outbuilding for habitable purposes.*
- *23 November 2006 - alleged use of dwelling for short term accommodation.*

- 2 November 2006 - objection to retrospective application including use of outbuilding and excessive number of vehicles being parked in the surrounding streets.
- 30 October 2006 - objection to retrospective application including excessive number of people residing in dwelling and associated problems relating to anti-social behaviour and excessive vehicles, use of outbuilding for habitable purposes and associated excessive noise.
- 30 October 2006 - objection to retrospective application including excessive number of people residing in dwelling, excessive noise and drunken behaviour and number of vehicles being parked on streets and verges.
- 23 October 2006 - objection to retrospective application including car parking issues, use of outbuilding for habitable purposes and operation of dwelling as "backpackers hostel".
- 22 October 2006 - alleged use of outbuilding for habitable purposes. Alleged use of dwelling for short term accommodation.

DETAILS:

The proposal involves a request for reconsideration of conditions for a previous approval granted for alterations and additions to outbuilding at existing single house (application for retrospective approval), at the subject property. The outbuilding floor plan has been altered since the approval to incorporate a specific store area dimensioned accordingly. The applicant's submission is "Laid on the Table".

In summary, the application requests the reconsideration of previous condition (i), (ii), (iv), and (v). Details of the reconsideration are summarised in the Assessment table below.

ASSESSMENT:

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Plot Ratio</i>	<i>0.65 - 320 square metres</i>	<i>Approx 0.57 – 279 square metres</i>	<i>Noted – no variation</i>
<i>Condition's Requested to be Reconsidered</i>		<i>Proposed</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>"(i)the outbuilding (garage) shall not be used for industrial, commercial, entertaining or habitable purposes, and is for the sole personal use of the inhabitants of the main dwelling only for the use of the facilities as stated in condition (ii) below;"</i>		<i>To be amended to read : "(i) the outbuilding (garage) shall not be used for industrial or commercial purposes of a non-private nature or, for habitable purposes and is for the personal use of the registered proprietor of the Property and the inhabitants of the main dwelling."</i>	<i>Not supported – upon further assessment the condition has been reworded to reflect the Town's standard condition. Entertaining within the outbuilding is considered to be a habitable activity.</i>

<p>"(ii) the sink, fridge, kitchen, shower and toilet within the outbuilding (garage) shall be used in conjunction with the swimming pool only and their use limited to the time period of 10 am to 8 pm daily, inclusive;"</p>	<p>To be amended to read : "(ii) the kitchen, shower and toilet facilities within the outbuilding shall be used in conjunction with the swimming pool".</p>	<p>Supported in part – the previous time limit was imposed to address undue noise, and upon further assessment, noise will be regulated by 'Environmental Protection (Noise) Regulations 1997. Additionally, kitchen has been removed from the condition as it is not stated on the plans.</p>
<p>"(iv) the dwelling shall not be occupied by no more than six (6) persons who do not comprise a single family, nor persons on a temporary basis, that is for a period less than six (6) months; and"</p>	<p>To be deleted in entirety.</p>	<p>Supported – upon further assessment application refers to outbuilding only.</p>
<p>"(v) all home entertainment equipment, stored beds/mattresses, lounge furniture and air-conditioning shall be removed from the outbuilding (garage), within 28 days of this Planning Approval."</p>	<p>To be deleted in entirety.</p>	<p>Not supported – however upon further assessment it has been conditioned that these items can be stored in the area but not used as that would imply habitable activity. It has been concluded that air-conditioning does not contribute to a room being habitable.</p>
<p><i>Consultation Submissions</i> Five (5) objection and nil support submissions were received during the previous advertising period 16 October 2006 – 7 November 2006 for the original application for alterations and additions to outbuilding at existing single house (application for retrospective approval).</p>		
<p><i>Support</i></p>	<p><i>Nil</i></p>	<p><i>Noted</i></p>
<p>Objection (5)</p>	<p>Objection to garage concrete floor being replaced with a wooden floor, additions of a sink, fridge, air conditioning, shower, furniture and home entertainment equipment which are to be used in association with the external swimming pool and are considered not associated with the garaging of motor vehicles. The garage is being used for habitable purposes.</p>	<p>Supported in part – the outbuilding (garage) is required to ensure that two motor vehicles can be parked at all times. A condition has been imposed for the home entertainment equipment, beds/mattresses, and lounge furniture and the like to be stored within the store area as shown on the approved plans, and not used at any time within the outbuilding (garage). The sink, fridge, cupboard, shower and toilet have been</p>

		<i>approved subject to it being used with the external swimming pool only and not for any other purposes.</i>
	<i>Parking is a problem along Hope Street, and the conversion of the garage into a living area results in more pressure for on-street car parking. In the last 6 months, abandoned 'backpacker' motor vehicles have been parked along Hope, Lake, Palmerston and Brisbane Streets. Garage for the above premises should be used for the sole purpose of housing motor vehicles.</i>	<i>Supported in part – the garage is required to be used for the parking of motor vehicles, associated with a single house. Abandoned vehicles should be brought to the attention of the Town's Rangers for appropriate action.</i>
	<i>Objection to the excessive numbers of people living at above mentioned property, which exceeds numbers allowed, which results in additional cars being parked along Hope Street.</i>	<i>Noted – due to the application relating specifically to the outbuilding and not to the main dwelling, the number of occupants cannot be addressed or monitored with this approval.</i>
	<i>Noise and disorderly drunken behavior, which is as a result of the entertainment facilities in the garage being used in association with the pool area.</i>	<i>Noted – as disorderly and drunken behavior is a police matter. Noise complaints should be forwarded to the Town's Environmental Health Officer on telephone number 9273 6000. The after hours telephone number is 9273 6061, with the reference number being 061023.</i>
<i>Other Implications</i>		
<i>Legal/Policy</i>		<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>
<i>Strategic Implications</i>		<i>Nil</i>
<i>Financial/Budget Implications</i>		<i>Nil</i>

** 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, it is recommended that the Council approve the application, subject to standard and appropriate conditions to address the above matters."

14.1 Confidential Report: Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey Plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007- Final Hearing

Ward:	North	Date:	16 May 2007
Precinct:	Leederville; P03	File Ref:	PRO1437; 5.2006.426.1
Attachments:	-		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report relating to Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007 -Final Hearing;*
- (ii) *FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*
 - (a) *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.*
 - (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
 - (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
 - (2) *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;*
 - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
 - (4) *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*
 - (5) *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;*

- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge 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);*
- (iii) *INVITES COUNCILLOR..... to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing".*

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

Debate ensued.

The Presiding Member called for nominations in accordance with clause (iii).

Cr Maier nominated.

CARRIED (7-0)

(Crs Ker and Messina on leave of absence.)

COUNCIL DECISION ITEM 14.1

That the Council;

- (i) *RECEIVES the report relating to Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007 -Final Hearing;*
- (ii) *FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*
 - (a) *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.*

- (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
 - (2) *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;*
 - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
 - (4) *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*
 - (5) *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;*
- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge 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);*
- (iii) *INVITES Councillor Maier to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing".*

Note: The Chief Executive Officer advised that this report is now released to the public as the Council has determined the matter.

PURPOSE OF REPORT:

- To advise the Council of the above review application.
- To comply with the requirements of the Town's Policy/Procedure for State Administrative Tribunal (SAT).
- To consider an Elected Member (s) and a local member of the community to submit a written submission (witness statement) on behalf of the Town.

Landowner:	V & H Evangel
Applicant:	Anthony Michael
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
Existing Land Use:	Two (2) Single Houses
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	1214 square metres
Access to Right of Way	N/A

BACKGROUND:

- 19 December 2006 The Council at its Ordinary Meeting conditionally approved the demolition of two (2) existing single houses, but refused the construction of the proposed four (4) two (2) storey plus loft grouped dwellings at Nos. 11-13 (Lots 37 and 36) Byron Street, Leederville.
- 8 February 2007 The applicant lodged a review application with SAT in relation the above planning refusal.
- 7 March 2007 Direction Hearing at SAT.
- 3 April 2007 Further Directions Hearing at SAT.
- 12 June 2007 Final Hearing at SAT.

DETAILS:

The review application pertains to the development proposal for the four (4) two (2) storey plus loft grouped dwellings refused at the Ordinary Meeting of Council held on 19 December 2006, as the proposed demolition of two (2) singles houses has been conditionally approved by the Council at its Ordinary Meeting held on 19 December 2006. Draft "*without prejudice*" conditions to SAT prior to the hearing date of 12 June 2007 are proposed, even though this has not been specifically stated in the SAT Orders dated 18 April 2007. Mr. Simon Bain (planning consultant) has been engaged to represent the Town in the above review process. The applicant is being represented by one of the owners. The review process is to be determined by way of a "Final Hearing."

The Council at its Ordinary Meeting held on 22 August 2006 conditionally approved an application for demolition of existing single house and construction of four (4) two-storey grouped dwellings, at Nos. 8 - 10 (Lots 46 & 47 D/P: 1210) Byron Street, Leederville subject to condition (viii) (b) which states as follows:

"(viii) (b) the garages for Units 1 and 2 being located behind the main building, and vehicular access to all four (4) dwellings being from a single shared driveway; and".

The above condition is subject of a Review (appeal) application lodged with the SAT, and is yet to be determined by SAT.

CONSULTATION/ADVERTISING:

Not required.

LEGAL/POLICY:

Planning and Development Act 2005 (WA), State Administrative Tribunal Act 2004 (WA) and Town's Policy No. 4.1.25 - Procedure For State Administrative Tribunal.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Cost associated with the services of a qualified professional (agent), Mr. Simon Bain.

COMMENTS:

On the above basis, the following is recommended:

- The Council receives the report.
- The Council applies draft "*without prejudice*" conditions.
- The Council nominates an Elected Member(s) to submit a written submission (witness statement), who will also be required to be available to attend and be a witness during the final hearing, unless leave not to attend is obtained from the SAT prior to the scheduled hearing date.
- The Council invites the only resident who made an objection to submit a written submission (witness statement), who will also be required to be available to attend and be a witness during the final hearing, unless leave not to attend is obtained from the SAT prior to the scheduled hearing date.

At 7.30pm **Moved Cr Torre, Seconded Cr Farrell**

That an "open" meeting be resumed.

CARRIED (7-0)

15. CLOSURE

The Presiding Member, Mayor Nick Catania JP, declared the meeting closed at 7.30pm with the following persons present:

Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell (<i>Deputy Mayor</i>)	North Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Maddalena Torre	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 22 May 2007.

Signed:Presiding Member
Mayor Nick Catania, JP

Dated this day of 2007