



**CITY OF VINCENT**

# **NOTES**

**Council Briefing**

**7 December 2021**

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**NOTES OF CITY OF VINCENT  
COUNCIL BRIEFING  
HELD AS E-MEETING AND AT THE  
ADMINISTRATION AND CIVIC CENTRE,  
244 VINCENT STREET, LEEDERVILLE  
ON TUESDAY, 7 DECEMBER 2021 AT 6.00PM**

<b>PRESENT:</b>	<p>Mayor Emma Cole Cr Susan Gontaszewski Cr Alex Castle Cr Jonathan Hallett Cr Dan Loden Cr Ashley Wallace Cr Suzanne Worner Cr Ron Alexander Cr Ross Ioppolo</p>	<p>Presiding Member South Ward North Ward South Ward North Ward South Ward North Ward North Ward South Ward</p>
<b>IN ATTENDANCE:</b>	<p>David MacLennan Andrew Murphy  John Corbellini  Virginia Miltrup  Jay Naidoo Tara Gloster  Peter Varris  Georgia Lawrence Lauren Formentin Wendy Barnard</p>	<p>Chief Executive Officer Executive Director Infrastructure &amp; Environment Executive Director Strategy and Development Executive Director Community &amp; Business Services Manager Development &amp; Design Manager Policy &amp; Place  Executive Manager Corporate Strategy &amp; Governance Coordinator Place Place Planner – Pickle District (Arts) Council Liaison Officer</p>
<b>Public:</b>	Approximately 21 members of the public.	

## **1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY**

The Presiding Member, Emma Cole, declared the meeting open at 6.00pm and read the following Acknowledgement of Country statement:

“THE CITY OF VINCENT WOULD LIKE TO ACKNOWLEDGE THE TRADITIONAL OWNERS OF THE LAND, THE WHADJUK PEOPLE OF THE NOONGAR NATION AND PAY OUR RESPECTS TO ELDERS PAST, PRESENT AND EMERGING.”

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

Nil

## **3 PUBLIC QUESTION TIME AND RECEIVING OF PUBLIC STATEMENTS**

The following is a summary of questions and submissions received and responses provided at the meeting. This is not a verbatim record of comments made at the meeting.

### **3.1 John Viska of North Perth – Item 5.16**

One hundred and twenty four years ago the intent of the original Crown Grant was for Hyde Park to be used for Recreational Purposes Solely.

The WA branch of the Australian Garden History has registered its concern with the Department of Planning, Lands and Heritage on the proposal of allowing a permanent commercial enterprise in Hyde Park and the impact it will have on the fabric of the place.

Consequently, a Heritage Impact Statement has been requested by the Minister before the approval will be considered.

This entails:

- A. Tree Protection and management plan by a suitably qualified arboriculturist.
- B. Details of proposed excavation associated with service installations or upgrades
- C. Details of any signage, seats, bins or shade installations. Any new installations shall not visually dominate the area or detract from the visual presentation of the place and shall maintain existing views and vistas within the park.

Council has also requested a Business Concept Plan for managing the environmental impact of a kiosk on the Park in compliance with the Hyde Park Conservation Management Plan.

I would like to move that the necessary requirements be provided by practising Heritage Consultants and an arboriculturist who has extensive heritage experience before council votes on the proposal.

There is not enough time between now and next week to complete the work that the Minister has requested, using the necessary experts. Council is setting precedence by entering into a commercial agreement which has never been part of the running of the park.

*The Presiding Member, Emma Cole, thanked Mr Viska for his comments.*

### **3.2 Mitchell Robinson of Perth – Item 5.6**

- Stated that he is the applicant
- Stated he has provided a justification report following mediation
- Stated that the report highlighted that even if the property was sold today it would take at least five years until development occurred and three years to development approval stage
- Mentioned that a three year term would mean they would have to return to request an extension, which is not desirable
- Requests that all existing billboard approvals be aligned with the same end date
- Requests approval until October 2029, or at the least until 2026 to minimise the financial impact on the company

*The Presiding Member, Emma Cole, thanked Mr Robinson for his comments.*

### **3.3 Marion Granich of West Perth – Item 5.2**

- Stated that the Brookman/Moir Heritage precinct has the highest level of heritage listing, the only site in Australia to receive a UNESCO award in 2017
- Stated that all of the heritage documentation, including the City of Vincent Heritage Guidelines, refers to the modest working class housing, uniformity and homogeneity
- Mentioned that the reason this precinct is heritage listed is not because of the individual houses, it is because it is two streets of intact 1890s working class housing, the only such in Australia. The streets are unique because they are row housing, which is rare in Perth.
- Mentioned that as the street is uniform row housing, approving a development of this scale and size really matters. A development of this size would be out of place with the current modest housing.
- Stated that the overshadowing would deprive the neighbour to the south of winter sunlight, which would mean the neighbours could never have solar panels in the future.
- Urges Council to protect this precious evidence of Perth's working class migrant history.

*The Presiding Member, Emma Cole, thanked Ms Granich for her comments.*

**3.4 Alan Stewart of Perth – Item 5.2**

- Stated that he is the applicant
- Stated that this development is an exemplar of heritage conservation and contemporary architecture
- Mentioned that the design has been supported on two occasions by the State Heritage Office and the City's independent heritage expert.
- Stated that the proposed addition is of a modest scale and sits very low behind the retained dwelling
- Stated that the additions are barely visible and comply with the guidelines, and the height complies with the Residential Design Codes
- Stated that the report mentions some minor variations to the R Codes, for example the development has 47% open space which is greater than the precinct average. If the front veranda is included in the calculation then the development complies with the 50% requirement
- Mentioned that a redesign has been undertaken to reduce the overshadowing, but it is difficult to achieve the required 25%, as the current house has 23% overshadowing. The overshadowing from the addition is 12%, of which only 7% falls on the rear garden area.
- Stated that the addition does not overshadow the roof, so solar panels would be possible
- Stated that the development will have no impact on the cultural heritage significance of the precinct

*The Presiding Member, Emma Cole, thanked Mr Stewart for his comments.*

**3.5 Richard Zielinski of North Perth – Item 5.1**

- Stated that this gym should not be operating in a residential area, it should be in an industrial area
- Stated that the situation is causing mental anxiety, depression and frustration
- Stated that he occupies the building adjoining and the noise is hideous
- Mentioned that his tenants broke their lease as they could not bear the noise, and have been unable to release the building
- Mentioned that the mats make a small difference with 60kg weights, but the mats are not used
- Stated that his building is cracking internally

*The Presiding Member, Emma Cole, thanked Mr Zielinski for his comments.*

**3.6 Monique Arnoldi of West Perth – Item 5.1**

- Spoke against the recommendation as representatives of their rental properties on Eden Street
- Mentioned that the change is more than double the current hours, starting at 5.30am and increasing their patronage by 25%, six days a week
- Stated that their retirement units were there first, and the gym was approved after seven objections
- Stated that the roller doors are open and accentuates the noise
- Mentioned that they have complained about trainers using the road to train patrons
- Stated that patrons and coaches yell and drop weights, which makes their house shake
- Stated that they rely on the rental income to survive and their tenants deserve a peaceful, happy environment

*The Presiding Member, Emma Cole, thanked Ms Arnoldi for her comments and for the information package she supplied to Council Members.*

**3.7 Lloyd D'Castro of Leederville - Item 5.3**

- Stated that he is a resident of Austen Lane
- Read from the the Department of Local Government, Sport and Cultural Industries (DLGSC) website on a role of a Councillor
- Stated that all the residents of the lane oppose the recommendation
- Stated that the first reason for opposition is parking. An increased number of cars parked on the road will be a safety risk and limit access for emergency vehicles
- Stated that the second reason is that development is inconsistent with the current streetscape, each residence is a single dwelling
- Mentioned that the third reason is that there is no evidence of how the tree canopy will be achieved
- Stated that residents wish to preserve the streetscape and safety of the lane
- Requested that the development is redesigned to be consistent with other existng dwellings

*The Presiding Member, Emma Cole, thanked Mr D'Castro for his comments. Thanked him for reading from the DLGSC website, and mentioned that Council are also bound by the Planning Framework. She mentioned that some of these questions would be asked during discussion of the item, and would clarify what discretion Council has under the Planning Framework.*

**3.8 David Cannington of Leederville – Item 5.3**

- Stated that he is a resident of Austen Lane
- Stated that the parking on his lane is a safety issue and does not allow access by first responders.
- Mentioned that a three bedroom development with one parking space will cause more parking on a very small lane
- Urges Council to take the safety risk into account when making their decision.
- States that no resident on Austin Lane approves of this development
- States that there are no issues with the design, but there is a severe safety risk

*The Presiding Member, Emma Cole, thanked Mr Cannington for his comments.*

**3.9 Peter Arnoldi of West Perth – Item 5.1**

- Stated that he lives behind the gym
- Mentioned that the gym building is not fit for purpose
- Stated that the noise at 5.30am would be disruptive to sleep
- Mentioned that the acoustic report was not accurate, as they were not taken simultaneously
- Stated that the vibration report was done on a Friday night and outside. Different classes have different impacts on the noise and vibration, the class tested had 7 patrons instead of the planned 20.
- Mentioned that it is common practice for patrons to drop weights and use the rear car park for training and to cool down.
- Queried how Council could monitor the compliance with the noise requirements in early morning or evening, when they can't witness the offence?
- Mentioned that the extension of hours and patrons would double the noise and vibration.

*The Presiding Member, Emma Cole, thanked Mr Arnoldi for his commen*

**3.10 Brian Easton of Perth – Item 5.16**

- Spoke against the recommendation
- Concerned about the lack of community support
- Mentioned that the kiosk would be a poor fit, due to signage and increased access to the park by service vehicles

- Mentioned that the community consultation shows no clear support for the proposal
- Mentioned that the consultation may present a misrepresentation of community opinion
- Proposed that the survey design be revisited and presented to the community again

*The Presiding Member, Emma Cole, thanked Mr Easton for his comments and advised that questions would be asked about the survey data when the item is discussed.*

### **3.11 Stephen Graves of Vincent Street – Item 5.16**

- Stated that he lives near Hyde Park and uses the park regularly.
- Queried the recommendation following the community consultation, which shows 16% wanted a kiosk only
- Stated that he believes there is a lease already drawn up and the terms seem extraordinarily generous

Mr Graves presented a written statement which was circulated to Elected Members.

*The Presiding Member, Emma Cole, thanked Mr Graves for his comments.*

### **3.12 Boris Walter of Perth Item 5.16**

- Spoke against the recommendation and in support of Islam Bouyahia
- Stated that he feels the food trucks are not invasive and create a good atmosphere
- Stated that the natural state of the park should be maintained

*The Presiding Member, Emma Cole, thanked Mr Walter for his comments.*

### **3.13 Thomas Young of North Perth – Item 5.16**

- Spoke against the recommendation
- Mentioned that the artist's impression does not reflect the area, the area to the west is not flat
- Mentioned that there are BBQ facilities and queried if they will be removed because of the meat smell, due to the fact that the kiosk is vegetarian.
- Queried where the employees of the kiosk will park and will they take away visitor parking?
- Mentioned that there are places around the park that food can be purchased.
- Stated that the lease terms are very generous

*The Presiding Member, Emma Cole, thanked Mr Young for his comments and advised the the City of Vincent invited tender from providers of all types of cuisine. She also advised that some of these questions will be raised during discussion on the item.*

### **3.14 Margaret Kennedy of Leederville – Item 5.14**

- Spoke against the recommendation
- Stated that 94% of respondents are not in favour of the sale
- Stated that the sale is in two sections, and some people are in favour of the sale of one section
- Stated that her main concern is the trees on that area, and that the public open space will not be replaceable
- Mentioned that her concern is that the land is developed

*The Presiding Member, Emma Cole, thanked Ms Kennedy for her comments and asked if Ms Kennedy would be available to meet with her so that she could provide further background, noting that there is no recommendation to sell the land.*

**3.15 Islam Bouyahia of Highgate - Item 5.16**

- Spoke against the recommendation
- Stated that he is the owner of a food truck in the park
- Stated that the consultation shows that the food trucks are popular
- Mentioned that he believes a location next to a playground should not have a liquor licence

*The Presiding Member, Emma Cole, thanked Mr Bouyiha for his comments.*

**3.16 Stephen Gangemi of Mt Hawthorn - Item 5.1**

- Spoke against the recommendation
- Stated that he owns a residence on Eden Street and the noise is affecting their tenants

*The Presiding Member, Emma Cole, thanked Mr Gangemi for his comments.*

**3.17 Ian Lilburne of Perth – Item 5.16**

- Spoke in support Islam Bouyiha

*The Presiding Member, Emma Cole, thanked Mr Lilburne for his comments.*

*The Presiding Member, Emma Cole thanked everybody for their comments and acknowledged the passion the speakers have brought to the items.*

The following questions and statements were received prior to the meeting.

**3.18 Dylan Weiner of Mt Lawley – Item 5.16**

Many thanks to the Councillors and Council Staff for consideration of our proposal, and subsequent nomination as preferred tenderer. The food provided by the Meeting Place will be prepared by Veggie Mama, which is a family run business which has serviced the local community through both Tempting Thymes and Veggie Mama on Beaufort Street for 16 years. Our family business looks forward to providing healthy, wholesome food to the benefit of our local community on an ongoing basis throughout the year, and our menu will be inclusive of all dietary requirements (such as vegan, vegetarian and gluten free).

Minimising our wastage is at the forefront of our company ethos. We would use biodegradable containers, straws and cutlery, with no single use plastic items available. We propose to engage a contractor to dispose of rubbish on a weekly (or more frequent) basis, and intend to facilitate a Container Deposit Scheme drop off bin with proceeds contributing to People Who Care, RUAH, and Derbarl Yerrigan Health Services. We are incredibly appreciative of the kiosk's existence within an Aboriginal site of significance by the Department of Planning, Lands and Heritage, and the scenic surroundings, and will do everything in our power to pay tribute to the fact.

The Meeting Place looks forward to transforming the current disused storage shed into a vibrant community hub, adding value to the City's infrastructure with our upgrade and generating revenue for the Council through ongoing rent. The permanence of our ongoing operations, 7 days a week year-round will only increase the experience for park patrons, and will provide job opportunities for locals.

Thank you again for the opportunity to continue to service the City of Vincent; we have loved the last 16 years and look forward to many more!

**3.19 Natasha Kuruppu – Item 5.16**

Veggie Mama seems like a good choice in terms of offering healthy food choices that cater for various dietary needs. Also they have a focus on environmental sustainability.

My main concern is the pricing as their charges are quite high. I have eaten at their cafe on Beaufort St and things are quite expensive and it excludes a certain segment of the society. It would be good if Council can ensure they provide a menu with pricing that is more inclusive (in alignment with the UN Sustainable Development Goals) so that everyone, irrespective of their economic status can also access healthy choice foods and drinks. Coffee and tea should be more subsidised as all other cafes around the park charge the

same. It should be priced more competitively which would certainly attract more customers from all backgrounds. There is nothing innovative about their business model that speaks to this. I believe, Council has an opportunity to encourage the vendor to develop a novel business model that sets a precedence for new SMEs operating in this space in the City of Vincent...

### 3.20 Marie Slyth of West Perth – Item 5.13

Local Planning Policy No. 7.5.15 – CHARACTER AREAS AND HERITAGE AREAS - OUTCOMES OF ADVERTISING GUIDELINES FOR CLEAVER PRECINCT.

I have read through the comments made regarding concerns raised over various issues which owners of properties in the included streets made in relation to this matter.

I noted in particular, one comment questioning the meaning “Character” which of course can be and is used in many descriptive ways, but in this context, it is intended to help preserve examples of lovely old and earlier styles homes of which there are a wide variety – some with front verandahs, side verandahs, (which cleverly provide protection from the rain and blazing sun) some with chimneys on the roofs – each very attractive and “full of charm” showing off the streets in that area and especially with their green verges and street trees.. At the same time, a character area provides a glimpse into the early history of the area, thus creating in the very near future, a much sort after desirable area in which to live and a wonderful escape from the overpowering high rise units blocking sky light and air i.e. the concrete jungle.

In its early years, i.e. 1996 -2007ish Vincent Council had many character style streets and areas in its surrounding precincts.. At that time a number of keen councilors were aware of the designs of developers starting to take over such streets and areas, and at one time, even brought out a city planner from a State in the United States to warn local people of what happened in so many cities in the US when concrete high rise took over the streets. In his particular city, it had become so much of a concrete jungle, that people started banding together to save the precious little that was left of their lovely older homes and streets with greenery the trees.

Many even started restoring the old homes. The values of their properties started to go through the roof as others began to realize how wonderful it would be to be able escape their concrete jungle, but for most it was too late.

What Vincent Council now has left, is precious few of these long term highly desirable areas, the houses in which areas, will in the very near future become financially worth far more than they will if sold for development or demolished, so the fear or problem of loss of value will not be applicable.

Hence in its efforts to reserve the precious little of such areas left, this is the reason the City of Vincent is seeking to encourage owners of homes in the streets in Cleaver Precinct to agree to have their areas classified as CHARACTER.

And this will be very much in these owners wise interests.

### 3.21 Sondra Anderson of West Perth – Item 5.1

As an Owner of 301 Fitzgerald Street West Perth I have already spent significant time justifying my position and reasoning and I plead with the Councillors NOT to approve any amendment to 305 Fitzgerald Street West Perth.

I am totally despondent with this drawn out process and the fact that we need to justify our concerns over and over again.

I refer you to page 13 of the Council Briefing Agenda which states – “The test caters for a range of scenarios of vibration and structure-borne noise generation from the premises. Weights chosen for testing were based on reasonable assessment scenarios. Specifically, **a maximum of 60 kilograms was tested on the basis that this is the most reasonable worst-case scenario**, accounting for the majority of weight drops.”

However, I refer you to the pack Monique has provided you showing pages and pages of examples of weights well in excess on 60kg being used without mats on all different days. In addition, the amendment requesting 20 clients will mean the weights dropped will be up to 20 times more than the Noise and Vibration Assessment Report submitted. Surely this itself is a reason to decline the application.

If the Council does approve this application, I will have no option to call and complain every single time I am sitting in my office unable to manage my work or my mental health. The stress in relation to this agenda item has and will take its toll on all involved.

There being no further speakers, Public Question Time closed at approximately 7.02pm.

#### **4 DECLARATIONS OF INTEREST**

- 4.1 David MacLennan, CEO, declared an impartiality interest in Item 5.16 Proposed Lease of Hyde Park Kiosk to Veggie Mama Pty Ltd, which refers the applicant engaging a contractor to dispose of rubbish and intend to facilitate a Container Deposit Scheme drop off bin with proceeds contributing to People Who Care, RUAH, and Derbarl Yerrigan Health Services. The CEO is married to an employee at Derbarl Yerrigan Health Services. The CEO has had no direct contact with Veggie Mama and no involvement in their proposal to facilitate a Container Deposit Scheme drop off bin with proceeds contributing to Derbarl Yerrigan Health Services.
- 4.2 Cr Alex Castle declared an impartiality interest in Item 5.11 Britannia North West Reserve Development Plan. The extent of her interest is as the President of the Floreat Athena Football Club supported her during her election campaign. She also purchased a ticket to the Floreat Athena vs Adelaide United match and received an additional minor amount of hospitality, below the threshold for declaration.
- 4.3 Cr Ron Alexander declared a proximity interest in Item 5.16 Proposed Lease of Hyde Park Kiosk to Veggie Mama Pty Ltd. The extent of his interest is that he lives opposite Hyde Park.
- 4.4 David MacLennan, CEO, declared an impartiality interest in Item 5.11 Britannia North West Reserve Development Plan. The extent of his interest is that his niece is one of the girls referred by the Club President as playing in the Floreat Athena Club.
- 4.5 Mayor Cole declared an impartiality interest in Item 5.11 Britannia North West Reserve Development Plan. The extent of her interest is that her son is a junior player of the Club.
- 4.6 Cr Dan Loden declared an impartiality interest Item 5.11 Britannia North West Reserve Development Plan. The extent of his interest is that he plays indoor soccer with people who are members of the Floreat Athena Club and executive, and his daughter plays for the Club.

## 5 STRATEGY & DEVELOPMENT

### 5.1 NO. 305 (LOT: 4, D/P: 1602) FITZGERALD STREET, WEST PERTH - CHANGE OF USE FROM WAREHOUSE TO RECREATION PRIVATE (AMENDMENT TO APPROVED) (UNAUTHORISED EXISTING DEVELOPMENT)

Ward: South

- Attachments:
1. Consultation and Location Map 
  2. Development Plans 
  3. Applicant Justification 
  4. Parking Management Plan 
  5. Noise and Vibration Assessment Report 
  6. Previous Development Approvals 
  7. Agenda and Minutes of Ordinary Council Meeting 17 November 2020 
  8. Summary of Submissions - Administration's Response 
  9. Summary of Submissions - Applicant Response 
  10. Image of Existing Signs 
  11. Determination Advice Notes 

#### RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application to amend Development Approval 5.2014.124.1 dated 4 June 2014 for Change of Use from Warehouse to Recreation Private (Amendment to Approved) at No. 305 (Lot: 4; D/P: 1602) Fitzgerald Street, West Perth, in accordance with the plans shown in Attachment 2, subject to the following and with the associated determination advice notes included in Attachment 11:

1. All conditions and requirements detailed on development approval 5.2014.124.1 dated 4 June 2014 continue apply to this approval, except as follows:
  - 1.1 Condition 2 is deleted;
  - 1.2 Condition 3 is deleted and replaced with:
    - 1.2.1 Subject to Condition 8.5, the maximum total number of clients shall be limited to twenty (20) at any one time;
  - 1.3 Condition 4 is deleted and replaced with:
    4. Hours of Operation
      - 4.1 Prior to the installation of the replacement flooring and the approval of the Noise and Vibration Management Plan in satisfaction of Condition 8 below, the hours of operation are limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday; and
      - 4.2 Upon installation of the replacement flooring and the approval of the Noise and Vibration Management Plan to the City in satisfaction of Condition 8 below, the hours of operation are limited to 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
  - 1.4 Condition 8 is added:
    8. Noise and Vibration Management
      - 8.1 Replacement of existing flooring shall be installed in accordance with all recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia - Report 10.00158R-03), to the satisfaction of the City;

- 8.2 Following the installation of flooring in accordance with Condition 8.1, the Applicant shall engage a suitably qualified acoustic consultant to:
- (a) Certify that the replacement flooring has been installed in accordance with the recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia – Report 10.00158R-03);
  - (b) Conduct detailed airborne noise measurements to ascertain whether or not actual noise emissions from activities at the premises exceed the assigned levels specified in the *Environmental Protection (Noise) Regulations 1997* (Assigned Levels) at all times during which the premises operates, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
  - (c) Identify any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels at all times during which the premises operates; and
  - (d) Prepare a report which identifies any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels (Report) and confirms that the replacement flooring has been installed in accordance with the recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia – Report 10.00158R-03);
- 8.3 The applicant shall provide a copy of the Report (referred to in Condition 8.2(d)) to the City once completed;
- 8.4 Following the completion of the Report in accordance with Condition 8.2(d), provide a noise and vibration management plan (NVMP) to the City for approval by the City which incorporates any recommendations and/or measures specified in the Report and which:
- (a) provides mitigation measures to ensure noise emissions at the premises do not exceed the Assigned Levels at any time during which the premises is operating, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
  - (b) states that the roller door and hinged access door between the building and Eden Street shall be fully closed at all times including for all access and egress, unless otherwise recommended by the Report;
  - (c) incorporates any measures specified in the Report;
  - (d) a procedure for how the operator would deal with complaints and breaches of the NVMP;
- 8.5 All recommendations and measures specified in the Report shall be undertaken in accordance with the Report and verified by an acoustic consultant, to the City's satisfaction, prior to the commencement of the hours of operation 5:30am to 6:00am and 9:00am to 5:00pm Monday to Friday and 12:00pm to 5:00pm Saturday as well as the increase of patron numbers to a maximum of 20 during any operating hours, and maintained thereafter to the satisfaction of the City. The use shall always operate in compliance with the NVMP, to the satisfaction of the City;
- 8.6 The NVMP shall be reviewed by the operator, to the satisfaction of the City:
- (a) as improvements are identified or required by the operator or the City;
- 
-

and

(b) within 30 days of a change to the recreation private operator;

8.7 Any changes identified during a review set out in Condition 8.6 above are to be incorporated into an updated NVMP and approved by the City. The development shall operate in accordance with the NVMP as amended from time to time, to the satisfaction of the City;

1.5 Condition 9 is added:

9. Signage

This approval relates to the signage shown on the approved plans only. Development approval is required for any additional signage proposed on-site in addition to that shown on the approved plans; and

1.6 Condition 10 is added:

10. Activities associated with the Gym

All gym activities shall be contained wholly within the building.

**CR LODEN:**

Can I request an amendment to reduce the operating hours from 5:30am to 6am and the number of patrons from 20 to 15?

**MANAGER DEVELOPMENT & DESIGN:**

*Administration will prepare the amendment and include its comments separate to Briefing Notes.*

**CR IOPPOLO:**

When the vibration testing is done, is it true that it is based on the existing capacity, and not the number that you are seeking to increase to?

**MANAGER DEVELOPMENT & DESIGN:**

*Following Council's Briefing Session, the Acoustic Consultant has advised that the Noise and Vibration Assessment Report assessed what was deemed by them to be a typical class. The class took place between 5pm and 6pm on 4 June 2021 and consisted of seven patrons and one instructor. The patrons undertook activities associated with cross fit and included overhead lifting of weights. The weights used were between 40 kilograms and 60 kilograms, and were dropped onto double-layered mats, rather than directly on the floor. Noise was also observed to be generated by interactions between the instructor and patrons.*

**CR GONTASZEWKSI:**

Has Administration considered limiting the activities to be undertaken within the facility to a particular weight, given that the Noise and Vibration Assessment Report was prepared based on a limited weight range and does not appear to be reflective of the operations?

**MAYOR COLE:**

Could the report be updated to include information on why 60 kilograms was selected? How heavy could the weights be before you need a different treatment?

**CR WALLACE:**

Can we either require the acoustic consultant to assess what is the likely maximum or apply a condition with the maximum weight being that which has been modelled? Will likely request an amendment in relation to this.

**MANAGER DEVELOPMENT & DESIGN:**

*Administration have discussed the Noise and Vibration assessment considerations with the Acoustic Consultant further.*

*The Acoustic Consultant advised that when it comes to assessment of weight drops, there are several considerations for effective assessment of 'typical', 'worst-case typical' or 'absolute worst-case' scenarios.*

*They confirmed that the selection of assessment scenario is relatively subjective as it is set by the consultant, based on their experience and the interpretation of the environment.*

*The Acoustic Consultant advised that in their opinion 60 kilograms was an appropriate measure for the following reasons:*

- *The gym is not specialised in high-performance/Olympic athletes. Based on the typical function of the gym and its membership base, the 60 kilogram weight was chosen as it represents the weight used by the high-average of members. Advice from the Applicant affirmed that most of the membership base would lift a maximum of 60 kilograms overhead with the majority lifting 35 – 50 kilograms above head. The Applicant advised that only 2 percent of the membership base, which currently consists of 47 people' would lift more than 60 kilograms above head;*
- *100 kilograms is not a reasonable measure for 'worst-case typical' and would more represent 'absolute worst-case'. This is because only 2 percent of the membership one of the assessment tests was lifting and dropping the weight from overhead in 50 different areas across the gym floor. This testing would not be physically possible to conduct;*
- *If a 100-kilogram bar was used, this would result in a 3 dB increase in vibration levels. The recommended alternative flooring product would be suitable to attenuate this increase; and*
- *Atypical cases like 100 kilograms (or over) weight drops could be tested afterwards and see if they would require some extra management (extra padding stations for extreme weights is typical at gyms). This becomes more a case for management rather than engineering control.*

*Administration has updated its officer report to include this above advice from the Acoustic Consultant.*

*Following Council's Briefing Session, the Acoustic Consultant has advised that the maximum weight they would recommend be dropped is 100 kilograms. For any weight drops greater than this, it would be recommended that this be tested following the installation of the recommended flooring to determine whether any further attenuation measures, such as whether thicker mats, would be required.*

*Administration has updated its officer report to reflect this advice above, and has accordingly also updated the following conditions:*

- *Condition 8.2(b) details testing should include the actual noise emissions from activities at the gym. As such, this would include all potential drop scenarios. Condition 8.2(b) has however been updated to specifically detail that noise measurement testing should include amplified music, coach directions, all drop scenarios that may occur in a typical class, mechanical equipment (fans and A/C condensers) as well as the testing of a class with 20 patrons. This would provide the ability for the applicant to test a heavier weight should this be intended to be used; and*
- *Condition 8.5 has been updated to detail that the gym must also operate in accordance with the assumptions of the Noise and Vibration Assessment Report. This would ensure that the gym must operate in accordance with the maximum weights tested. This is to ensure that the necessary levels of acoustic and vibration treatment would be implemented relative to the intended weights to be used.*

#### **THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

##### **CR GONTASZEWSKI:**

Concerns regarding existing use of the property. Can further information be provided (or a copy of) in relation to the DWER Assessment (recognise that this is operational activity but is also relevant to extra operating hours)? Is it correct to say that the City's position is that the vibration from the premises exceeds the (now rescinded) standard but that there is no further action that can be taken in relation to vibration during the existing operating hours because there is no current Australian standard or enforceable regulation that governs vibration?

##### **MANAGER DEVELOPMENT & DESIGN**

*Enforcement action cannot be taken against the rescinded Australian Standard. Action taken by the City would be arranging for vibration testing by DWER and improvements made by the operator should there be an exceedance identified against the rescinded criteria.*

*Assessment from DWER as provided to the City's officers are included below as requested.*

*First advice from DWER:*

The loudest bang recorded on 2/3/2021 at 6:57:24am was the loudest bang found over all the measurements. With an adjusted level of L<sub>Amax</sub> = 77.7 dB it did not exceed the L<sub>Amax</sub> assigned level of 80 dB for a commercial receiver.

That is the overall answer as regards the airborne noise levels and the Noise Regulations.

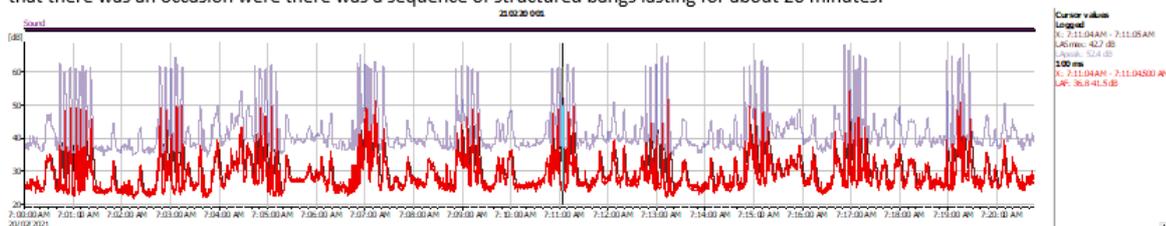
The vibration is another issue. I have only just started looking at the vibration data. Unfortunately the occasion of maximum airborne noise level will not necessarily correlate with the maximum occasion of vibration, so a search of the vibration levels associated with all the other high level airborne levels is required. I will look at them later this week and might have an answer at the end of the week, however I have to prepare for the noise regulation course being held next week.

There are no statutory levels for vibration and the current version of AS2670.2 does not contain criteria. We use the criteria in the withdrawn AS2670.2:1990, however it has a very wide "satisfactory magnitudes of building vibration" range for office areas, depending on the description of the transient nature of the source. I hope we can provide a clear enough answer regarding vibration.

*Second advice from DWER:*

The vibration analysis takes a bit more effort than the airborne analysis. I have extracted some broad band vibrations values for the biggest airborne bangs, but AS 2670.2 requires vibration levels in specific frequency bands and so far I have only extracted and converted one spectrum measurement to engineering units. It appears to indicate levels above Curve 4 of AS 2670.2:1990. Curve 4 is the appropriate criteria for "shock" events received in an office.

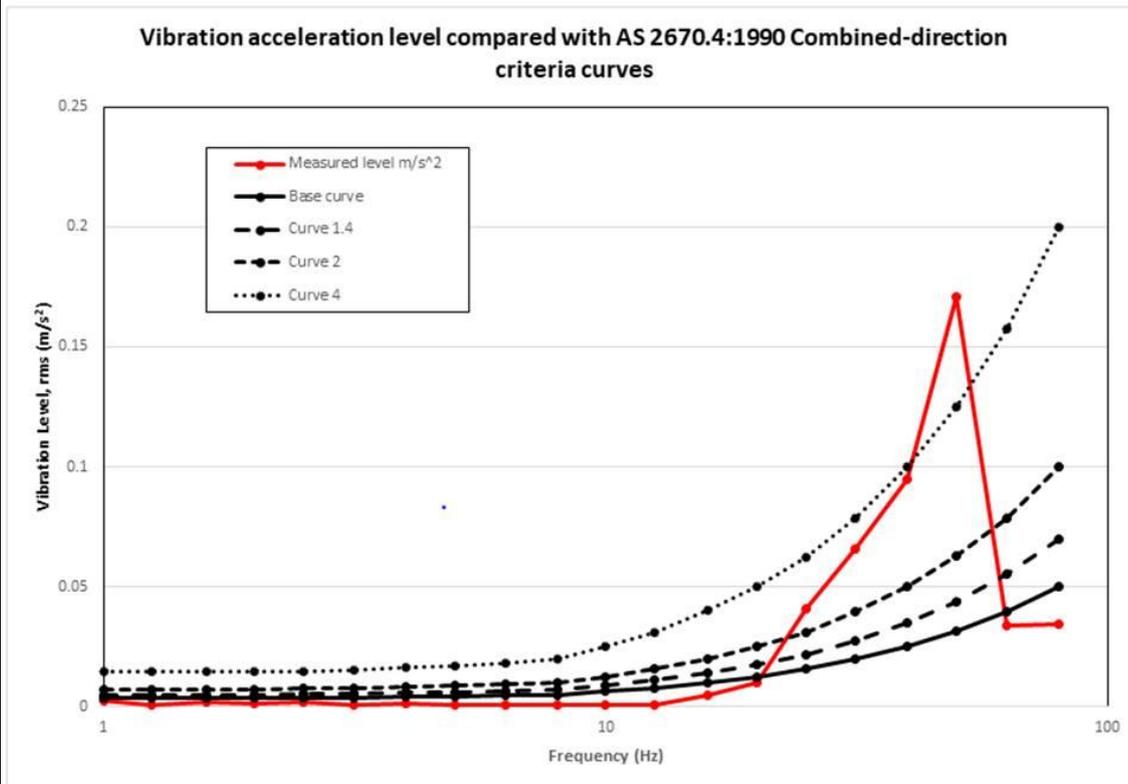
Unfortunately the propagation of vibration through the ground is complex and measurements made inside the (very close) next door premises cannot be extrapolated to a premises further away. In the airborne measurements the bang events seemed quite varied, however the airborne data shows that there was an occasion where there was a sequence of structured bangs lasting for about 20 minutes:



I need to extract more vibration instances to provide a realistic picture of vibration impact. It will have to be after the noise course.

*Third advice from DWER:*

The following is a spectral chart of the vibration acceleration level associated with the loudest airborne bang measured (6:57:24am on 2/3/2021).



The criteria is from the now withdrawn AS 2670.4:1990, as it has criteria (which the latest version does not). Note that the criteria used are the combined direction curves (worst case for all three vibration axes, hence is irrespective of the orientation of a person within the room). For a vibration source that can be described as shock (a sudden change of force), which I would argue vibration from dropped weights would be, the criteria for an office space is Curve 4, for a residential space the criteria is Curve 1.4 for night time and Curves 2 to 4 for day time. As you can see this particular event exceeds Curve 4 hence is likely to be considered an unsatisfactory vibration level for either residential or office spaces.

Note that this vibration event is **not** the event representing the **highest overall vibration** levels measured. I have yet to extract the spectra of higher overall vibration level events to see how they compare with the criteria.

**CR GONTASZEWSKI:**

If the rescinding of the standard means that there is no technical standard that can be relied upon in the assessment of vibration impacts, does the City need its own policy in this regard?

**MANAGER DEVELOPMENT & DESIGN:**

*The rescinded Australian Standard is used and provides the best guidance available in respect to vibration. It is not required to be addressed through a separate policy.*

**CR GONTASZEWSKI:**

Considering the length of time that has passed since the deferral, could Administration provide advice on amending Condition 8 to provide a timeline for flooring implementation? If not implemented in this time then the approval lapses and a further application is required?

**MANAGER DEVELOPMENT & DESIGN:**

*Installation of the flooring and a timeframe would be dependent on when the flooring can be obtained from the supplier and the availability of the product. Administration has contacted the applicant in respect to this to better understand this anticipated timeframe. The applicant has advised that the recommended flooring would be required to be sourced from overseas, and based on current supply and availability would take approximately three months to arrive. Following the supplier would be required to install the flooring, which would also depend on the availability to the contractors to carry out these works.*

*Administration's report outlines the steps of Condition 8 which are required to be met before the new operating hours and increased patron numbers could commence. Until this occurs, the gym would be required to operate in accordance with the current approval.*

*The operator would have 2 years (extended by a further 2 years pursuant to the Minister for Planning's Notice of Exemption from Planning Requirements During State of Emergency) to substantially commence the approval.*

*Should Council impose a condition relating to the timeframe or date for when the flooring is to be installed and if this is not met, a further development approval would be required.*

**CR GONTASZEWSKI**

The process as required by the conditions seems to assume that the installation of the flooring will be sufficient to address all vibrational issues and so the only residual will be airborne noise? Should a further vibration assessment be undertaken to ensure improvement has been realised in regenerated noise?

**MANAGER DEVELOPMENT & DESIGN:**

*Condition 8.2 requires the flooring to be replaced. Following this an acoustic consultant would be required to undertake further measurements and submit an updated Noise and Vibration Assessment Report to determine actual emissions and whether any further attenuation or management measures are required. This would be required to be completed to the satisfaction of the City, and would capture both noise and vibration. This would be consistent with the Noise and Vibration Assessment Report included as Attachment 5 that assesses both noise and vibration.*

*The recommended condition in the officer report does not explicitly reference vibration. Administration has updated this condition following Council's Briefing Session to make explicit reference for the need to also measure vibration.*

**CR GONTASZEWSKI:**

Existing report uses only one weight whilst classes have more people. Can the report be required to assess noise/vibration associated with normal operating activities? This appears to have been raised by the City but not accepted by the consultant? Does the City have any residual concerns in relation to the report that has been provided?

**MANAGER DEVELOPMENT & DESIGN:**

*The Noise and Vibration Assessment Report identified that testing of a typical class has been assessed. It is the acoustic consultant's view that the vibration and noise levels from this test associated with a typical class was assessed to be lower and less intrusive in comparison to the controlled tests of weight dropping. Administration is accepting of this.*

*In relation to the details related to the tested class, please refer to the response to Cr Ioppolo's question above.*

*An extract from the Noise and Vibration Assessment Report relating to this is provided for your reference below.*

Table 1 CoV Review / ACA responses and actions reference Table

Item	CoV Comment	ACA Response/Comment
1	<p>On review, it was noted that noise and vibration was only assessed from individual weight drops, and as such, may not be representative of the impact from a class. There has been no extrapolation / modelling of typical class scenarios (i.e. all activities performed in the duration of a class and how frequently these are performed, including reference to number of persons in the class). It is expected these variable criteria could affect the modelling and therefore must be presented for discussion within an updated report.</p>	<p>Vibration and noise were simultaneously measured at the nearest most sensitive receiver from 70 controlled tests of four different type of weights, within a grid of 12 points inside the gym in line with structural beams and columns that could potentially amplify structure borne vibration. This type of test would cater for every potential worst-case scenario of vibration and structure-borne noise generation from the premises.</p> <p>Additionally, ACA conducted evaluation of the condition of the existing rubber matting in the gym (i.e. controlled test with and without the existing rubber mat).</p> <p>Nonetheless, after these tests were conducted, impact from a typical class was also assessed on the 4<sup>th</sup> of June 2021, between 5pm and 6pm. The levels of vibration and noise from these were, as expected, much lower. Maximum levels of vibration during a class were recorded at a maximum event of</p> <p><math>L_{V,RMS,1sec} = 92 \text{ dB}</math></p> <p>We note that measurements of the controlled tests recorded maximum <math>L_{V,RMS,1sec}</math> levels between 101 dB and 114 dB. This is the reason the design of floor vibration control must be undertaken based on worst-case controlled tests.</p> <p>A gym indeed requires controlled environment testing to understand the worst-case scenario effects of vibration. During classes is a different approach, which in ACA's view, for analysis purposes, it does not help to identify critical effects and impacts.</p>

**CR GONTASZEWSKI**

Could I request advice on an amendment to require a timeframe for the report to be provided after 8.2 has been completed. Is 4 weeks sufficient?

**MANAGER DEVELOPMENT & DESIGN:**

*The acoustic and vibration consultant has advised that four weeks would be sufficient to conduct the necessary testing and investigations and prepare an updated Noise and Vibration Assessment Report, following the installation of the floor treatment.*

*It was noted that as part of this testing, access would be required to surrounding properties. If there were to be delays in gaining access to these properties, this may increase the timeframe.*

**CR GONTASZEWSKI:**

Could I request the same advice in relation to an amendment to require a timeframe for the submission of the NVMP.

**MANAGER DEVELOPMENT & DESIGN:**

*The acoustic and vibration consultant has advised that following the preparation of the updated Noise and Vibration Assessment Report, two weeks would be sufficient to prepare an updated Noise and Vibration Management Plan.*

**CR GONTASZEWSKI:**

Condition 8.4 b relates to Noise and Vibration Management Plan only. Could this be considered for a standalone condition more generally?

**MANAGER DEVELOPMENT & DESIGN:**

*Administration has structured the Condition 8 based on the required order of the steps to be followed, being:*

1. *The replacement of the flooring with an alternative treatment;*
2. *The undertaking of further testing and preparation of an updated Noise and Vibration Assessment Report, with this then being submitted to the City; and*
3. *Preparation of an updated Noise and Vibration Management Plan.*

*Until this flooring has been replaced and the acoustic and vibration testing undertaken, it is unclear what management measures may be required as this would be dependent on the results from testing.*

*The enforceability of this condition remains the same, whether it is a standalone condition or integrated with Condition 8 as prepared.*

**CR WALLACE:**

My understanding was that while weights being dropped was the most significant complaint, there was also numerous complaints relating to group activities, in particular regarding music and instructors voices.

The consultant's rationale for disregarding these complaints is not clear — the general statement "it was determined..." does not provide any explanation of that decision.

**MANAGER DEVELOPMENT & DESIGN:**

*This matter was flagged by Administration in its review of the Noise and Vibration Assessment Report and a response provided by the acoustic consultant is included in the final version of their report.*

*The acoustic and vibration consultant's view is that the music and instructors voices from classes is less intrusive than the regenerated noise from the dropping of weights currently. It is their view that at this point, the flooring would first need to be rectified to address the dominating impact from regenerated noise associated with weights dropping. After which time airborne noise associated with music and instructors voices could be confirmed are in compliance with relevant noise standards, and if not – review of windows and doors, and operational measures that would ensure this.*

**CR WALLACE:**

Condition 8 doesn't specifically refer to assessment of LA1 or LA10, is it admin's intent that the prescribed noise measurements and report consider LA1/LA10 and if so should this be reflected within the condition? If not, can admin provide some further information around their acceptance of the consultant's comments on dismissal of LA1/LA10? The LAMAX criteria is the appropriate criteria for weight drops.

**MANAGER DEVELOPMENT & DESIGN:**

*Condition 8 requires an updated Noise and Vibration Assessment Report which includes airborne noise and an assessment would be required against the relevant criteria (whether it be LAMAX, LA10, LA1). LAMAX is the applicable criteria for weight drops. Other noise types generated from a gym, such as music playing would be against LA1 or LA10 criteria as an example. This updated Noise and Vibration Assessment Report is also to be to the satisfaction of the City. As per above, confirmation of airborne noise compliance with standards can be done once the flooring has been installed, and as part of the updated Noise and Vibration Assessment Report.*

**CR IOPPOLO:**

Can you refer me to the relevant legislation that stipulates and regulates the technical aspects of noise and vibration testing for the purposes of assessing this agenda item relevant to increased hours and increased capacity?

**MANAGER DEVELOPMENT & DESIGN**

*The Environmental Protection (Noise) Regulations 1997 outline the requirements relating to the assessment of noise. These requirements can be viewed [here](#).*

*There are no current statutory standard for the assessment of vibration levels. As noted above, advice provided by DWER has been based on the rescinded AS2670.2:1990 Evaluation of human exposure to whole-body vibration - Continuous and shock-induced vibration in buildings.*

*The following question was responded to in writing before the meeting:*

**MAYOR COLE:**

Are the assumptions in the acoustic report on weights being max of 60kg a realistic parameter to measure

the operations at the gym? Material provided by Peter and Monique Arnoldo to Council Members shows much heavier weights in use and being dropped.

**EXECUTIVE DIRECTOR STRATEGY & DEVELOPMENT:**

*Further to Administration's email to Elected Members this morning, the acoustic consultant had provided advice in relation to why 60kg was deemed to be an appropriate measure. This advice had noted that the recommended alternative floor product would be suitable to attenuate the additional 3 dB from a 100kg bar, and that scenarios where a 100kg (or over) are not typical. While the material circulated by Peter and Monique shows heavier weights than 60kg being used, this does not appear to be inconsistent with the advice and rationale provided by the acoustic consultant. Administration remains satisfied with the Noise and Vibration Assessment Report.*

*In relation to the material circulated to Council Members by Peter and Monique Arnoldo, the specific details of this account relate to the compliance and health investigations more so than the planning decision Council is being asked to make next week.*

*As detailed in the Council report, since early May the City has strictly required compliance with the existing Development Approval (i.e. only operating from 6am - 9am and 5pm - 8pm Mon – Fri and 7am – 12pm Sat). Compliance has undertaken approximately 40 site inspections in order to ensure compliance since this time. Some of the inspections were conducted immediately, in direct response to Compliance being notified of an alleged breach by Peter and Monique.*

*The City has offered sound level measurements to be taken from Peter and Monique's home nine times between October 2020 and September 2021. They have refused sound level measurements. The City cannot act on noise compliance issues without these measurements. A standing offer to conduct measurements was given on 20 September 2021 and the complaint was closed. No further contact has been made.*

*The City has communicated to Monique and Peter that an amendment to the existing Development Approval would be a positive as it could apply conditions requiring the gym to reduce the impact of noise on their property.*

**5.2 NO. 26 (LOT: 29; D/P: 4576) MOIR STREET, PERTH - PROPOSED ALTERATIONS AND ADDITIONS TO SINGLE HOUSE****Ward:** South

- Attachments:**
1. Location and Consultation Map 
  2. Final Development Plans 
  3. October OMC Deferred Development Plans 
  4. Lodged Development Plans 
  5. Applicant Justification 
  6. Shadow Reduction Diagram 
  7. Heritage Impact Statement 
  8. Summary of Submissions - Administration's Response 
  9. Summary of Submissions - Applicant's Response 
  10. State Heritage Council Comments 
  11. Determination Advice Notes 

**RECOMMENDATION:**

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, **APPROVES**, the development application for Alterations and Additions to Single House at No. 26 (Lot: 29; D/P: 4576) Moir Street, Perth in accordance with the plans in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 11:

**1. Development Plans**

This approval is for Alterations and Additions to a Single House as shown on the approved plans dated 22 October 2021. No other development forms part of this approval;

**2. Boundary Walls**

The surface finish of boundary walls facing an adjoining property shall be of a good and clean condition, prior to the occupation or use of the development, and thereafter maintained, to the satisfaction of the City. The finish of boundary walls is to be fully rendered or face brick, or material as otherwise approved, to the satisfaction of the City;

**3. Visual Privacy**

Prior to occupancy or use of the development, all privacy screening shown on the approved plans shall be installed and shall be visually impermeable and is to comply in all respects with the requirements of Clause 5.4.1 of the Residential Design Codes (Visual Privacy) deemed to comply provisions, to the satisfaction of the City;

**4. Colours and Materials**

Prior to first occupation or use of the development, the colours, materials and finishes of the development shall be in accordance with the details and annotations as indicated on the approved plans which forms part of this approval, and thereafter maintained, to the satisfaction of the City;

**5. Landscaping**

All landscaping works shall be undertaken in accordance with the approved plans dated 22 October 2021, prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

**6. Stormwater**

Stormwater from all roofed and paved areas shall be collected and contained on site.  
Stormwater must not affect or be allowed to flow onto or into any other property or road

reserve; and

#### 7. Construction Management Plan

A Construction Management Plan shall be lodged with and approved by the City prior to the issue of a building permit. This plan is to detail how construction (including demolition and/or forward works) will be managed to minimise disruption in the area and shall include:

- The delivery of and delivery times for materials and equipment to the site;
- Parking arrangements for contractors and sub-contractors;
- Dilapidation report of nearby surrounding properties (including No. 24 and No. 28 Moir Street);
- Notification to affected landowners; and
- Construction times.

The approved management plan shall be complied with for the duration of the construction of the development.

**MAYOR COLE:**

Is neighbour to the south still supportive? Can this be confirmed?

**MANAGER DEVELOPMENT & DESIGN:**

*Yes, the owner of the southern property at No. 24 Moir Street has confirmed their support for the final set of development plans dated 22 October 2021 that the applicant is seeking approval for. Administration contacted the owner following Council's Briefing Session and they confirmed this.*

**CR HALLETT:**

What would be required to meet the 25 percent overshadowing threshold? Does that preclude the second storey entirely?

**MANAGER DEVELOPMENT & DESIGN:**

*Yes, it would preclude the second storey entirely.*

*The proposed development would overshadow more than the 25 percent deemed-to-comply standard of the R Codes even when limited to a single storey. Administration has modelled the overshadowing of the proposed addition if it were limited to single storey and this would result in approximately 27.1 percent of the adjoining southern property's site area.*

*The proposed development would likely need to be reduced in height to single storey, and reduced in floor area and/or setback further from the southern side boundary in order to satisfy the 25 percent deemed-to-comply R Codes standard relating to overshadowing. This would be a significantly different development proposal than the development plans the applicant is seeking approval for.*

At 8.19pm, Cr Dan Loden left the meeting.

**5.3 NO. 52 (LOT: 10; D/P: 1069) BOURKE STREET, LEEDERVILLE - PROPOSED TWO GROUPED DWELLINGS**

**Ward:** North

- Attachments:**
1. Consultation and Location Map 
  2. Development Plans 
  3. Applicant's Supporting Documentation 
  4. Advertised Plans (Superseded) 
  5. Summary of Submissions - Administration's Response 
  6. Summary of Submissions - Applicant's Response 
  7. Determination Advice Notes 

**RECOMMENDATION:**

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application for Two Grouped Dwellings at No. 52 (Lot: 10; D/P: 1069) Bourke Street, Leederville, in accordance with the plans shown in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 7:

**1. Development Plans**

This approval is for Two Grouped Dwellings as shown on the approved plans dated 15 November 2021. No other development forms part of this approval;

**2. Boundary Walls**

**2.1** The surface finish of boundary walls facing an adjoining property shall be of a good and clean condition, prior to the occupancy or use of the development, and thereafter maintained, to the satisfaction of the City. The finish of boundary walls is to be fully rendered or face brick, or material as otherwise approved, to the satisfaction of the City;

**2.2** The following walls of the dwellings on Lots 2 and 3 must be constructed simultaneously:

- Lot 2: the dwelling wall along the eastern lot boundary abutting the dwelling wall on Lot 3; and
- Lot 3: the dwelling wall along the western lot boundary abutting the dwelling wall on Lot 2;

These walls must be constructed and finished as per the approved plans prior to the first occupation or use of either Unit 2 or Unit 3, to the satisfaction of the City;

**3. External Fixtures**

**3.1** All external fixtures, such as television antennas (of a non-standard type), radio and other antennae, 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 to the satisfaction of the City;

**3.2** The metre boxes are to be painted the same colour as the wall they are attached to so as to not be visually obtrusive, to the satisfaction of the City;

**4. Visual Privacy**

Prior to occupancy or use of the development, all privacy screening shown on the approved plans shall be installed and shall be visually impermeable and is to comply in all respects with the requirements of Clause 5.4.1 of the Residential Design Codes (Visual Privacy) deemed-to-

comply provisions, to the satisfaction of the City;

#### 5. Colours and Materials

The colours, materials and finishes of the development shall be in accordance with the details and annotations as indicated on the approved plans which forms part of this approval, and thereafter maintained, to the satisfaction of the City;

#### 6. Landscaping

All landscaping works shall be undertaken in accordance with the approved plans, except for the two *Plumeria rubra* trees being replaced with two *Lagerstroemia indica* (Crepe Myrtle) trees in the same location, to the City's satisfaction, prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

#### 7. Sight Lines

Walls, fences and other structures truncated or reduced to no higher than 0.75 metres within 1.5 metres of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect, with the exception of:

- One pier at max width of 0.4 metres x 0.4 metres and height of 1.8 metres, with decorative capping permitted to 2.0 metres;
- Infill that provides a clear sight line; and
- If a gate is proposed:
  - When closed: a min of 50 percent unobstructed view;
  - When open: a clear sightline;

unless otherwise approved by the City;

#### 8. Car Parking and Access

8.1 The layout and dimensions of all driveway(s) and parking area(s) shall be in accordance with AS2890.1; and

8.2 All driveways, car parking and manoeuvring area(s) which form part of this approval 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/occupier to the satisfaction of the City; and

#### 9. Stormwater

Stormwater from all roofed and paved areas shall be collected and contained on site. Stormwater must not affect or be allowed to flow onto or into any other property or road reserve.

#### **MAYOR COLE:**

Could our City engineer provide some advice for next Tuesday to show us a 6 metre wide laneway and how the parking is intended to work, and whether there needs to be some staggering, yellow lines or other solutions that we look at for many of our streets that are narrow. Could this be reviewed and advice provided? Can this be done with a particular focus on ensuring the accessibility of emergency vehicles and rubbish trucks?

#### **EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:**

*The City's Engineering team has advised that the Austen Lane road reserve is 10.0m wide with a footpath and narrow verge the length of the southern side. The carriageway is 6.0m wide which is typical of a 10.0m wide road reserve.*

*As a result of the concerns raised during the consultation process for this development application, the City's*

*Engineering and Rangers teams have committed to undertaking an investigation of the parking situation in Austen Lane to identify any issues and then implement the appropriate solutions. This would include installation of No Stopping zones in the appropriate locations such as crossovers and pinch points. This approach would ensure access for emergency vehicles and the City's waste management trucks. If following the investigation parking restrictions are installed the signage would align with the line-marking.*

**MAYOR COLE:**

If the R Codes say these dwellings require 1 residential car bay each per dwelling and no visitor's car bay, we need to be clear about whether we can refuse this application on the basis of wanting more parking?

**MANAGER DEVELOPMENT & DESIGN:**

*Council could not refuse the application based on wanting more parking under the R Codes. This is because the provision of one car parking bay per dwelling and nil on-site visitor parking satisfies the deemed-to-comply standards of the R Codes relating to car parking. This means that for the purposes of the R Codes there is adequate provision of car parking for the proposed development. There is no discretion being sought by the applicant and no exercise of discretion available to Council in considering the adequacy of car parking for this proposal under the R Codes.*

*Separately and under Clause 67(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, there are a range of matters to be given due regard in determining an application. This includes adequacy of arrangements for the loading, unloading, manoeuvring and parking of vehicles. Neighbour concerns relate to parking and safety in respect to on-street parking arrangements. On-street parking arrangements and its management is the responsibility of the City. This is not the responsibility of the applicant, and is a separate matter to be addressed by the City outside the scope of determining this planning application. Refusal of the application based on parking of vehicles in Austen Lane would not be a reasonable refusal reason on this basis.*

**CR LODEN:**

Are there any parking restrictions on this street and are there parking restrictions on Galwey Street and Bourke Street?

**MANAGER DEVELOPMENT & DESIGN:**

*There are no parking restrictions on Austen Lane.*

*The adjacent streets, being Galwey Street, Bourke Street and Scott Street, all have 2 hour parking restrictions from 8:00am to 5:30pm Monday to Friday, and 8:00am to 12:00pm on Saturday.*

*Bourke Street has on-street parking available on both sides of the road that are line marked. Scott Street has on-street parking bays available on one side of the road that are line marked. Galwey Street has on-street parking available to one side of the road but are not line marked.*

**CR LODEN:**

If there were parking restrictions would the grouped dwelling be entitled to parking permits the same as other people fronting that laneway?

**EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:**

*The City's Policy No. 3.9.3 – Parking Permits states that residential parking permits will not be issued for a grouped dwelling unit where the development approval included a specific condition not to receive parking permits.*

*The other houses on Austen Lane are not Grouped Dwellings and so are not prevented from obtaining parking permits under this policy. The proposed Grouped Dwellings would be prohibited from obtaining parking permits under this policy if the recommended advice note is included by Council. However, if the subdivision currently being progressed by the owner is completed and the new lots created, the new houses being proposed would no longer be Grouped Dwellings and would instead become Single Houses and so would be eligible for parking permits.*

**CR WALLACE:**

My understanding of our parking policy is that as a grouped dwelling these residences would be eligible to apply for parking permits. Does Administration have a view whether it was equitable for them to be granted in this instance since by virtue of the site layout there is no street frontage available for them to park in front of

these residences and would therefore be reliant on parking in front of other residences on the laneway? If Administration's view was that it wasn't equitable would it be appropriate to apply a condition saying that no parking permits would be granted in line with what we do with multi-residential developments?

**MANAGER DEVELOPMENT & DESIGN:**

*The City's Policy No. 3.9.3 – Parking Permits states that residential parking permits will not be issued for a grouped dwelling unit where the development approval included a specific condition not to receive parking permits.*

*In light of the Policy position, the officer report has been updated and an additional advice note has been recommended accordingly to advise the applicant and landowner that the proposed grouped dwellings will not be issued residential parking permits for residents or visitors. This has been included as an advice note because parking permits are issued under the Parking and Parking Facilities Local Law 2007. This local law is not prepared under planning legislation and so it would not be a valid planning condition to impose as part of determining a planning application.*

*This Policy to restrict the issuing of parking permits only applies to grouped dwellings and multi dwellings. If in future the proposed grouped dwellings are classified as single houses under the R Codes through the subdivision process, then this restriction from parking permits would not apply under the Policy. This has also been reflected in the recommended advice note.*

**THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

**MAYOR COLE:**

What are the minimum lot sizes for an R40 block subdivision and what are the proposed lot sizes of the property?

**MANAGER DEVELOPMENT & DESIGN:**

*The minimum lot sizes for an R40 subdivision are 180 square metres. The sizes of the conditionally approved lots facing Austen Lane are 181.85 square metres for Lot 2 and 180 square metres for Lot 3. Yes. In this case the City recommended that the WAPC approve the subdivision application for this property on the basis that the lots satisfied the deemed-to-comply standards in the R Codes, noting there are no minimum lot width standards for lots coded R40.*

**MAYOR COLE:**

Please see email from Lloyd d'Castro on behalf of residents of Austen Lane, with mention of report inconsistencies – for checking please.

**MANAGER DEVELOPMENT & DESIGN:**

*In response to the letter from Lloyd d'Castro on behalf of the residents of Austen Lane, the following responses are provided to the report inconsistencies mentioned:*

1. *Site and Zoning – the correct dimensions for the width of Austen Lane are included in the report. The report states that Austen Lane is 10 metres wide and the road itself is 6 metres wide. The 1.2 metre footpath size referenced on page 12 of the report relates to the pedestrian path within the site, not the footpath along Austen Lane. The report states that the footpath width along Austen Lane is 2.0 metres, however this has been checked and it is only 1.8 metres according the survey plans available.*
2. *DRP Chair's Key Comments - the reference to "rear laneway" is the DRP Chair's view of the surrounding context for the proposal. It is agreed that Austen Lane is a gazetted public road.*
3. *Parking – there is currently no line-marking on Austen Lane. Administration has only been able to estimate how many cars could be parked on-street based on aerial images, google street view images and the relevant dimensions in the Australian Standards. This is likely why the estimate in the letter differs from Administration's estimate.*

**MAYOR COLE:**

**5.4 308 Oxford Street**

*Given the built form envelope, and issues such as visitor parking, are largely determined by the strata lots and common property survey approved by WAPC, is there any consultation with City of Vincent in advance of this approval (not something I've dealt with)?*

**MANAGER DEVELOPMENT & DESIGN:**

*Yes, the City is referred all subdivision applications from the WAPC and given 42 days to provide its comments. The City recommended approval of the proposed subdivision, as the lots meet minimum lot sizes and no visitor parking bay (at the time) was required under deemed-to-comply standards of the R Codes.*

At 8.21pm, Cr Dan Loden returned to the meeting.

**5.4 NO. 308 (LOT: 700; S/P: 84556) OXFORD STREET, LEEDERVILLE - FOUR GROUPED DWELLINGS**

**Ward:** North

- Attachments:**
1. Consultation and Location Map 
  2. Final Development Plans 
  3. Lodged and Advertised Development Plans 
  4. Summary of Submissions - Administration's Response 
  5. Summary of Submissions - Applicant's Response 
  6. Environmentally Sustainable Design Report 
  7. Urban Design Study 
  8. Determination Advice Notes 

**RECOMMENDATION:**

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application for Four Grouped Dwellings at No. 308 (Lot: 700; S/P: 84556) Oxford Street, Leederville, in accordance with the plans shown in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 8:

**1. Development Plans**

This approval is for Four Grouped Dwellings as shown on the approved plans dated 24 November 2021. No other development forms part of this approval;

**2. Boundary Walls**

The surface finish of boundary walls facing an adjoining property shall be of a good and clean condition, prior to the occupation or use of the development, and thereafter maintained, to the satisfaction of the City. The finish of boundary walls is to be fully rendered or face brick, or material as otherwise approved, to the satisfaction of the City;

**3. External Fixtures**

All external fixtures, such as television antennas (of a non-standard type), radio and other antennae, 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 to the satisfaction of the City;

**4. Visual Privacy**

Prior to occupancy or use of the development, all privacy screening shown on the approved plans shall be installed and shall be visually impermeable and is to comply in all respects with the requirements of Clause 5.4.1 of the Residential Design Codes (Visual Privacy) deemed to comply provisions, to the satisfaction of the City;

**5. Colours and Materials**

**5.1** Prior to first occupation or use of the development, the colours, materials and finishes of the development shall be in accordance with the details and annotations as indicated on the approved plans which forms part of this approval, and thereafter maintained, to the satisfaction of the City; and

**5.2** The metre boxes are to be painted the same colour as the wall it is attached to so as to not be visually obtrusive, to the satisfaction of the City;

**6. Landscaping**

All landscaping works shall be undertaken in accordance with the approved plans dated 24 November 2021, with the addition of the following:

- One additional Cottonwood Tree shall be planted within the front setback area of Unit 1.

The landscaping works shall be undertaken prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

#### 7. Stormwater

Stormwater from all roofed and paved areas shall be collected and contained on site. Stormwater must not affect or be allowed to flow onto or into any other property or road reserve;

#### 8. Sight Lines

No walls, letterboxes or fences above 0.75 metres in height to be constructed within 1.5 metre of where:

- Walls, letterboxes or fences adjoin vehicle access points to the site; or
- A driveway meets a public street; or
- Two streets intersect;

Unless otherwise approved by the City of Vincent;

#### 9. Car Parking and Access

9.1 The layout and dimensions of all driveway(s) and parking area(s) shall be in accordance with AS2890.1;

9.2 All driveways, car parking and manoeuvring area(s) which form part of this approval 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/occupier to the satisfaction of the City; and

9.3 No goods or materials being stored, either temporarily or permanently, in the parking or landscape areas or within the access driveways. All goods and materials are to be stored within the buildings or storage yards, where provided;

#### 10. Waste Collection

The Oxford Street verge abutting the subject site shall be modified to accommodate the bin collection point for the development to the City's verge specifications. All costs associated with the works shall be borne by the applicant. Works shall be completed to the City's satisfaction prior to occupancy of the development; and

#### 11. Construction Management Plan

A Construction Management Plan shall be lodged with and approved by the City prior to the issue of a building permit. This plan is to detail how construction (including demolition and/or forward works) will be managed to minimise disruption in the area and shall include:

- Storage of materials and equipment on site;
- Parking arrangements for contractors and sub-contractors;
- Notification to affected landowners;
- Construction times; and
- Impact on traffic movement.

The approved management plan shall be complied with for the duration of the construction of the development.

**THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:****MAYOR COLE:**

Is it possible to see an elevation across the two lots, even though one at No. 310 is already approved?

**MANAGER DEVELOPMENT & DESIGN:**

*A front elevation from Oxford Street reflecting both the grouped dwellings proposal that is the subject of this application at No. 308 Oxford Street, as well as the grouped dwellings previously approved at No. 310 Oxford Street is provided below.*

**MAYOR COLE:**

Given the built form envelope, and issues such as visitor parking, are largely determined by the strata lots and common property survey approved by WAPC, is there any consultation with City of Vincent in advance of this approval?

**MANAGER DEVELOPMENT & DESIGN:**

*Yes, the City is referred all subdivision applications from the Western Australian Planning Commission (WAPC) and given 42 days to provide its comments.*

*The City recommended approval of the proposed subdivision for this site. This is because the lots meet minimum lot sizes and no visitor parking bay (at the time) was required under the deemed-to-comply standards of the R Codes.*

**MAYOR COLE:**

Is this a good outcome for interface with and presentation to Oxford Street or potentially an underdevelopment along an Activity Corridor?

**MANAGER DEVELOPMENT & DESIGN:**

*The proposed development outcome would be an underdevelopment when considering the scale of development and mix of land uses permitted along Oxford Street.*

*The site is zoned Mixed Use under the City's Local Planning Scheme No. 2, and is an Activity Corridor built form area permitted to a building height of four storeys under the City's Built Form Policy.*

*The proposed development is for grouped dwellings land use that is a permitted 'P' use in the Mixed Use Zone and is two storeys in height. This building height would be less than that permitted but there is no minimum building height prescribed in the City's policy framework.*

**5.5 NOS. 169-173 (LOT: 5; D/P: 42227 & LOT: 99; D/P: 3642) SCARBOROUGH BEACH ROAD AND NOS. 60-62 (LOT: 5; D/P: 42227 & LOT: 98; D/P: 3642) COOGEE STREET, MOUNT HAWTHORN - PROPOSED CHANGE OF USE FROM SHOP TO TAVERN AND ASSOCIATED ALTERATIONS AND ADDITIONS**

**Ward:** North Ward

- Attachments:**
1. **Location and Consultation Map** 
  2. **Development Plans** 
  3. **Parking Management Plan** 
  4. **Acoustic Report** 
  5. **Applicant Justification** 
  6. **3D Rendered Images** 
  7. **Previous Development Approval and Plans** 
  8. **Summary of Submissions - Administration's Response** 
  9. **Summary of Submissions - Applicant's Response** 
  10. **Determination Advice Notes** 

**RECOMMENDATION:**

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, **APPROVES** the application for a proposed Change of Use from Shop to Tavern and Associated Alterations and Additions at Nos. 169-173 (Lot: 5; D/P: 42227 & Lot: 99; D/P: 3642) Scarborough Beach Road and Nos. 60-62 (Lot: 5 D/P: 42227 & Lot: 98 D/P: 3642) Coogee Street, Mount Hawthorn in accordance with the plans provided in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 10:

**1. Development Plans**

This approval relates to a Change of Use from Shop to Tavern and Associated Alterations and Additions on the plans dated 14 July 2021. It does not relate to any other development on the site;

**2. Use of Premises**

**2.1 This approval is for a Tavern as defined in the City of Vincent Local Planning Scheme No. 2;**

**2.2 The proposed Tavern shall be limited to a maximum of 34 persons at any given time including patrons and staff; and**

**2.3 The proposed Tavern shall be limited to the following hours of operation:**

- **9:00am to 9:00pm Monday to Saturday; and**
- **10:00am to 7:00pm Sunday and public holidays;**

**3. Building Design**

**3.1 The development shall maintain an active and interactive relationship and uninterrupted views between the use of the development and Scarborough Beach Road during the hours of the development's operation to the satisfaction of the City;**

**3.2 Glazing and/or tinting to the Scarborough Beach Road frontage shall be a minimum of 70 percent visually permeable to provide unobscured visibility. Darkened, obscured, mirrored or tinted glass or other similar materials as considered by the City is prohibited; and**

**3.3 All external fixtures and building plant, including air conditioning units, piping, ducting and water tanks, shall be located so as to minimise any visual and noise impact on surrounding landowners, and be screened from view from the street, and surrounding**

properties to the satisfaction of the City;

#### 4. Signage

All signage is to be in strict accordance with the City's Policy No. 7.5.2 – Signs and Advertising, unless further development approval is obtained;

#### 5. Parking Management Plan

Prior to the occupation or use of the development, an updated Parking Management Plan shall be submitted to and approved by the City. The Parking Management Plan shall include, but is not limited to, addressing the following:

- Three (3) car parking bays being allocated and sign marked for the exclusive use of the Tavern premises;
- Six (6) car parking bays being allocated and sign marked for the exclusive use of the Consulting Rooms (Akasha Wellness Clinic) premises; and
- Three (3) car parking bays being allocated and sign marked for the exclusive use of the Shop (IGA) premises time with these being limited to 15 minutes and located closest to the IGA entrance.

The approved Parking Management Plan shall be implemented, and the development shall be carried out in accordance with the approved Parking Management Plan and approved plans, to the satisfaction of the City at the expense of the owners/occupiers;

#### 6. Bicycle Facilities

A minimum of one short term and one long term bicycle parking bays shall be provided on site prior to occupation or use of the development. The design and construction of the bicycle bays shall be in accordance with Australian Standards AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking;

#### 7. Waste Management Plan

7.1 Prior to the issuing of a Building Permit, an updated Waste Management Plan shall be submitted to and approved by the City. The Waste Management Plan shall include, but is not limited to, addressing the following:

- the location of bin storage areas and bin collection areas;
- the number, volume and type of bins, and the type of waste to be placed in the bins;
- details on the future ongoing management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas; and
- frequency and collection time of bins. Waste collection shall be limited to day time hours defined as 7:00am to 7:00pm Monday to Saturday and 9:00am to 7:00pm Sunday and public holidays as referenced in the approved Acoustic Report;

7.2 The approved Waste Management Plan identified in Condition 7.1 shall be implemented at all times to the satisfaction of the City;

#### 8. Noise Management

All of the recommended measures included in the approved Acoustic Report prepared by Gabriel Hearne Farell Pty Ltd and dated 1 September 2021 shall be implemented as part of the development, to the satisfaction of the City, prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

#### 9. Venue Management Plan

In accordance with City's Policy No. 7.5.7 – Licensed Premises, a Venue Management Plan

shall be lodged with and approved by the City prior to the occupation or use of the development. The Venue Management Plan shall address, but is not limited to, the following:

- Noise control and management, including music not being played in the 'seminar room' at a level louder than conversation level as per the approved Acoustic Report assessment;
- The number of patrons;
- Hours of operation;
- Patron and anti-social behaviour; and
- Complaints management.

The approved Venue Management Plan shall be implemented and maintained thereafter, to the satisfaction of the City;

**10. Colours and Materials**

Prior to first occupation or use of the development, the colours, materials and finishes of the proposed additions shall be in accordance with the details as indicated on the approved plans which forms part of this approval, and thereafter maintained, to the satisfaction of the City; and

**11. Stormwater**

Stormwater from all roofed areas shall be collected and contained on site. Stormwater must not affect or be allowed to flow onto or into any other property or road reserve.

**THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

**MAYOR COLE:**

Has there been any recent change to the paid carpark and is landscape in accordance with the approval?

**MANAGER DEVELOPMENT & DESIGN:**

*Yes, the owner has informed Administration that there is currently no paid parking applicable to the car park.*

*The owner advised that Wilson Parking who previously managed the parking on-site is no longer managing the property.*

**MAYOR COLE:**

Is landscaping in accordance with the previous land use approval?

**MANAGER BUILT ENVIRONMENT & WELLBEING:**

*Yes, the landscaping on-site is in accordance with the previously approved landscaping plan.*

**5.6 NO. 374 (LOT: 801; D/P: 29435) NEWCASTLE STREET, PERTH - PROPOSED AMENDMENT TO APPROVED UNLISTED USE (BILLBOARD SIGNAGE) S.31 RECONSIDERATION****Ward:** South

- Attachments:**
1. Consultation and Location Map 
  2. Development Plans 
  3. Applicant's Written Justification 
  4. Site Photo of Existing Billboard Signage 
  5. Council Minutes 14 September 2021 
  6. Previous Approvals Council Minutes 
  7. Previously Approved Plans 
  8. Summary of Submissions - Administration's Response 
  9. Summary of Submissions - Applicant's Response 
  10. Determination Advice Notes 

**RECOMMENDATION:**

That Council, in accordance with Section 31 of the *State Administrative Tribunal Act 2004*, SETS ASIDE its decision dated 14 September 2021 and SUBSTITUTES its new decision to, in accordance with the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application for an Amendment to Approved Unlisted Use (Billboard Signage) at No. 374 (Lot: 801; D/P: 29435) Newcastle Street, Perth, in accordance with the plans shown in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 10:

**1. Time Limited Approval**

This approval is valid for a period of three (3) years from the date of this approval. After this period, the use shall cease to operate with the structures be removed and the land made good unless a further approval is obtained prior to the expiration of this period (refer to advice notes);

**2. Sign Management**

- 2.1 This approval is for an Unlisted Use (Billboard Signage) as shown on the Development Plans dated 27 May 2021. No other development forms part of this approval;
- 2.2 The signage shall not have flashing, intermittent or running lighting;
- 2.3 The applicant/owner shall maintain adequate setback from motorists' line of sight through the traffic signals to the nearest edge of the billboards, to the satisfaction of the City;
- 2.4 The billboards shall not display advertising material which by virtue of colour or content may confuse the motorist or imitate the traffic signals or road signs, to the satisfaction of the City; and
- 2.5 Advertising content shall not contain material (by reasonable definition) that may be offensive to the public or cause unacceptable levels of distraction, to the satisfaction of the City; and

**3. Site Amenities**

- 3.1 Appropriate seating and a drinking fountain shall be conveniently located within the site, to the satisfaction of the City; and
- 3.2 The site shall be appropriately landscaped using waterwise plants with a preference for local Australian plants, to the satisfaction of the City. The landscaping shall be planted and maintained thereafter to the satisfaction of the City, at the expense of the owner(s)/occupiers.

**THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:****MAYOR COLE:**

Is the proposed 3 year approval agreeable to the Applicant and would that lead to the end of SAT proceedings?

**MANAGER DEVELOPMENT & DESIGN:**

*We advised the applicant of our recommendation when the Agenda was released. The applicant stated that they were disappointed that Administration had not recommended 5 years. We suggested that they read the rationale for the recommendation in the report and we understand they will be attending tonight to make a statement.*

**5.7 CITY OF VINCENT REBOUND PLAN - QUARTERLY UPDATE**

- Attachments:**
1. Vincent Rebound Plan - Implementation Framework 
  2. Rebound Roundtable Forward Agenda 

**RECOMMENDATION:**

That Council NOTES the:

1. Quarterly update on the City of Vincent Rebound Plan implementation included as Attachment 1, and the monthly reporting to the Rebound Roundtable; and
2. Rebound Roundtable Forward Agenda included as Attachment 2.

<b>NO QUESTIONS</b>
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**5.8 ARTS REBOUND: TOWN CENTRE ARTWORKS - CONCEPT DESIGN PROPOSALS**

- Attachments:**
1. Arts Rebound: Town Centre Artworks - EOI 
  2. Arts Rebound: Town Centre Artworks - Artwork Brief 
  3. Arts Rebound Concept Design Proposal Submissions - Assessments - Confidential
  4. William Street Town Centre Arts Rebound Concept Design Proposal - Confidential
  5. Leederville Town Centre Arts Rebound Concept Design Proposal - Confidential

**RECOMMENDATION:**

That Council:

1. **NOTES** the assessments of the Arts Rebound: Town Centre Artworks Concept Design Proposal submissions included as Attachment 3; and
2. **ENDORSES** the:
  - 2.1 **William Street Town Centre Arts Rebound Concept Design Proposal** for design development, fabrication and installation with the associated cost of \$215,000, as recommended by the Assessment Panel, and detailed in Confidential Attachment 4; and
  - 2.2 **Leederville Town Centre Arts Rebound Concept Design Proposal** for design development, fabrication and installation with the associated cost of \$80,000, as recommended by the Assessment Panel, and detailed in Confidential Attachment 5.

<b>NO QUESTIONS</b>
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## 5.9 COMMENCEMENT OF EXPRESSIONS OF INTEREST PROCESS INVITING REDEVELOPMENT CONCEPTS FOR THE AVENUE AND FRAME COURT CAR PARKS, LEEDERVILLE

- Attachments:
1. Site Map 
  2. Draft EOI Process 
  3. Selection Criteria 
  4. Land Valuation - Confidential

### RECOMMENDATION:

That Council:

1. **APPROVES** the CEO to commence an expression of interest process for the redevelopment of the City's major landholdings in Leederville, being the Avenue Car Park and Frame Court Car Park as outlined in Attachment 1 in alignment with Council's strategic intention for both sites contained in the Leederville Precinct Structure Plan; and
2. **NOTES** the:
  - 2.1 **Process** outlined in Attachment 2 will be undertaken to receive and assess the proposals; and
  - 2.2 **Selection criteria** included at Attachment 3 will be used for the assessment of any proposals received; and
  - 2.3 **A report** will be prepared for Council to approve any shortlisted proposals from Stage 1 to progress to Stage 2 as a preferred proponent/s.

#### **MAYOR COLE:**

The draft EOI selection criteria, within the essential criteria, point 1 regarding the 400 public car parking bays plus the consolidation of car parking arrangements talks about this point only being relevant if the developable area is across both sites. This then fails to consider a proposal that includes only one of the two car parks that does not factor in any public car parking, creating an overall loss of public car parking.

#### **MANAGER POLICY & PLACE:**

*The draft EOI selection criteria has been reworded so that the number of public car parking bays provided totals a minimum of 400, regardless of the proposal and the size of land this pertains to.*

#### **MAYOR COLE:**

The draft EOI selection criteria, within the desirable criteria, point 2, do we want to include innovative industries?

#### **MANAGER POLICY & PLACE:**

*It is not specific about the industry type as it is recommended to include and encourage a range of industries*

#### **MAYOR COLE:**

The draft EOI selection criteria, under design principles, delivery of active public spaces such as plazas, squares, courtyards or arcades. We are missing the laneways.

#### **MANAGER POLICY & PLACE:**

*Reference to laneways has been added to the draft EOI selection criteria.*

#### **MAYOR COLE:**

Avenue carpark – page 546 should this not refer to public car parking also, talks about consolidated car parking only. Should there not be more emphasis on the importance of the revenue stream to the City of the car parking?

Should it be clearer that tenure arrangements are very critical to the proposal including retention of public parking?

#### **MANAGER POLICY & PLACE:**

*The report has been amended to include reference to public car parking within the Avenue car park.*

*Impact on the City's Long Term Financial Plan from the potential immediate and long-term revenue opportunities through car parking arrangements is a key consideration when assessing proposals. This has been added to the draft EOI selection criteria. Detail has been added to the report to reference this. Financial modelling has not been completed to determine the revenue that the car parking arrangements could generate, this would be determined through the business plan process.*

*The tenure arrangements are essential and are reflected in the draft EOI selection criteria. It is also important that public car parking is retained through the development process so detail has been added to the draft EOI selection criteria regarding this.*

**CR LODEN:**

Could we remove one of the sites from the EOI, i.e. remove Frame Court – Amendment foreshadowed.  
Could Administration provide options to Council on how the proceeds would be utilised.

**MANAGER POLICY & PLACE:**

*Recommendation 1 has been amended to allow proposals to be received for either both or one of the car parks, depending on the proposals received. The City would require that the development of one or both of the sites is staged such that public car parking across the two sites is maintained, as is set out in the first Essential Criteria of the EOI.*

*A third recommendation has been added requesting the CEO to provide options to Council on how proceeds from the redevelopment of these sites would be utilised through the Long Term Financial Plan budgeting process.*

**CR IOPPOLO:**

1. Has Administration considered whether the EOI process proposed herein is in potential breach of Local Government Act Section 3.59 dealing with the process of Commercial Enterprises by Local Government, specifically with Major Land Transactions because
  - a. Administration is proposing that tenders i.e. property developers and NOT the City of Vincent prepare the business plan outlining the overall assessment of the major trading undertaking and major land transaction contemplated (refer definition of trading undertaking requirements and the requirements of a business plan and its effect on Local Government); and
  - b. This proposal indicates that this business plan is not done prior to the tender process.

**MANAGER POLICY & PLACE:**

*The City would potentially be entering into a major land transaction and not a major trading undertaking as the EOI is proposing redevelopment of land. Although the redevelopment has the potential to be a major land transaction, there is no requirement at this stage, under the Local Government Act 1995 (LGA) to prepare a business plan.*

*S3.59 of the LGA requires that a local government prepare and publish a business plan, and invite and consider public submissions on that business plan before it enters into a major land transaction or enters into a land transaction that is preparatory to entry into a major land transaction. S3.59(2) does not require that a business plan be prepared prior to an EOI process such as the one being recommended.*

*A business plan would be informed by the responses that are received through the EOI process and would be developed and consulted with the community on prior to Council considering whether or not to prepare to or enter into a major land transition. The report has been updated to clarify this.*

*S3.59 (2) states that 'a local government is to prepare a business plan.' The business plan can be prepared by the City's consultants on behalf of the local government. This detail has been clarified within the report.*

**CR IOPPOLO:**

Can we request legal advice that confirms the above regarding the *Local Government Act*?

**MANAGER POLICY & PLACE:**

*The City's Senior Land and Legal Advisor has confirmed the above.*

**CR IOPPOLO:**

What is the value of these two properties in the financial statements as at 30 June 2021?

**EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:**

*Asset value and annual depreciation outlined below, pertaining to the assets on the two sites.*

	<b><i>Avenue Car Park</i></b>	<b><i>Frame Court</i></b>
<b><i>Asset Value @30/6/21</i></b>	\$529,510	\$342,671
<b><i>Annual Depreciation</i></b>	\$48,220	\$27,871

At 8.54pm, Cr Jonathan Hallett left the meeting.

## 5.10 WOODVILLE RESERVE LANDSCAPE PLAN

- Attachments:**
1. **Woodville Reserve Landscape Plan** 
  2. **Community Consultation Summary** 
  3. **Draft Woodville Reserve Landscape Plan** 
  4. **Woodville Reserve Landscape Perspectives** 

### RECOMMENDATION:

#### That Council:

1. **ENDORSES** the Woodville Reserve Landscape Plan, included as Attachment 1; and
2. **NOTES** the submissions received during the community consultation period and Administration's response, included as Attachment 2, in relation to the Draft Woodville Reserve Landscape Plan, included as Attachment 3.

#### **MAYOR COLE:**

Formalised playground – does this need to be clarified?

#### **MANAGER POLICY & PLACE:**

*This informal play area has been referenced in the Landscape Plan.*

#### **CR GONTASZEWSKI:**

Climbing trees – were they considered?

#### **MANAGER POLICY & PLACE:**

*These were not included in the Landscape Plan because a mature tree that is fit to climb needs to be a transplanted tree, which is very costly (>\$10,000 depending on the size and species). Further to this, a transplanted tree would require ongoing care and monitoring for many months before it could be climbed (at an additional cost), and there is still no guarantee of survival.*

*Two WA Weeping Peppermint trees have been included which are a popular climbing tree with low, strong branches. Whilst the install size of these two trees will be larger than the other proposed trees, these will take a number of years to grow to a suitable size for climbing. Once grown they will achieve this request.*

#### **CR LODEN:**

Keen to see 2 additional trees on the northern side of the reserve to the west of the gate – Cell 1E.

#### **MANAGER POLICY & PLACE:**

*Additional trees have been included in the Landscape Plan along this Northern boundary.*

### **THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

#### **MAYOR COLE:**

I was worried when I read the words "Formalising the playspace" and wanted some detailed feedback on what that means and whether the concept and long-term practice of free play and ability for kids to construct from loose nature elements will remain?

#### **MANAGER POLICY & PLACE:**

*The formalisation of the play space refers to removing any hazardous or unsuitable items (such as pallets with rusty nails), introducing fit-for-purpose elements (timber steppers), and tidying-up the play space by applying clean woodchip mulch, a properly installed limestone path (to replace the loose road base gravel), and planting to better distinguish the play area from the community garden and grassed areas. The standing trees and logs will remain. There will still be opportunity for community members to introduce other nature play elements, provided they are suitable and don't pose a hazard.*

*In short, the play area will remain a nature-based, intuitive play space. The dodgy materials will go, and the space will be given a good 'polish', so as to present better from the street. The standing dead trees and logs will remain. There will still be opportunity for community members to introduce other nature play*

*elements, provided they are suitable and don't pose a hazard.*

**MAYOR COLE:**

Will the area be on or off-leash dog exercise, noting feedback on this issue?

**MANAGER POLICY & PLACE:**

*The area is part of the wider Woodville Reserve, which is a designated dog exercise area, so off-leash dog exercise should be permitted. This portion of the Reserve provides an alternative area for dog walking when soccer or other sports activities are occurring in the eastern portion of the Reserve. This clash of user groups is an ongoing issue which can hopefully be addressed by making this portion of Woodville Reserve more dog-walking friendly. The online survey found that over half the respondents use the Reserve for dog walking. Many of the comments relating to dogs were around dog waste – likely due to the absence of a dog-poo bag dispenser and waste bin at this location. This would be rectified with the implementation of this plan. 3 of the comments opposing dogs in this area came from the same submission/respondent.*

**MAYOR COLE:**

With the plan being funded this fin year, but plantings to happen in winter, when will works commence?

**MANAGER POLICY & PLACE:**

*The construction works should be carried out over the course of two weeks, towards the end of May / early June. This is the optimal time to carry out planting works so as to make the most of the wet season.*

At 5.11 pm, Cr Jonathan Hallett returned to the meeting.

**5.11 BRITANNIA NORTH WEST RESERVE DEVELOPMENT PLAN - LITIS STADIUM CHANGE ROOM DESIGN**

- Attachments:**
1. **Litis Stadium Change Room Concept Design** 
  2. **Litis Stadium Change Room Concept Perspectives** 

**RECOMMENDATION:**

**That Council:**

1. **ENDORSES** the Litis Stadium Change Room Concept Design, included as Attachment 1, for the purposes of formal submission to the Australian Federal Government to secure \$3 million funding; and
2. **APPROVES** the CEO authority to sign off on relevant documentation relating to securing the \$3 million funding.

**NO QUESTIONS:**

**5.12 AMENDMENT TO LOCAL PLANNING POLICY NO. 7.5.2 - SIGNS AND ADVERTISING**

- Attachments:
1. Summary of Consultation 
  2. Schedule of Modifications 
  3. Draft Amendment to Local Planning Policy No. 7.5.2 - Signs and Advertising 

**RECOMMENDATION:****That Council:**

1. **PREPARES** an amendment to Local Planning Policy No. 7.5.2 – Signs and Advertising, included at Attachment 3, in accordance with Schedule 2, Part 2, Clause 5(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
2. **AUTHORISES** the Chief Executive Officer to advertise the proposed amendment in accordance with Schedule 2, Part 2, Clause 4(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
3. **REQUESTS** the Chief Executive Officer amend Local Planning Scheme No. 2 to prohibit third party advertising/billboards throughout Vincent as part of the next Local Planning Scheme Review.

<b>NO QUESTIONS</b>
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**5.13 LOCAL PLANNING POLICY NO. 7.5.15 - CHARACTER AREAS AND HERITAGE AREAS:  
OUTCOMES OF ADVERTISING GUIDELINES FOR CLEAVER PRECINCT**

- Attachments:**
1. **Community Consultation Survey - Redacted** 
  2. **Summary of Submissions and Schedule of Modifications** 
  3. **Local Planning Policy No. 7.5.15 - Character Areas and Heritage Areas** 
  4. **Appendix 6 - Florence Street Design Guidelines** 
  5. **Appendix 7 - Prospect Place Design Guidelines** 
  6. **Appendix 8 - Hammond Street Design Guidelines** 
  7. **Appendix 9 - Strathcona Street Design Guidelines** 

**RECOMMENDATION:**

**That Council:**

1. **NOTES** Administration's responses to community feedback, included in the Summary of Submissions and Schedule of Modifications included at Attachment 2; and
2. **PROCEEDS** with the amendment to Local Planning Policy No. 7.5.15 - Character Areas and Heritage Areas with modifications, included at Attachment 3, including the guidelines for Strathcona Street, Hammond Street, Florence Street and Prospect Place, included as Attachment 4, 5, 6 and 7 respectively pursuant to clause 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**MAYOR COLE:**

Could we move to a situation where there was enough commonality in the guidelines that the street can apply, and new streets can apply?

**MANAGER POLICY & PLACE:**

*The existing guidelines can be used as a starting point for drafting the guidelines for new character areas. As each character area is unique in its built form this starting point will be amended to ensure each guideline is specific to each area.*

**5.14 RESULTS OF CONSULTATION - POTENTIAL LAND SALE, 26 BRENTHAM STREET, LEEDERVILLE**

- Attachments:
1. 26 Brentham Street - Location and Current State of Land 
  2. 26 Brentham Street - Land and Surrounding Public Open Space 
  3. Summary of Community Consultation - Detail 
  4. Summary of Community Consultation - Graphs 
  5. Concerns Raised and Administration Response 

**RECOMMENDATION:****That Council NOTES:**

1. the public submissions received in response to the community consultation on the potential sale of lot 37 (No. 26) Brentham Street, Leederville, as at Attachment 3;
2. that Administration will investigate the interest of adjoining landholders Sisters of Mercy, Aranmore Catholic Primary School, and Rosewood Care Group Inc in acquiring the land for the purposes of education and/or age care;
3. that Administration will present a further report to Council by March 2022 following liaison with Sisters of Mercy, Aranmore Catholic Primary School, and Rosewood Care Group Inc;
4. Administration will provide advice to Council in the March 2022 report on the landscaping approach for Brentham Reserve including the potential to re-locate the current play equipment or build new play equipment in close proximity to the school; and
5. any decision to sell all or part of this lot would require further public consultation including for a potential re-zoning.

<b>NO QUESTIONS</b>
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### 5.15 COMPLAINTS MANAGEMENT FRAMEWORK - CODE OF CONDUCT FOR ELECTED MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

- Attachments:
1. Code of Conduct Behaviour Complaints Management Policy - (draft) 
  2. New Delegation 2.2.31 - Appointing External Complaints Officer - (draft) 
  3. New Delegation 2.1.2 - Behaviour Complaints Committee - (draft) 
  4. Behaviour Complaints Committee - Terms of Reference (draft) 
  5. Complaint Form - updated 

#### RECOMMENDATION:

That Council:

1. APPROVES the Code of Conduct Behaviour Complaints Management Policy, at Attachment 1, for the purpose of public notice;
2. AUTHORISES the Chief Executive Officer to provide local public notice of the proposed new policy and invite public comments for a period of at least 21 days;
3. NOTES that at the conclusion of the public notice period any submissions received would be presented to Council for consideration;
4. APPROVES by ABSOLUTE MAJORITY:
  - 4.1 in accordance with section 5.8 of the *Local Government Act 1995*, the establishment of the Behaviour Complaints Committee for the purpose of dealing with Division 3 – Behaviour complaints under the Code of Conduct for Council Members, Committee Members and Candidates; and
  - 4.2 in accordance with section 5.10 of the *Local Government Act 1995*, the appointment of all Council Members to the Behaviour Complaints Committee as committee members;
5. DELEGATES by ABSOLUTE MAJORITY:
  - 5.1 in accordance with section 5.42 of the *Local Government Act 1995*, to the Chief Executive Officer the authority to appoint an external Complaints Officer to receive complaints and withdrawal of complaints related to the City of Vincent Code of Conduct for Council Members, Committee Members and Candidates, as detailed in Attachment 2; and
  - 5.2 in accordance with section 5.16 of the *Local Government Act 1995*, authority to the Behaviour Complaints Committee to deal with complaints in accordance with clause 12 and 13 of the *Local Government (Model Code of Conduct) Regulations 2021*, as detailed in Attachment 3; and
6. ADOPTS the:
  - 6.1 Terms of Reference for the Behaviour Complaints Committee as at Attachment 4; and
  - 6.2 updated complaint form at Attachment 5.

#### CR HALLETT:

In terms of the edit to provision 3.6 – Alternative Dispute Resolution, the provision requires mutual agreement to request permission to have a support person present during the alternative dispute resolution as opposed to mutual agreement to the actual allocation of a support person. The provision is also silent on the circumstances that the request would be approved.

#### EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

*Part of the process is to enable early intervention so that a complaint can be resolved early and minimalise*

*Council involvement. A pre-condition of early intervention is that both parties need to agree to the early intervention including mediation. Mediation, including the person that would undertake the mediation would be facilitated by the City. Both parties would need to agree mutually on the person undertaking the mediation along with any conditions surrounding it. As with other dispute resolution processes either party may request a support person to be with them during mediation. Both parties would need to agree to the presence of a support person during the alternative dispute resolution process.*

*Administration has updated the edit to provision 3.6 to correctly reflect its intention which is to permit the allocation of a support person rather than agree to request permission to have a support person. This has been updated in the draft policy for Council approval to advertise.*

At 7.04pm, Cr Ron Alexander left the meeting.

## 5.16 PROPOSED LEASE OF HYDE PARK KIOSK TO VEGGIE MAMA PTY LTD

- Attachments:**
1. **Proposed Lease Terms, Maintenance Schedule and Premises Plan** 
  2. **Consistency with Property Management Framework** 
  3. **Hyde Park Kiosk Concept Sketch** 
  4. **Kiosk Location Map**
  5. **Evaluation Worksheet - Confidential**

### RECOMMENDATION

**That Council:**

1. **NOTES** the City received four submissions in response to the Request for Tender for an operator to lease a portion of No. 505 William Street, Perth, Hyde Park, being a current 34.64 square metre storage shed to be used as a commercial kiosk;
2. **ACCEPTS** the tender submitted by Veggie Mama Pty Ltd for Tender No. CEO126/2021 for the operator of Hyde Park kiosk;
3. **APPROVES** the City entering into a lease of a portion of No. 505 William Street, Perth with Veggie Mama Pty Ltd on the following terms:
  - 3.1 **Initial term:** Two (2) years.
  - 3.2 **Option:** Two (2) x five (5) years.
  - 3.3 **Commencement date:** Tenant to occupy Premises at completion of the City's Premises works, at which time the Lease and Rent Free Period would commence.
  - 3.4 **Premises area:** Portion of the building known as the western storage shed at Hyde Park, measuring approximately 34.64 square metres as shown in the Premises Plan in **Attachment 1**.
  - 3.5 **Rent:** Proposed rent is \$30,000 per annum including GST.
  - 3.6 **Rent review:** Annual CPI rent review to occur on 1 July each year of the Lease commencing from 1 July 2023.
  - 3.7 **Outgoings:** The Tenant to pay:
    - (a) ESL charges applicable to the Premises;
    - (b) rubbish and recycling bin charges for the Premises. (The Tenant would need to make arrangements with a commercial service);
    - (c) rates and taxes; and
    - (d) minimum level of service statutory compliance testing (including RCD, DFES and pest inspection fees and charges).

Utilities (water and electricity) are included in the Rent.
  - 3.8 **Insurance:** Tenant to hold and maintain a public liability insurance policy for not less than \$20million per one claim, in respect of the Tenant's use and occupation of the Premises.  
  
Tenant to reimburse the City for the building insurance premium payable in regard to the Premises area (currently at \$89.74 + GST per annum). If the Tenant requests the City make a claim

on the Tenant's behalf (under the building insurance policy) the City may require the Tenant to pay any excess payable in respect to that claim.

- 3.9 Repair/maintenance:** The Tenant is responsible for maintenance items as specified in right hand column of the Maintenance Schedule seen in **Attachment 1**.
- 3.10 Capital upgrades:** After completion of the City's initial Premises fit-out, the Tenant is responsible for further capital upgrade and capital expansion of all assets within the leased or licenced area and the maintenance of the Premises fit-out. Any capital upgrades are subject to the written consent of the City.
- 3.11 Inspections:** The City to inspect the Premises annually (or as required) and to give the Tenant appropriate notice of the inspection, in accordance with the lease terms.
- 3.12 Responsibilities of the City:** The City is responsible for:
- (a) maintenance of roofing and main structure of the Premises (unless the damage is caused by the Tenant); and
  - (b) capital renewal of existing assets at the City's discretion.
- 3.13 Obligations of Tenant and default provisions:** The Tenant is responsible for ensuring Premises and surrounds (being any external area allocated for the Lessee's use) are clean and free from litter. The Lessee is not responsible for maintaining cleanliness of the whole of Hyde Park.
- The Tenant is responsible for paying all Rent and any other monies owing under the Lease within 14 days of the due date:
- (a) If the Tenant fails to pay an invoice within the 14-day grace period, interest at a prescribed rate (as set by the Lease) would accrue on the outstanding amount until it is paid for in full.
  - (b) Continued failure to pay monies due and owing under the lease may result in the City terminating the Lease due to the Tenant's default.
  - (c) If the Tenant disputes any amount due and owing under the Lease, the Tenant must notify the City accordingly. In the absence of manifest error, the Tenant must pay the outstanding amount on the due date and any dispute about the amount would be resolved with the City following payment.
- 3.14 Special conditions:**
- Minister for Lands consent:**  
This Lease is subject to and conditional upon the prior written approval of the Minister for Lands pursuant to section 75(6) of the *Land Administration Act 1997*.
- Exclusivity:**  
The City agrees not to permit the use of any space within Hyde Park to any tenant or other occupant which sells food or beverage items during the term on the Lease. This does not apply to functions or events held within the Park.
- Rent free period:**
- (a) The Tenant shall be entitled to occupy the Premises rent-free for a period of nine (9) months commencing upon completion of the City's construction of initial fit-out of the Premises.
  - (b) Except to the extent inconsistent with the Rent Free Period

being rent-free, all of the terms of the Lease shall apply during the Rent Free Period, and for the avoidance of doubt, the Lessee shall pay all amounts due under this Lease other than Rent during the Rent Free Period.

**COVID-19 provision:**

If the Tenant requests rent relief due to loss in turnover as a result of COVID-19 restrictions, good faith negotiation between both parties would occur.

**Serving alcohol:**

The Tenant can apply for liquor licencing for events by obtaining an Occasional Liquor Licence from the Department of Racing, Gaming and Liquor, before submitting the City's One-Off Liquor Licence Permit and Gaming Application.

**4. NOTES:**

- 4.1 mobile food vendors would only be able to operate as part of approved events, but would not be issued Vending Vincent permits to operate permanently in Hyde Park for the duration of the lease, to ensure kiosk revenue is not adversely impacted;
  - 4.2 existing Vending Vincent permit holders have been provided the opportunity to trade at other locations including trialling a new powered site in Banks Reserve on the former pavilion; and
  - 4.3 Administration will review and update the Vending Vincent policy at the end of the two-year initial lease term, dependent on the Tenant exercising the proposed five-year lease extension option;
5. Subject to relevant Department of Planning, Land and Heritage approvals and final satisfactory negotiations being carried out by the Chief Executive Officer, **AUTHORISES** the Mayor and Chief Executive Officer to affix the common seal and execute the Lease as set out in Recommendation 3; and
  6. **ALLOCATES** by **ABSOLUTE MAJORITY** a budget of \$55,000 excl GST for the required works to the storage shed to convert to a commercial kiosk, subject to relevant Department of Planning, Land and Heritage approvals.

**MAYOR COLE:**

Flagged possible amendments – rent free period limited to occupancy or not being used for sale of goods. Service of alcohol – term noting that City does not support permanent licence. Rent review – 1<sup>st</sup> lease terms should mean level of expenditure is covered by rent. City's view of rent review at 1<sup>st</sup> instead of 2<sup>nd</sup> option and profitability of the venture?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*After discussions with the Tenant, Administration has amended the key lease terms to the following:*

*Initial term: Five (5) years.*

*Rent review: Annual CPI rent review to occur on 1 July each year of the Lease commencing from 1 July 2023. Market Rent Review at **start of First Option Term**.*

*Rent free period: The Tenant is entitled to a rent free period of **three (3) months** from the Commencement Date to facilitate the Lessee undertaking the necessary fit outs to the Premises.*

*The lease will only commence when the City's initial fit-out is completed.*

*Serving alcohol: The Tenant **must not at any time** sell or permit the sale of any alcohol or alcoholic beverage on the Premises.*

**CR GONTASZEWSKI:**

Can we have some clarification on the conditions in the Local Government Property Local Law 2021 for signage of City-owned property?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Any signage proposed by the Tenant must comply with the City's Policy No. 7.5.2 – Signs and Advertising and the Local Government Property Local Law 2021. The local law allows advertising signs and portable directional signs on Council land, which is:*

- *not exceeding 500mm in height nor 0.5 square metres in area, on any side, and which will not unduly adversely affect the local government property;*
- *of a temporary nature occurring on one-off occasions (although may occur on a number of days) but not of any permanent nature or reoccurrence;*
- *uses which will not adversely affect the amenity, streetscape or day-to-day activities of the local government property or any other use which, in the opinion of the local government, constitutes a minor use;*
- *not illuminated and does not incorporate reflective or fluorescent materials;*
- *no more than one (1) advertising sign shall be erected in relation to the one building or business without a sign permit; and*
- *no more than one (1) portable direction sign shall be erected in relation to the one building or business without a sign permit.*

*For this proposed Lease, Administration would only support 1 advertising sign, 1 portable direction sign, and 1 sign on each external wall of the Premises. Administration does not support the installation of signage on the roof of the premises.*

*Administration has included a Special Condition in relation to Signage which limits the extent of signage the tenant can have.*

**CR CASTLE:**

Why was the rent proposed not a criterion for assessment? Why was it not weighted?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The proposed lease terms and rent was considered in the overall value for money assessment and therefore is part of the assessment criteria, however it was non-weighted. The City determined that the most important aspects of the tender and the best way to determine the most suitable response was to ensure that the Business Concept aligned to the City's priorities, that the Respondents had the relevant experience to successfully operate a kiosk/café and that the proposed price of the products could sustain the business concept.*

*Respondents were given the opportunity to propose their own lease terms and rent. This information further allowed the City to get a better understanding of the lease terms for the negotiation phase of the tender process.*

**CR CASTLE:**

Is it standard practice for the City to pay for fit out?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*It is not standard practice however, as this premises is proposed to be used for food preparation and sale, it is appropriate for the City to undertake works on the Premises to ensure that the City-owned property is compliant with the Australia New Zealand Food Standards Code.*

**CR CASTLE:**

Why could rent free period not commence at the beginning of fit out, why 9 months, could it end as soon as operational?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The 9 month Rent Free Period was initially to allow for the proposed tenant's installation of a second serving window into the kiosk, and relevant Department of Planning, Lands and heritage (DPLH) approvals for this. The City no longer supports this initial proposal and the Rent Free Period can be shortened due to this.*

*Administration supports amending the lease terms to change the Rent Free Period to a period 3 months to*

*enable Lessee to complete fit-out of Premises.*

**CR CASTLE:**

Report proposes that it would take 4 years for fit out cost to be recouped, but only 2 year lease?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration supports amending the lease terms to increase the initial lease term to 5 years, so to have the rent cover the City's initial fit out expenses. The potential tenant has agreed to this.*

**CR CASTLE:**

Was exclusive use a condition of the tenderer's proposal and was that raised by them and was that raised by any other tenderers?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Yes, exclusive use was identified in the preferred tenderers proposal. Administration recommends providing the kiosk exclusivity for all of Hyde Park within the lease, to provide sustainability and certainty for the proposed Tenant.*

*Exclusive use of the park was not identified by any other tenderer within their tender proposal; however, it could have been raised by any tenderer during any lease negotiations.*

**CR CASTLE:**

What is the City's role in any approvals on a liquor licence?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The City is not the licensing authority. All liquor licenses are determined by the Director of Liquor Licensing. The City is limited to 'intervening or objecting' to a proposed liquor licence and an objection can only be made on the following grounds (in accordance with Section 74 of the Liquor Control Act 1988):*

**74. Objecting to applications, grounds for etc.**

- (1) *No objection shall be made except on one or more of the following grounds —*
- (a) *that the grant of the application would not be in the public interest; or*
  - (b) *that the grant of the application would cause undue harm or ill-health to people, or any group of people, due to the use of liquor; or*  
*[(c)-(f) deleted]*
  - (g) *that if the application were granted —*
    - (i) *undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school, would be likely to occur; or*
    - (ii) *the amenity, quiet or good order of the locality in which the premises or proposed premises are, or are to be, situated would in some other manner be lessened; or*  
*[(h) deleted]*
  - (j) *that the grant of the application*

*Administration supports amending the lease terms to note that the tenant cannot, under any circumstance, sell any liquor from the Premises. Administration has discussed the condition of the lease regarding liquor licensing with the successful tenderer. They do not object to a condition that prohibits the sale of liquor all together. Administration has amended the report to expressly prohibit the sale of liquor associated with the kiosk operations.*

**CR LODEN:**

Please provide more details on what an occasional liquor licence means.

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Occasional liquor licences are issued at the discretion of Department of Local Government, Sport and Cultural Industries (Racing, Gaming and Liquor). The intent of an Occasional Liquor Licence is to allow the sale of alcohol at a venue that doesn't have a permanent liquor licence. Advice available on the Department of Local Government, Sport and Cultural Industries (Racing, Gaming and Liquor) website includes that:*

- *occasional liquor licences are generally only granted up to 24 times within a 12-month period;*
- *applications for temporary or pop-up type events will only be considered when there is a genuine function or occasion. In these instances, the applicant will need to demonstrate what the function or the*

*occasion is and why the grant of the occasional licence is in the public interest.*

*Where the Occasional Liquor Licence is proposed to be in on land owned or managed by the City of Vincent a letter of support from the City needs to be provided accompanying the application.*

*Administration supports amending the lease terms to note that the tenant cannot, under any circumstance, sell any liquor from the Premises. Administration has discussed the condition of the lease regarding liquor licensing with the successful tenderer. They do not object to a condition that prohibits the sale of liquor all together. Administration has amended the report to expressly prohibit the sale of liquor associated with the kiosk operations.*

**CR HALLETT:**

Is there a limit on the number of food vans that can trade at Hyde Park at any one time?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Yes, each trading location is limited to 3 at any one time and per Policy provision 3.1.1.*

**CR LODEN:**

Provide some background on Policy, intent of Policy at that time.

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*At a Council Forum held on 30 October 2012, Administration presented a potential model for Mobile Food Vendors within the City. It was raised that the City's Food Act 2008 Policy states that the City currently does not support Itinerant Vendors, and the policy required an amendment if itinerant (roaming) vendors were to be permitted.*

*Around this time, Mobile Food Vendors had emerged as a popular dining option and activator of spaces. They had gained popularity through organised events and markets but were also popping up in some public spaces (in other Local Governments) to complement and amplify existing pedestrian activity, or in some cases used as a tool to attract people into underutilised spaces. The City highlighted a few spaces which it considered could be better patronised with Mobile Food Vendors. These were highlighted in the Policy.*

*The intent of the Policy was to enhance the use of the public spaces by surrounding residents and the broader community. The Policy also included some locations which were already well patronised (Hyde Park), with the addition of Mobile Food Vendors intended to complement the space and enhance the user experience.*

*At the [Ordinary Meeting of Council \(OMC\) held on 12 March 2013](#), a Draft Mobile Food Vendor Policy was submitted to Council for approval, however it was resolved that the item be deferred to allow further investigation to be undertaken.*

*At the Council Forum held on 11 November 2014, Administration presented an updated policy approach with revised locations and conditions regarding Mobile Food Vendors. Subsequently, a report was [presented to Council on 2 December 2014](#), requesting Council adopt a Draft Mobile Food Vendor Policy and authorising the Chief Executive Officer to conduct a Mobile Food Vendor Trial. In [August 2015](#), the Mobile Food Vendor Policy was endorsed by Council.*

**CR WALLACE:**

Please provide further context around the drafting of the Policy having regard to the Property Management Framework. Why does this sit outside this document, noting there is no restriction on the total number of hours a vendor is permitted to trade in the Policy?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The Mobile Food Vendors Policy did not regulate the total number of hours a vendor can operate in order to avoid burdensome Administration 'costs' associated with the implementation of the Policy and unnecessary regulation of the vendors, noting that impacts on surrounding residents cause by the vendors could be controlled by the City through its Local Laws, enforcement of Noise Regulations, etc. and when determining future applications to trade in the park by vendors.*

**CR WALLACE:**

Can you summarise the differences between what was advertised and what is being presented?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration did not propose any lease terms or rent fee when requesting tender applications.*

*The selection criterion for **Lease Term and Rent** was non-weighted. Answers to this criterion did not have an associated score within the Evaluation Worksheet during assessment of tender applications.*

*The report presented to Council on 18 May 2021, where Council approved inviting public tender submissions for the operation of the commercial kiosk included the following detail:*

*“Based on surrounding commercial tenancy values, it is estimated that the lease income the City could receive from the commercial kiosk would be between \$30,000 and \$60,000. The public tender will request that the potential kiosk operators provide a proposed lease fee along with other lease terms.”*

*The assessment and scoring of all other criteria for each tenderer can be seen in the Confidential Attachment – Evaluation Worksheet.*

#### **THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

##### **CR IOPPOLO:**

Minister for Lands Consent – Can the Administration please confirm it has considered whether the Land Administration Act s75(2), s75(6) and other relevant provisions could apply to permit the City of Vincent from entering into this lease with the consent of the Minister, the City of Vincent undertaking agreed capital works but then deny City of Vincent from charging any market value rent which exceeds the unimproved value of the land ... and if it has considered this, can we request external professional legal advice be obtained and circulated to Council?

##### **EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The City considered the requirements of s75(6) of Land Administration Act 1997 (LAA) and sought the Minister’s approval on this basis. Approval to the draft lease terms was provided by the Minister, via the Department of Planning, Lands and Heritage (DPLH), by letter on 15 November 2021. Updated approval will be required from the Minister as a result of changing lease terms. The draft lease included the amount of market rent which received no objections from DPLH. Further s75 of the LAA make no references to market value rent.*

*Legal advice is not required on this matter as conditional approval of the lease terms has already been received from the Minister via DPLH.*

##### **CR IOPPOLO:**

Whadjuk considerations – Acknowledging that the kiosk in Hyde Park is within the boundary of an Aboriginal site, does the Administration consider it would be appropriate to obtain the consent of the Whadjuk people about the proposed kiosk, including but not limited to potential alcohol sales in the Park, even though it may not be a legal requirement under the Aboriginal Heritage Act?

##### **EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The City did not consult any Traditional Owners. The City did comply with all requirements of State legislation and the proposal has been supported by the Heritage Council.*

##### **CR IOPPOLO:**

Initial Market Value Rent – Can Administration please provide the support validating the proposed initial \$30,000 gross rent per annum from market rental comparisons including consideration and adjustment for material terms including:

- (a) Exclusivity from competition within a 100 metre radius excluding functions and events;
- (b) Lessor undertaking all capital works;
- (c) Rent free period of 9 months commencing after the completion of Lessor’s works;

##### **EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration see validation in the proposed rent fee when considered against the above points for a number of reasons:*

- (i) *The revenue gained by the food trucks currently is significantly less than that which would be generated by a lease.*
- (ii) *The tenant’s business would be impacted by competition within the park, which could impact their*

*financial viability, stability, and ability to pay rent. The food vans would have an unfair advantage in respect to operating and associated costs.*

- (iii) The City's initial work on the premises means the building would be set up and ready for another operator should the proposed tenant not exercise an option.*
- (iv) Capital renewal of existing assets at the City's discretion is noted as a key term for the City's Category 3 Leases in the Property Management Framework.*
- (v) As a new venture, there are many unknowns regarding the success of the proposed kiosk.*
- (vi) As the Vending Vincent Policy was reviewed recently, including an Exclusivity Clause would not require reviewing the policy only to remove Hyde Park as an approved location in the policy. This can be done when the policy is due to be reviewed. It is currently at the City's discretion to grant a permit for food vans and at which location the licence holder may operate.*

*Administration supports amending the lease terms to change the Rent Free Period to a period three (3) months to enable Lessee to complete fit-out of Premises.*

#### **CR IOPPOLO:**

Vending Vincent Permits – What is the average revenue to be foregone from banning the operation of food vans (excluding events and functions) in favour of the kiosk, based on the annual revenue received from such, over each of the last 3 financial years?

#### **EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Annual revenue from Vending Vincent permits issued – 2021-2022 (so far) - \$3,850.00*

*Annual revenue from Vending Vincent permits issued – 2020-2021 - \$3,383.34*

*Annual revenue from Vending Vincent permits issued – 2019-2020 - \$2,800.00*

*Annual revenue from Vending Vincent permits issued – 2019-2020 - \$2,800.00*

*Estimated operational costs of implementing the Policy in that time:*

*Processing Permits - \$2,160 since July 2018*

*Vendor/Complaint Management - \$3,120 since July 2018*

*Administrative costs, Policy management - \$5,760 since July 2018*

*Total Revenue (since July 2018) – \$13,933.34*

*Total cost (since July 2018) – approximately \$11,000.00*

*= \$2,893.34 difference.*

*These costs do not include the significant amount of time which has been spent on dealing with issues related to food vans at Hyde Park by Council, the CEO and senior staff.*

#### **CR IOPPOLO:**

Exclusivity – What was the outcome of Council's request dated 18 May 2021 to obtain advice on the recommendation on the exclusivity of trade in favour of the proposed lessee, did that response address the legal restraint of trade issue against existing food vans and the perceived optics from the community of the City of Vincent granting a lease to a private business at the expense of other private businesses under terms in which the City of Vincent would generate a financial gain?

#### **EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration reviewed the viability of food trucks remaining within Hyde Park in addition to the proposed kiosk. Administration did not support this. The City of Vincent grants Vending Vincent permits to food trucks to operate within the park. There is no permanent binding contract to operate on the land other than the annual Vending Vincent permits. The granting of permits is at the discretion of the City and restraint of trade is not a relevant matter in this regard. The kiosk will have significantly higher costs to operate the business compared to the food vans.*

*Administration has discussed the kiosk proposal with the food truck operators. The nature of owning a food truck is its ability to be relocated. Two out of three food truck operators within Hyde Park are understanding of this and are willing to trade in other parks and reserves offered by the City and elsewhere.*

#### **CR IOPPOLO:**

Capital Works – Can Administration please explain why it is reasonable to propose terms that result in a negative NPV to the City of Vincent during the initial 2-year lease period being granted? Further to this, why are capital works not limited under the lease terms to a monetary limit and was it considered that the Lessor pay for initial capital works in lieu of rent so that the City of Vincent mitigates initial outlay cost against performance risk and tenant default?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The initial lease term of 2 years was proposed by the tenant. The budget allocation for the City's initial works on the premises is an estimate. Administration supports amending the lease terms to increase the initial lease term to 5 years, so to have the initial term rent cover the City's initial fit out expenses.*

**CR IOPPOLO:**

Alcohol – Why has the Administration not considered expressly prohibiting alcohol sales as a condition of the lease to legally effect its stated preference that it does not support it?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration supports amending the lease terms to note that the tenant cannot, under any circumstance, sell any liquor from the Premises. Administration has discussed the condition of the lease regarding liquor licensing with the successful tenderer. They do not object to a condition that prohibits the sale of liquor all together. Administration has amended the report to expressly prohibit the sale of liquor associated with the kiosk operations.*

**CR IOPPOLO:**

Outgoings – Can Administration please justify why it is proposing to agree to pay all maintenance costs in the Maintenance Obligation Schedule column entitled Lessor's obligations, with the exclusion of structural damage to ceiling, as these would ordinarily be regarded as normal outgoings payable by the lessee and capital repairs such as structural damage is often reimbursed to the Lessor at a set rate approximating 15-20% per annum?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The Lessor's obligations are consistent with Category 3 tenants in Council's Property Management Framework.*

**CR IOPPOLO:**

2014 Community Engagement – Is it correct that the community previously were opposed to a commercial kiosk in Hyde Park and is that report available for distribution to Council before the Council Meeting?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*No. In 2014 the majority of the community appeared to support the proposal to provide a permanent small scale kiosk/café facility at both Hyde Park and Banks Reserve.*

*At the OMC held on 8 July 2014, Administration presented the outcomes of the Community Consultation for a proposed Provision of Kiosk/Cafe Facilities at Hyde Park and Banks Reserve. An extract of this Report is provided below.*

Response	Number of Respondents			Total
	Hyde Park	Banks Reserve	No Address	
In Favour	67	24	27	118
Against	37	5	5	47
Neither support or object	5	8	1	14
Total	109	37	33	179

*The Council Report is [available here](#).*

**CR IOPPOLO:**

Environmental Impact – What initiatives and actions did the successful tenderer propose to minimise the environmental impact on the Park as required by the evaluation criteria and why is Administration not requiring the Lessee to pay for the Tree Protection and Management Plan required by the Heritage Council for the building Permit?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*The preferred tenderer included the following information regarding minimising environmental impact:*

*“The Meeting Place will employ the use of biodegradable containers, straws and cutlery. There will be no single use plastic items available to minimise wastage footprint.*

*The Meeting Place will, as its 'sister' company Veggie Mama has environmentally-friendly solutions to all business endeavours wherever possible. We appreciate Hyde Park's unique flora and fauna and its heritage. There will be no breaking of ground, hence these works will not require any heritage approval in accordance with Regulation 10 or Section 18 approval under the Aboriginal Heritage Act 1972. Mitigation techniques regarding customer traffic to avoid impact to plants and trees will be adopted."*

*Tree protection and management plan is required by the Heritage Council prior to the application for a Building Permit for the City's construction work. The City would be required to pay for this as it is needed for approvals for the City's work on the toilet block.*

**CR IOPPOLO:**

Minister for Lands Consent – Can the Administration please confirm that the special condition outlined in 3.14 regarding Minister for Lands consent under s75(6) Land Administration Act is expressly meant to be a condition precedent and NOT a condition subsequent to the lease and that the City of Vincent intends to also reserve its legal right to rescind the lease if any additional conditions imposed by the Minister for Lands is not favourable to the City of Vincent as Lessor?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Item 14 (Special Condition) of the Terms Schedule states that the Minister's prior approval is required. The Minister's in principle consent has been obtained and the only condition is that the final lease is to be on the same terms as the draft lease that was provided to the Department on 15 November 2021. Administration will seek written approval again on updated lease terms.*

**CR IOPPOLO:**

Functions/Events – Has Administration considered and intends to define 'function' and event' in the lease for the avoidance of doubt?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration does not consider it necessary to define a function or event. The Exclusivity Condition will be refined to:*

*The City agrees not to permit the use of any space within Hyde Park to any tenant or other occupant which sells food or beverage items during the term on the Lease. This does not apply to vendors who have received a City of Vincent Stallholder's permit.*

**CR IOPPOLO:**

Vending Vincent Policy – Why is the lease not subject to the Vincent Vending Permit Policy, including any future changes, rather than expressly excluding them operating in Hyde Park under the lease, so as to provide future equity for vans operating in other areas?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Administration has included a recommendation in the Report that food van operators would not be issued Vending Vincent permits to operate permanently in Hyde Park for the duration of the lease. It is not necessary at this point to change the Vending Vincent Policy only to specifically remove Hyde Park as an approved trading location as a resolution of Council as part of this decision can do this more appropriately at this point. Administration has identified that other areas within the park are not appropriate locations for food trucks to trade.*

At 7.34pm, Cr Ron Alexander returned to the meeting.

## 6 INFRASTRUCTURE & ENVIRONMENT

### 6.1 ASSET MANAGEMENT AND SUSTAINABILITY STRATEGY (AMSS) IMPLEMENTATION PLAN

Attachments:       1.    AMSS Implementation Plan – Short Term Deliverables   
                          2.    PoaP – Sports and Recreation Facilities Plan 

#### RECOMMENDATION:

That Council:

#### 1. RECEIVES

- 1.1 The Implementation Plan for short term actions in the Asset Management and Sustainability Strategy.
- 1.2 The Project on a Page for the Sport and Recreation Facilities Plan.

**CR GONTASZEWSKI:**

When will Buildings Prioritisation Plan first be seen by Council?

**EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:**

*The draft plan will be presented at a Council workshop in November 2022.*

## 7 COMMUNITY & BUSINESS SERVICES

### 7.1 SUPPORT FOR ULURU STATEMENT FROM THE HEART - RESPONSE

Attachments: 1. Correspondence from the Hon Ben Morton MP relating to the Uluru Statement from the Heart 

#### RECOMMENDATION:

That Council NOTES the receipt of a letter on 2 November 2021 from Hon Ben Morton MP, Minister Assisting the Prime Minister and Cabinet. This letter is in response to a letter sent to the Prime Minister by the City of Vincent, in support of the Uluru Statement from the Heart.

<b>NO QUESTIONS</b>
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**7.2 TURF WICKET AGREEMENT - NORTH PERTH CRICKET CLUB**

- Attachments:
1. Charles Veryard Reserve Executed Turf Wicket Subsidy Agreement 
  2. WASTCA - letter to City of Vincent 
  3. North Perth Cricket Club request for turf wicket subsidy 

**RECOMMENDATION:**

That Council;

1. **AUTHORISES** the Chief Executive Officer to negotiate a five (5) year Turf Wicket Subsidy Agreement with North Perth Cricket Club Inc. for the management and maintenance of the turf wickets (and surrounds) at Charles Veryard Reserve, North Perth;
2. **APPROVES** by **ABSOLUTE MAJORITY** the payment of an annual turf wicket maintenance subsidy to North Perth Cricket Club for a five (5) year period on the following basis:
  - 2.1 The amount being capped at 50% of total turf wicket expenditure per season; and
  - 2.2 This capped 50% amount to be included in the City's annual budgets for the next 5 years.

<b>NO QUESTIONS:</b>
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**7.3 OUTCOME OF ADVERTISING AND ADOPTION OF AMENDMENTS TO DIVERSITY, ACCESS AND EQUITY POLICY**

- Attachments:**
1. **Summary of Submissions - Diversity, Access and Equity Policy** 
  2. **Diversity, Access and Equity Policy** 
  3. **Diversity, Access and Equity Policy - Marked Up** 

**RECOMMENDATION:****That Council:**

1. **NOTES** the submissions received in relation to the Diversity, Access and Equity Policy at Attachment 1; and
2. **ADOPTS** the Diversity, Access and Equity Policy at Attachment 2.

**MAYOR COLE:**

Is this reflecting Disability, Access and Inclusion Plan (DAIP). Has it changed name?

**EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:**

*Traditionally these plans have been called a Disability Access and Inclusion Plan (DAIP) as disability is the major cohort that the state legislation requiring DAIP's was addressing/targeting.*

*However, many newer DAIP's have been named Access and Inclusion Plans (AIP) to acknowledge the broader cohorts that are affected by access and inclusion.*

*The City will review whether the next plan will be named DAIP or AIP plan following community consultation.*

*The Diversity, Access and Equity Policy is named so as to acknowledge the City's diverse groups that are impacted by this Policy.*

**CR HALLETT:**

Remove ATSI from the Policy document

**EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:**

*Agreed. The document has been updated.*

#### 7.4 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 1 OCTOBER 2021 TO 31 OCTOBER 2021

- Attachments:
1. Payments by EFT, BPAY and Payroll October 21 
  2. Payments by Cheque October 21 
  3. Payments by Direct Debit October 21 

#### RECOMMENDATION:

That Council RECEIVES the list of accounts paid under delegated authority for the period 1 October 2021 to 31 October 2021 as detailed in Attachments 1, 2 and 3 as summarised below:

EFT payments, including payroll and BPAY	\$8,040,993.65
Cheques	\$2,339.53
Direct debits, including credit cards	\$173,807.86
<b>Total payments for October 2021</b>	<b>\$8,217,141.04</b>

#### CR IOPPOLO:

Do we have any idea what the revenue we receive from the commercial spaces in that Perth Parking Management area compared to the cost?

#### EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:

*In 2020/21 the city's revenue from parking spaces inside the PPMA amounted to a total of \$447,525 (\$294,298 revenue and \$153,227 infringements).*

*This is compared to the levy payment made to the Commissioner of State Revenue of \$409,097 in the same year.*

#### CR IOPPOLO:

Leederville Gardens payment of \$1.295M is that just Trust funds?

#### CHIEF EXECUTIVE OFFICER:

*Yes. The Council report of which details the Leederville Gardens Trust reimbursement has been provided to Councillor Ioppolo.*

**7.5 REPEAL OF RATES AND SERVICE CHARGES POLICY****Attachments:** 1. Rates and Service Charges Policy **RECOMMENDATION:****That Council repeal the Rates and Service Charges Policy at Attachment 1.****CR IOPPOLO:**

Why repeal the policy?

**EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:**

*The report has been updated with information provided in Policy Paper of 1 October 2021 to show further comment on the reasons for repealing the Policy. In short, the various policy settings are addressed in other governance processes and approvals, primarily during the process of approving the Annual Budget.*

**7.6 INVESTMENT REPORT AS AT 31 OCTOBER 2021**

**Attachments:** 1. Investment Statistics as at 31 October 2021 

**RECOMMENDATION:**

That Council **NOTES** the Investment Statistics for the month ended 31 October 2021 as detailed in Attachment 1.

<b>NO QUESTIONS:</b>
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**7.7 FINANCIAL STATEMENTS AS AT 31 OCTOBER 2021****Attachments:** 1. **Financial Statements as at 31 October 2021** **RECOMMENDATION:****That Council RECEIVES the Financial Statements for the month ended 31 October 2021 as shown in Attachment 1.****CR HALLETT:**

In relation to the unpaid infringements, do we have any data on the trends or locations of infringements that can help us identify problem areas?

**EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:**

*Will provide a response to Cr Hallett via email.*

**7.8 OUTCOME OF ADVERTISING AND ADOPTION OF AMENDMENTS TO COMMUNITY FUNDING POLICY**

- Attachments:
1. Community Funding Policy - Marked Up Version 
  2. Community Funding Policy - Clean Version 
  3. Beatty Park Leisure Centre - Awarding Life Membership Policy 

**RECOMMENDATION:****That Council:**

1. **NOTES** that at the conclusion of the public notice period, no public submissions were received in relation to the Community Funding Policy;
2. **ADOPTS** the Community Funding Policy at Attachment 2; and
3. **REPEALS** Policy No. 1.3.1 Betty Park Leisure Centre – Awarding Life Membership at Attachment 3.

<b>NO QUESTIONS</b>
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**7.9 REVIEW OF CITY OF VINCENT PROJECT MANAGEMENT FRAMEWORK AND MONTHLY UPDATE OF STRATEGIC PROJECTS FOR 2021-2022**

- Attachments:**
1. Updated Project Management Framework 
  2. Strategic Project Dashboard 
  3. Project Closure and Lessons Learned 

**RECOMMENDATION:****That Council:**

1. **ENDORSES** the updated City of Vincent Project Management Framework 2021 as shown in Attachment 1;
2. **RECEIVES** the Project Closure report for the Project Management Framework 2021, as shown in Attachment 3; and
3. **RECEIVES** the monthly update to the 12 Strategic Projects nominated in the Corporate Business Plan 2021/22 – 2024/25 as shown in Attachment 2.

<b>NO QUESTIONS</b>
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**7.10 DRAFT ANNUAL REPORT 2020/21**

Attachments: 1. Draft Annual Report 2020/21 

**RECOMMENDATION:**

That Council:

1. Pursuant to Section 5.54(1) of the Local Government Act 1995, **ACCEPTS BY AN ABSOLUTE MAJORITY** the City of Vincent Annual Report for the 2020/2021 Financial Year, included as Attachment 1;
2. Pursuant to Section 5.27 of the Local Government Act 1995, **CONVENES** an Annual Meeting of Electors of the City of Vincent to be held on Wednesday 5 February 2022 at 6.00pm at the North Perth Town Hall, to present the City of Vincent Annual Report for the 2020/2021 Financial Year; and
3. **NOTES that:**
  - 3.1 the City of Vincent Annual Report may be subject to further formatting and styling, to be determined by the Chief Executive Officer prior to publication, as well as the inclusion of the final 2020/21 Financial Statements following review by the Audit Committee;
  - 3.2 pursuant to Sections 5.29 and 5.55 of the Local Government Act 1995, the Chief Executive Officer will give local public notice of the General Meeting of Electors to be held on 5 February 2022, and of the availability of the City of Vincent Annual Report for the 2020/21 Financial Year, and will make the report available on the City of Vincent website within fourteen days; and
  - 3.3 pursuant to Regulation 51 of the Local Government (Financial Management) Regulations 1996, the Director General of the Department of Local Government, Sports and Cultural Industries will be provided with a copy of the City of Vincent Annual Report for the 2020/21 Financial Year, inclusive of the Annual Financial Report for the same period, and the associated Auditor's Report.

**CR IOPPOLO:**

What is the requirement for LG with annual reports in terms of reporting subsequent events, i.e. after 30 June?

**EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:**

*The content of the Annual Report is prescribed under section 5.53 of the Local Government Act 1995 and regulation 19B of the Local Government (Administration) Regulations 1996.*

*The report content will include a report from the Mayor and report from the CEO for the financial year under review and other information prescribed in the Act and Regulations including detail on future initiatives that are proposed to commence or continue in the new financial year. It is not required to report on subsequent events.*

*The annual report includes financial statements and the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year.*

*In the event there was a subsequent event of note it would be reported to either Council, or the Audit Committee, in the normal meeting cycle.*

## 7.11 BEATTY PARK PROJECT - STATUS UPDATE AND CHANGE REQUEST

- Attachments:**
1. BPLC Closure and Lessons Learned Phase 1 
  2. Project on a Page (Proposed) Beatty Park 2062 Advocacy 
  3. Project on a Page (Proposed) Beatty Park Infrastructure Works 
  4. Project on a Page Approved 30 June 2021 - CBP Strategic Project 3 - BPLC Advocacy and Infrastructure Works 

### RECOMMENDATION:

#### That Council:

1. **ACCEPTS** the Project Closure and Lessons Learned report for Phase 1 of the Beatty Park Leisure Centre Infrastructure Renewals project (Attachment 1); and
2. **APPROVES BY AN ABSOLUTE MAJORITY:**
  - 2.1 Project scope and budget for Beatty Park Leisure Centre - Facilities Infrastructure Renewal, updating the Corporate Business Plan Strategic Project 3;
    - 2.1.1 Incorporating Project on a Page 3.1 Beatty Park 2062 Advocacy (Attachment 2) and Project on a Page 3.2 Beatty Park 2062 Infrastructure Works (Attachment 3); and
    - 2.1.2 Replacing the Project on a Page approved 30 June 2021 (Attachment 4), with any remaining project deliverables managed via the approved capital works program;
  - 2.2 A net increase in capital expenditure in the 2021/2022 Annual Budget of \$1,155,631, funded by the following allocations:
    - 2.2.1 Local Government Roads and Community Infrastructure grant funding (tranche 3) of \$541,144; and
    - 2.2.2 A reduction in the forecast year end operating surplus at 30 June 2022 of \$614,487.

#### **MAYOR COLE:**

Flagged a potential amendment

#### **EXECUTIVE DIRECTOR COMMUNITY SERVICES & BUSINESS:**

*Noted*

#### **THE FOLLOWING QUESTIONS WERE RESPONDED TO IN WRITING BEFORE THE BRIEFING:**

#### **MAYOR COLE:**

I understand the amended total project cost as presented in the report is \$5,193,201, subject to Council's approval of the additional \$1,155,631.

#### **EXECUTIVE DIRECTOR COMMUNITY SERVICES & BUSINESS:**

*That is correct. The total project cost will be \$5,193,201, subject to Council approving the additional \$1,155,631.*

#### **MAYOR COLE:**

Could Administration please advise the total cost of the originally scoped project, including items that have since been descoped, such as spa area, and does some expenditure now fall within maintenance budget?

#### **EXECUTIVE DIRECTOR COMMUNITY SERVICES & BUSINESS:**

*The total cost of originally scoped project (including Council approved changes of scope, such as enhanced children's slides) is \$4,037,570.*

#### **MAYOR COLE:**

Has the proposed change room design been assessed to see if any cost-savings can be realised without impacting level of facility required?

**EXECUTIVE DIRECTOR COMMUNITY SERVICES & BUSINESS:**

*Yes, management has considered opportunities for cost-savings. A large part of the cost is structural, relating to demolition and construction.*

**MAYOR COLE:**

Expenditure increases have not always been through project change request reports or provided an understanding of the reprioritisation of works and descoping of some works. This is a good example of why project change request processes are so important. This expenditure creep and scope change has been concerning and highlights the priority work needed in the PM space.

**EXECUTIVE DIRECTOR COMMUNITY SERVICES & BUSINESS:**

*Yes, Management agrees. This will be addressed through the project management framework.*

**8 CHIEF EXECUTIVE OFFICER****8.1 COUNCIL RECESS PERIOD 2021-22 - DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE OFFICER**

Attachments: Nil

**RECOMMENDATION:**

That Council **DELEGATES BY ABSOLUTE MAJORITY**, pursuant to section 5.42 of the *Local Government Act 1995*, to the Chief Executive Officer, the power to deal with any items of business that may arise between 15 December 2021 and 1 February 2022, and which are not the subject of delegated authority already granted by Council, subject to:

1. Reports being issued to all Council Members for a period of three business days prior to the delegated decision being made and no requests for 'call-in' of the matter being received from Council Members;
2. Reports being displayed on the City's website for a period of three business days prior to the delegated decision being made;
3. A report summarising the items of business dealt with under delegated authority being submitted for information to Council at its Ordinary Meeting to be held on 8 February 2022; and
4. A Register of Items Approved under this Delegated Authority is being kept and made available for public inspection on the City's website during the period that the delegation applies.

**MAYOR COLE:**

Have there been any change in delegations since last year?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*No changes to the delegation to the CEO for the recess period. The process remains the same.*

**8.2 NOMINATION OF COUNCIL MEMBERS FOR THE VACANT LOCAL GOVERNMENT POSITION ON THE CENTRAL PERTH LAND REDEVELOPMENT COMMITTEE**

Attachments: 1. Letter from Minister for Lands seeking nominations for the Central Perth Land Redevelopment Committee 

**RECOMMENDATION:**

That Council ENDORSES a panel of three nominations consisting the following Council Members for the vacant local government position on the Central Perth Land Redevelopment Committee:

Cr \_\_\_\_\_

Cr \_\_\_\_\_

Cr \_\_\_\_\_.

**NO QUESTIONS**

8.3 REPORT AND MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON 7 DECEMBER 20

NO QUESTIONS:
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**8.4 INFORMATION BULLETIN**

- Attachments:**
1. **Minutes of the Tamala Park Regional Council Meeting held on 14 October 2021** 
  2. **Statistics for Development Services Applications as at the end of November 2021** 
  3. **Register of Legal Action and Prosecutions Monthly - Confidential**
  4. **Register of Legal Action - Orders and Notices Quarterly - Confidential**
  5. **Register of State Administrative Tribunal (SAT) Appeals - Progress report as at 24 November 2021** 
  6. **Register of Applications Referred to the MetroWest Development Assessment Panel - Current** 
  7. **Register of Applications Referred to the Design Review Panel - Current** 
  8. **Register of Petitions - Progress Report - November 2021** 
  9. **Register of Notices of Motion - Progress Report - November 2021** 
  10. **Register of Reports to be Actioned - Progress Report - November 2021** 
  11. **Council Workshop Items since 21 September 2021** 

**RECOMMENDATION:**

That Council RECEIVES the Information Bulletin dated December 2021.

<b>NO QUESTIONS:</b>
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**9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**10 REPRESENTATION ON COMMITTEES AND PUBLIC BODIES**

Nil

**11 CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil

**12 CLOSURE**

There being no further business the meeting closed at 9.30pm.