

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
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 8. Summary of Submissions - Administration's Response
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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.

PURPOSE OF REPORT:

To reconsider an application for development approval at the invitation of the State Administrative Tribunal (SAT) to amend a previous development for an Unlisted Use (Billboard Signage) at No. 374 Newcastle Street, Perth (the subject site).

PROPOSAL:

The application proposes to extend the validity of the previous development approval which expired on 28 June 2021 to allow the two existing billboard signs to continue being displayed at the subject site for a further five years.

The existing sign facing Fitzgerald Street has dimensions of 12.66 metres by 3.35 metres and the existing sign facing Newcastle Street has dimensions of 8.3 metres by 2.2 metres. The application does not propose any change to the previously approved size or locations of the signs.

The development plans are included in **Attachment 2**. These plans remain unchanged from the previous decision by Council. The applicant's written justification is included as **Attachment 3** to support the reconsideration of the application.

BACKGROUND:

Landowner:	S & K Investments Pty Ltd
Applicant:	S & K Investments Pty Ltd
Date of Application:	27 May 2021
Zoning:	MRS: Urban LPS2: Zone: Commercial R Code: N/A.
Built Form Area:	Activity Corridor
Existing Land Use:	Billboard Signage (Unlisted Use)
Proposed Use Class:	Billboard Signage (Unlisted Use)
Lot Area:	261.6m ²
Right of Way (ROW):	No
Heritage List:	No

Site Context

The subject site is bound by Newcastle Street to the south-west, Fitzgerald Street to the north-west and vacant sites to the north-east and south-east. The subject site abuts the boundary between the City of Vincent and the City of Perth to the south.

The City of Vincent's Local Planning Strategy sets a vision for the site and surrounding area to become high density mixed use.

The subject site and the adjoining property to the south east are zoned Commercial under the City's Local Planning Scheme No. 2 (LPS2). The adjoining properties to the north east are zoned Mixed Use R160 under LPS2.

The subject site and all adjoining properties are within the Activity Corridor built form area and have a building height limit of four storeys under the City's Policy No. 7.1.1 – Built Form (Built Form Policy).

One of the existing billboards at the subject site faces Newcastle Street and the other faces Fitzgerald Street. The remainder of the site includes extensive landscaping, seating and a water fountain. A site photograph is included in **Attachment 4**.

The buildings that previously occupied the adjoining vacant sites to the north east and south east (No. 372 Newcastle Street, No. 120 Fitzgerald Street and No.126-128 Fitzgerald Street) were demolished in October 2018 and the City has not received any applications for redevelopment on these adjoining sites.

Previous Decision

At its Ordinary Meeting on 14 September 2021, Council resolved to approve the application to amend the previous approval for unlisted use (billboard signage) at the subject site. This was consistent with

Administration's recommendation, except for Condition 1 which was amended to state that the approval would be valid for a period of one year. This was instead of Administration's recommendation for a period of three years. The reasons for this amendment were:

"The City is currently reviewing its policy approach to billboard signage and preliminary data from the community indicates an ongoing opposition to billboards in Vincent. The previous rationale for permitting the signs in this location was pertaining to the existing built form surrounding the site which virtually precluded other development and made the site unviable to sell. This context has changed."

The minutes of the 14 September 2021 Ordinary Council Meeting are included as **Attachment 5**.

On 29 September 2021 following Council's decision, the applicant submitted an application for review of this decision by the SAT. Administration attended a mediation session on 27 October 2021 where the SAT invited the City to reconsider its decision pursuant to Section 31 of the *State Administrative Tribunal Act 2004* on or before 14 December 2021. This was subject to additional information being submitted by the applicant for the purposes of reconsideration and to address the previous decision.

Following mediation, the application submitted additional information and written justification for the City's reconsideration at the invitation of the SAT. This is included as **Attachment 3** and provides details on the history of the site, arrangements and timeframes for future development and the commercial implications of a shorter approval period.

Previous Development Applications

At its Ordinary Meeting on 23 August 2005, consistent with Administration's recommendation, Council resolved to refuse a development application for two billboard signs and a piazza with three bench seats, a ground plaque, reticulated lawn and landscaping at the subject site for the following reasons:

- *The signs would not be consistent with the orderly and proper planning and the preservation of the amenities of the locality with respect to the protection and enhancement of the social, physical and cultural environment of Newcastle Street, Fitzgerald Street and the Beaufort Precinct; and*
- *Due to non-compliance with the Signage Policy and Beaufort Precinct Statement.*

At its Ordinary Meeting on 14 June 2011, Council resolved to approve a development application for two billboard signs and associated landscaping at the subject site. This was contrary to Administration's recommendation for refusal. Council's reasons for approval were:

- *Difficulty of developing the site;*
- *The temporary proposal provides a social dividend to the community; and*
- *The proposal is of a temporary nature (i.e. 5 years).*

At its Ordinary Meeting on 28 June 2016, Council resolved to approve a development application to extend the validity of the 2011 approval for a further five years until 28 June 2021. This was consistent with Administration's recommendation for approval.

The minutes of the 14 June 2011 and 28 June 2016 Ordinary Council Meetings are included as **Attachment 6**, and the previously approved plans from 2016 are included as **Attachment 7**.

DETAILS:

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of LPS2, the Built Form Policy and the City's Policy No. 7.5.2 – Signs and Advertising (Signage Policy). In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Signage		✓

Detailed Assessment

The deemed-to-comply assessment of the element that requires the discretion of Council is as follows:

Land Use	
Deemed-to-Comply Standard	Proposal
'P' use	Unlisted use. The proposed billboard signage is not a use that is referred to within LPS2.
Signage	
Deemed-to-Comply Standard	Proposal
Signage Policy <i>Part 3(iii) – Bill Posting and Billboards</i> Bill Posting, Billboards and the structures of a similar or identical type are not permitted within the City of Vincent.	The application proposes to retain the two existing billboard signs on the subject site for a further five years. The signage is not related to a business on site and seeks to advertise third-party content.

The above elements of the proposal does not meet the specified deemed-to-comply standards and is discussed in the comments section below.

CONSULTATION/ADVERTISING:

The application underwent community consultation prior to the previous decision by Council for a period of 14 days to all owners and occupiers of the surrounding properties of the subject site, as shown in **Attachment 1**. The City received a total of five submissions, four in objection and one in support of the proposal during the community consultation period. A summary of the submissions received and Administration's response to these is provided in **Attachment 8**. The applicant's response to the summary of submissions is included in **Attachment 9**.

Following the initial decision on the application the applicant submitted additional information for reconsideration at the invitation of the SAT.

Further community consultation was not undertaken as there has been no change to the plans or the proposed five year extension requested by the applicant. The previous submitters have been notified of the application for review of the decision being lodged with SAT, the mediation process, and that the application is being reconsidered at the December Ordinary Council Meeting.

Design Review Panel (DRP):

Referred to DRP: No

The application was not referred to the City's DRP because the billboard signs are existing and the built form is not proposed to change from what was previously approved.

LEGAL/POLICY:

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *State Administrative Tribunal Act 2004;*
- City of Vincent Local Planning Scheme No. 2;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.1.1 – Built Form; and
- Policy No. 7.5.2 – Signs and Advertising.

City of Vincent Local Planning Scheme No. 2

The objectives of the Commercial zone under LPS2 are as follows:

- *To facilitate a wide range of compatible commercial uses that support sustainable economic development within the City.*
- *To ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design, energy efficiency and water conservation.*
- *To maintain compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*
- *To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.*

Policy No. 7.5.2 – Signs and Advertising

The objective of the Signage Policy is *“to ensure that the display of advertisements on properties does not adversely impact upon the amenity of the surrounding areas while providing appropriate exposure of activities or services”*.

There is a provision in the Signage Policy that sets out that billboards are not permitted within the City of Vincent. This provision has remained unchanged since the billboard signage on the subject site was previously approved.

Delegation to Determine Applications:

This matter is being referred to Council because it is a request from the State Administrative Tribunal to reconsider the previous decision of Council under section 31 of the *State Administrative Tribunal Act 2004*.

RISK MANAGEMENT IMPLICATIONS:

There are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Community Plan 2018-2028:

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

The Environmentally Sustainable Design Provisions of the City's Built Form Policy, which is informed by the key sustainability outcomes of the City's Sustainable Environment Strategy 2019-2024 is not applicable to this proposal. This is because the application does not propose to modify the existing structures on site.

PUBLIC HEALTH IMPLICATIONS:

This report has no implication on the priority health outcomes of the City's *Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

Should this application proceed to a full SAT hearing, the City would incur a cost related to the engagement of a consultant which would be met through the existing Operational Budget.

COMMENTS:

In exercising its discretion in reconsidering this application, Council is required to consider the appropriateness of the proposal against relevant information including the previous approvals and decisions made, the applicant's further justification and the planning framework.

Each of these types of information are outlined and summarised below. This also set outs where new information is included which was not previously considered by Council at its 14 September 2021 Ordinary Council Meeting. Administration's comments in respect to each type of information is provided afterwards.

Relevant Information

Previous Approvals and Decision

A development application for the two billboard signs and associated landscaping at the subject site were initially approved by Council on 14 June 2011 for a period of five years. Subsequently Council on 28 June 2016 resolved to approve a development application to extend the validity of this initial approval for a further five years until 28 June 2021.

The applicant submitted the subject development application to again extend the validity of the initial approval. They requested a period of five years, consistent with the timeframes which were previously approved by Council.

This application was considered by Council at its Meeting on 14 September 2021. Administration recommended that Council approve the application for a period of three years. The reasons outlined in the officer report for recommending approval and that period of time are summarised as follows:

- The billboard signage satisfies the objective of the Signage Policy, the objectives of the Commercial zone under LPS2 and the relevant matters to be considered under Clause 67(2) of the Regulations;
- No changes are proposed to the billboard signs and associated landscaping and amenities, which have been maintained to the City's satisfaction since 2011 without any complaints being received;
- The limited development potential of the subject site due to its area of 262 square metres and its location on the corner of two district distributors roads with limited vehicle access options;
- The existing billboard signage is a suitable use of the subject site in the short-term until more desirable development opportunities arise;
- Since 2016, the opportunity to develop the subject site has progressed as the adjoining properties to the north east and south east have been cleared and listed for sale;
- The continued existence of the billboard signage and omission of the subject site from the real estate listing could be a barrier to purchase and development;
- If the subject site and adjoining properties were to be purchased in the near future, development could reasonably commence within a three year period; and
- At its Ordinary Meeting on 20 October 2020, Council moved a Notice of Motion and adopted a recommendation requesting that Administration investigate the suitability of billboards through community consultation and a review of the Signage Policy by December 2021. This review should be concluded within a three year period and would be able to provide clear direction for future applications for renewal of the billboard signage.

Council amended Administration's recommendation and approved the application for a period of one year. This was for the following reasons:

- The City is currently reviewing its policy approach to billboard signage and preliminary data from the community indicates an ongoing opposition to billboards in Vincent; and
- The previous rationale for permitting the signs in this location was pertaining to the existing built form surrounding the site which virtually precluded other development and made the site unviable to sell. This context has changed.

Following Council's decision, the applicant submitting an application for review of this decision by the SAT and the subsequent mediation session, new information became available. This was in the form of additional justification from the applicant included in **Attachment 3** and further clarity on the applicable planning framework, including the ongoing review of the Signage Policy and the imminent review of LPS2 and the City's Local Planning Strategy (Strategy).

Applicant's Justification

In accordance with the SAT orders the applicant submitted additional information and written justification to support the reconsideration of the application. This is included as **Attachment 3** and outlines the subject site's history, efforts to develop the property over the past 10 years, timeframes for transition of the site and the commercial aspects of a shorter approval period. The applicant's justification is summarised as follows:

Site History

- The subject site was first sold in 2009 to an overseas developer, who subsequently sold the site to the applicant in 2011 due to unsuccessful attempts to redevelop the site due to its constraints;
- Approval was obtained in 2011 for the billboard signage as an interim measure ahead of more substantial development. This included a 'pocket park' which is maintained by the landowner and used by the community;
- Since 2014 the applicant has held discussions with the owners of the north-east and south-east adjoining properties regarding redevelopment options. In 2018 the existing buildings on both properties and the properties being listed for sale. The applicant agreed to include the subject site as part of this if a potential buyer was found; and
- Since 2018 the applicant has held discussions with real estate agents regarding the sale and development of these sites together. To date these have been unsuccessful and there has been limited interest or progress in the sale of the subject site since. The adjoining properties are actively marketed on the understanding that the subject site is unofficially on the market and the applicant is open to offers, although it is not officially marketed due to commercial reasons.

Site Transition

- If a sale was immediately possible for the site together, it would take a minimum of six months for a sale contract to be finalised and settlement to occur;
- If the purchaser is immediately ready to begin planning a development, it would take a minimum of between one to two years to complete a detailed proposal and to receive development approval;
- It would then take a minimum of two years to complete the detailed design and working drawings associated with the building permit, and finalise construction contracts before beginning construction;
- These aspects are out of the applicant's control, particularly as the subject site forms 17 percent of the total developable area and they don't have leverage to influence sale of the whole site;
- The best-case scenario is three years until development could reasonably occur, and this is on the basis of the sites immediately being sold and plans prepared for and receiving development approval.

Commercial Aspects

- A three year time approval period would see the applicant lose approximately 25 percent or more of the revenue currently received. A lesser period would potentially increase losses exponentially;
- There are higher than normal insurance and public liability costs due to the provision of public infrastructure on the subject site. These costs are offset by the income from the billboard signage and loss of this revenue would threaten the capacity to maintain the site to its current level;
- Most media sublicenses are five years plus a further option of five years. When it appeared the applicant was going to receive a three year approval, two companies declined to enter into contract negotiations. The lack of commercial viability for advertisers would be reduced further with a one year approval period; and
- Sublicense agreements contain provisions regarding the ongoing status of approvals by relevant authorities as well as site factors, such as tree planting or new developments obscuring views or access, or road works changing traffic flows. These agreements can be terminated in circumstances such as when the property is sold or developed.

Conclusion

- The current condition limiting the approval to one year offers neither clarity nor certainty and will compromise commercial viability. Rather, it will likely lead to the proposal and use of the site being abandoned together, and the site fenced off;
- The circumstances in which City granted a time-limited approval in 2016 remain the same with the current application; and
- It is requested that the City grant a further five year approval and noted that this will not limit or prevent the sale and/or the redevelopment of the site in the meantime. As outlined above the earliest this could happen would be three and a half years.

Planning Framework

Signage Policy Review

At its Ordinary Meeting on 20 October 2020, Council moved a Notice of Motion and adopted a recommendation to:

- Amend the Signage Policy to clarify that variations to the deemed-to-comply provision which prohibits billboards within the City shall not be assessed against the performance criteria (design principles) listed under Clause 5 of the Policy; and
- Request that Administration investigate the suitability of billboards through community consultation and a review of the Signage Policy by December 2021.

The review of the City's Signage Policy is currently progressing, and the process for this is outlined below:

- The draft Signage Policy is to be presented to Council at its Ordinary Meeting on 14 December 2021 for endorsement to advertise. Relevant to the current application, this is proposed to include a new provision that would set an end date for the further extension of these existing time limited approvals in line with the current LPS2 review;
- If endorsed for advertising, the draft Signage Policy would be advertised for community consultation; and
- Following the conclusion of consultation, the draft Signage Policy would be required to be presented to a future Council Meeting for approval. If approved it would then come into effect. It is anticipated that the amended Signage Policy would be in effect in the mid to late 2022.

Local Planning Scheme No.2 and Local Planning Strategy Review

LPS2 was gazetted on 16 May 2018 and the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) requires a review of LPS2 by 2023.

As part of the review of the Signage Policy the City carried out consultation on third party advertising/billboards. The majority of submissions did not support third party advertising/billboards (25 respondents opposed and seven in favour), with the following reasons given:

- Third party advertising/billboards detract from the amenity of the area;
- There is already enough visual pollution in the area.
- There is already sufficient third party advertising online.
- Too many signs are an unnecessary distraction for drivers.
- Third party advertising/billboards can attract graffiti.

In response to this Administration is recommending that third party advertising/billboards be prohibited absolutely through LPS2. This would prohibit the considerations of billboard signs within the City.

The review of LPS2 has just commenced and is scheduled to be complete in mid to late 2024.

Administration's Comments

Previous Approvals and Decision

- It is accepted that the billboard signage and associated landscaping has previously received two time limited approvals for five years each, first in 2011 and then subsequently in 2016. Consistency in decision-making is an important planning principle, and the current applicable planning framework has not changed in any significant way in relation to billboard signage since these previous decisions. The current application does not propose any changes to the size or location of the existing billboard signs;
- The City has not received any complaints regarding the billboard signs or the subject site since 2011 and the applicant has consistently maintained the existing billboard signage as well as the associated landscaping and amenities to the satisfaction of the City since erected and installed;
- The individual subject site continues to have limited development potential due to the constrained nature of the site. The site has an area of 262 square metres, is located on the corner of two district distributor roads and has limited vehicle access options. Future development of the site would be viable through amalgamation with adjoining properties;

- Although the surrounding context has changed with the adjoining properties being cleared and listed for sale, the opportunity to develop the subject site has not significantly progressed for the reasons outlined in the applicant's additional information and justification;
- The existing signs are not considered to be a suitable use for the site until this more desirable development opportunity arise, given the provisions of the current Signage Policy and results of recent consultation on third party advertising/billboards; and
- Future changes to the planning framework, including review of the Signage Policy along with the review of LPS2 and the Strategy, is relevant to Council's consideration of the application.

Application's Justification

- Although the history of the site and landowner/s does provide important context, the information provided relates to the history of attempts by the landowner/s to develop the subject site rather than directly to the history of the site itself, and has limited relevance as a planning consideration;
- The timeframes provided by the applicant in terms of the sale and redevelopment of the subject site is accepted and that a timeframe less than three years to commence development is unlikely to be possible. It is also accepted that this is not entirely within the control of the applicant and is impacted by market and economic conditions, which may result in the development timeframe exceeding three years. This is considered an appropriate and relevant consideration for the application given that "*Difficulty of developing the site*" was one of the original reason provided by Council for approving the billboards in 2011;
- The commercial aspects have limited relevance as a planning consideration, but provide important context on the implications of a shorter approval length than five years on revenue and associated costs to maintain the public infrastructure on the subject site. It also provides important context that advertising agreements can be terminated or amended in certain circumstances, including sale and development of the subject sites and/or adjoining properties; and
- A short time-limited approval, less than three years would not allow the planning framework to change substantially enough for the billboards to be refused as an amendment to LPS2 would be required in order to prohibit absolutely such development on the land.

Planning Framework

- There has been no significant change in the planning framework in relation to billboards since the initial time limited approval of the billboard signage and associated landscaping in 2011 and the further time limited approval in 2016;
- The ongoing review of the Signage Policy is relevant, as are the results of community consultation as part of this process. Amendments to this policy would not be a significant change in the planning framework because the current Signage Policy already states that billboards are not permitted within the City. Although further objectives and provisions relating to the prohibition of billboards would provide further guidance, it would ultimately not change the position that the City does not support billboard signage which was established when the Signage Policy was adopted in 2001. This was in effect at the time that the previous approvals for the subject site were granted; and
- A significant change to the planning framework would occur if LPS2 were amended to include provisions relating to third party advertising and billboard signage. The review process of LPS2 has only recently commenced and a time limited approval timeframe is considered appropriate to allow this review to occur. Should LPS2 be amended to include prohibitions related to billboard signage and third-party advertising it would be necessary to provide for an appropriate time for this process to be finalised. This would ensure that the applicant does not again re-apply for further approval of the billboard without a significant change in the planning framework being in place.

Recommended Time Limit

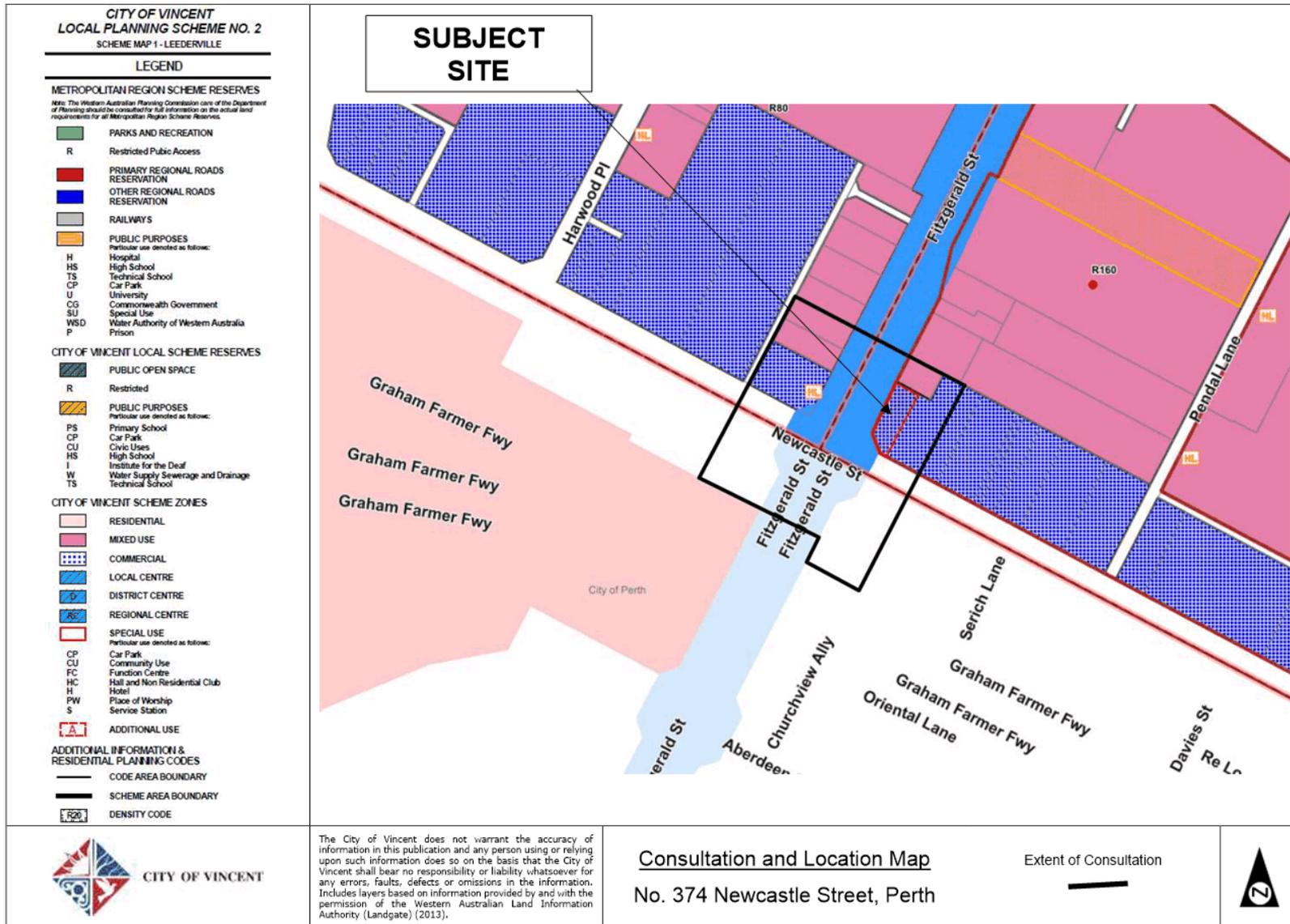
Administration recommends that the previous approval for the existing billboard signage be renewed subject to a condition stipulating this be for a time limited period. This would ensure that the long term use of the site does not remain for the use of displaying billboard signage and is able to achieve the high density mixed use vision set for the site in the Local Planning Strategy.

As outlined above, additional justification was provided by the applicant and further clarity on the ongoing review of the Signage Policy and the imminent review of LPS2 has established that a period of three (3) years is appropriate for the following reasons:

- Temporary approvals are an appropriate mechanism where a proposal may become inconsistent with the local planning framework over time. It is reasonable that this three (3) year period would provide sufficient time for the review and any amendments of LPS2 to be completed and come into effect, which would have the potential to result in a significant change to the planning framework related to billboard signage and third party advertising;
- If a shorter time period were provided, it would be possible that the applicant and the City would be in the same position as now in the near future, to consider an application for further approval under a planning framework which would not have significantly changed;
- This period of time would provide certainty to the applicant while redevelopment options are pursued.

The applicant's justification also included an alternative request that the time limit should accord with a similar development at No. 596-598 Newcastle Street, which has a time-limited approval for billboard signage until October 2029. The applicant's justification for this request is that it will provide sufficient time for the City to update LPS2 and their planning framework accordingly.

Administration does not support this timeframe as any significant change to the planning framework resulting from the review and any amendments of LPS2 would be implemented within the short to medium term (by mid to late 2024), and the applicant has indicated that development could reasonably occur within a three period.



 <p>CITY OF VINCENT</p>	<p>The City of Vincent does not warrant the accuracy of information in this publication and any person using or relying upon such information does so on the basis that the City of Vincent shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Includes layers based on information provided by and with the permission of the Western Australian Land Information Authority (Landgate) (2013).</p>	<p>No. 374 Newcastle Street, Perth</p>	
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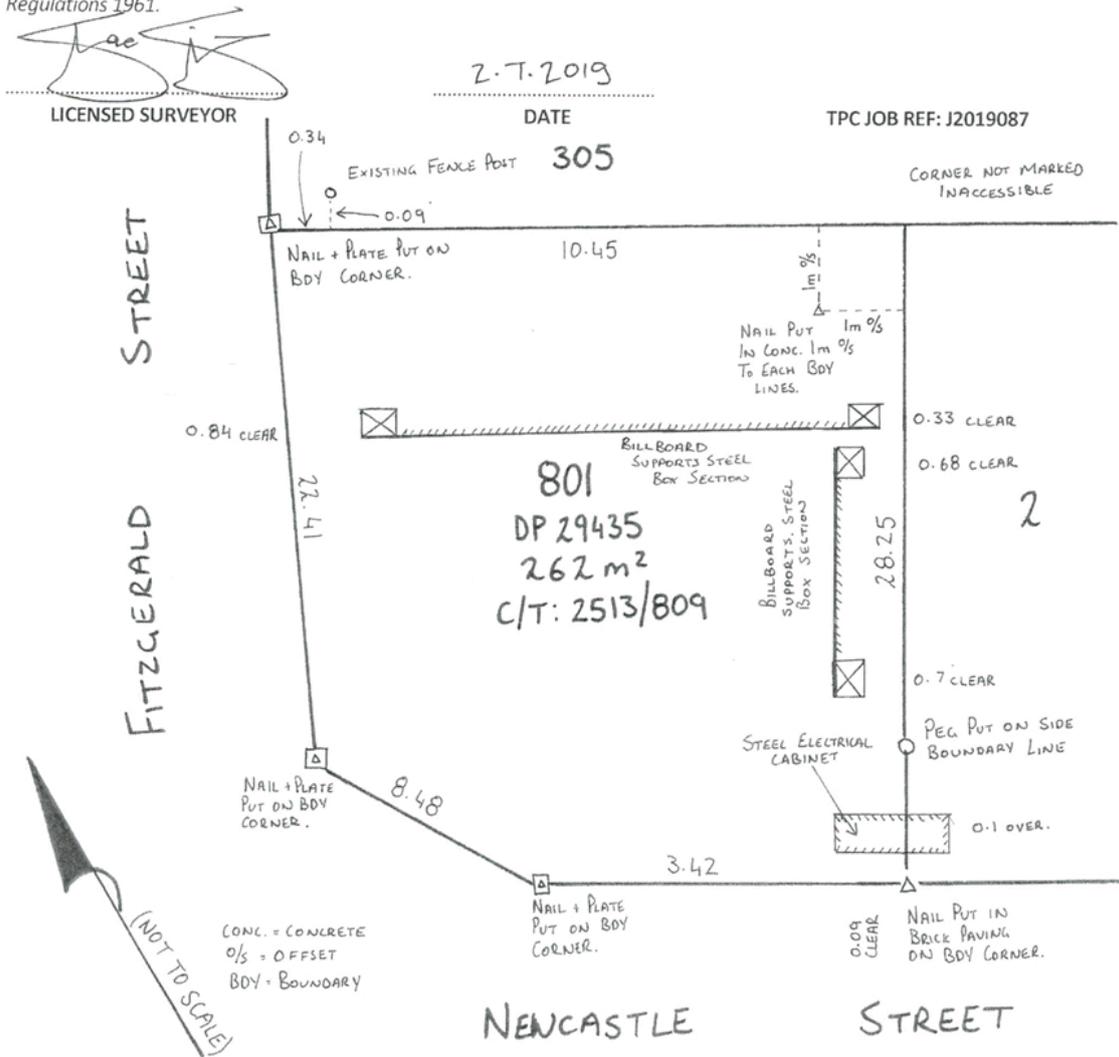
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27 May 2021

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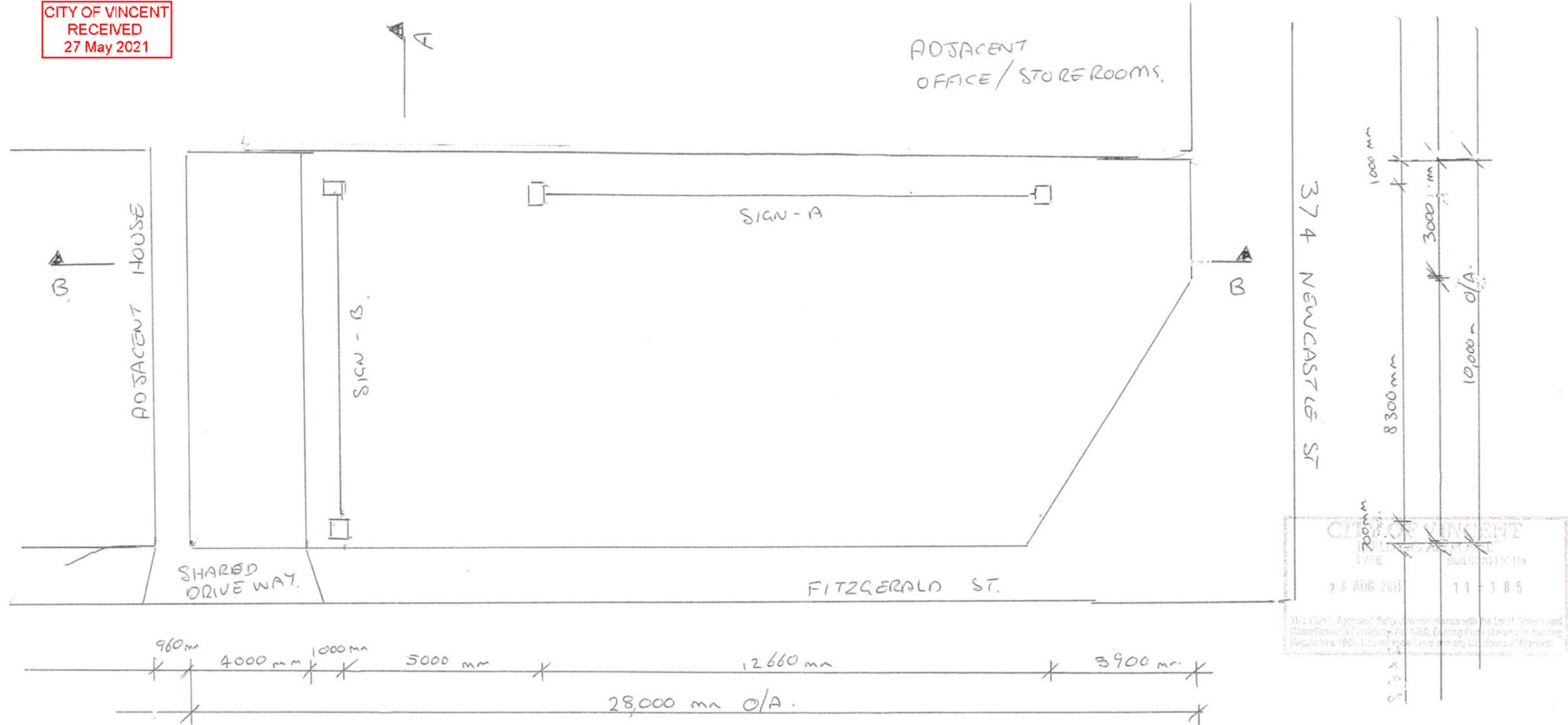
REGULATION 25A
RE-SURVEY CERTIFICATE
LICENSED SURVEYORS ACT 1909
SURVEYOR'S CERTIFICATE

I, Shane Bruce Simons, Licensed Surveyor, certify that on the 24th day of June 2019, the boundaries of Lot 801 on DP 29435 No 374 Newcastle Street, Perth as shown on the sketch (below) were re-established in accordance with the provisions of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and the Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961.



Total Project Consultants Pty Ltd ACN 150 414 270 ATF TPC Trust ABN 56 574 011 665

CITY OF VINCENT
RECEIVED
27 May 2021



CITY OF VINCENT
BUILDING DEPARTMENT
DATE: 24 AUG 2011
BUILDING NO: 11-385
This Plan is Approved Subject to compliance with the Local Government (Miscellaneous Provisions) Act 1980, Building Code of Australia, Building Regulations 1995, Council Local Laws and any Conditions of Approval.

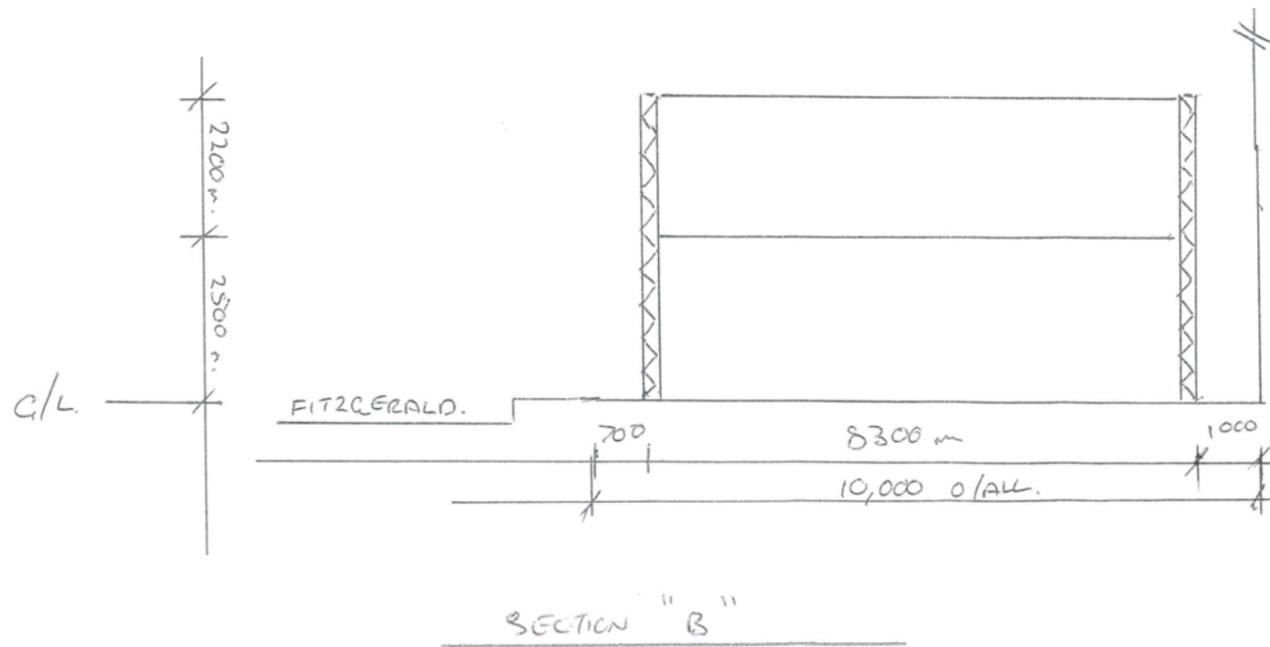
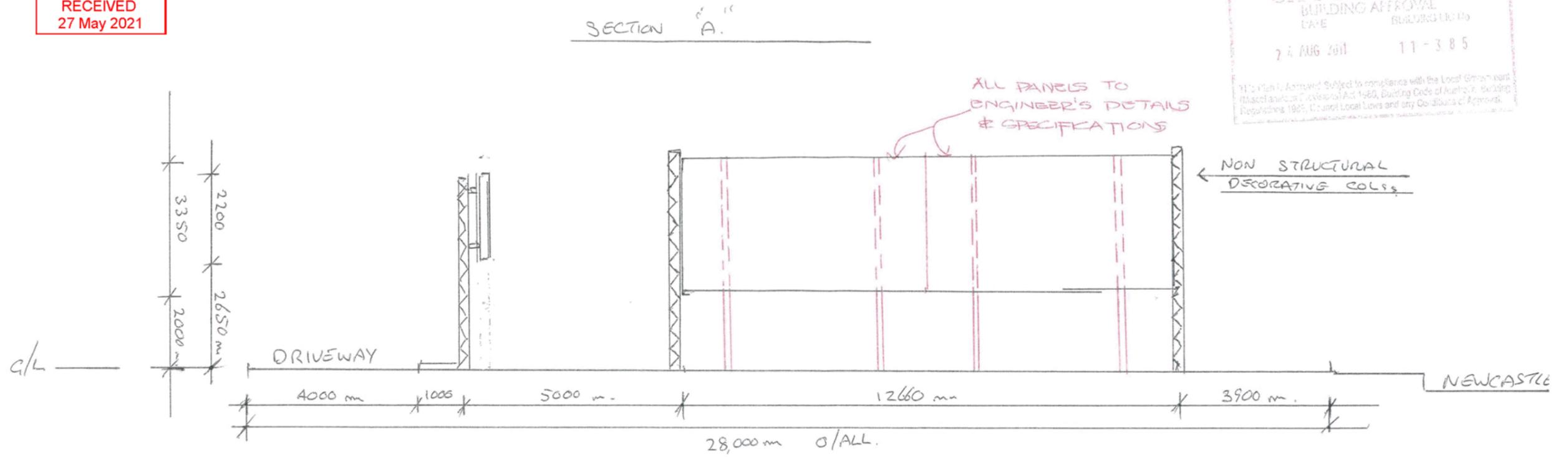
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18 JUL 2011
CITY OF VINCENT

SITE PLAN - SIGNS. SCALE 1-100.	OWNER - S+K INVESTMENTS PTY LTD.	1X 12660 X 3350 SIGN (A)
	374 NEWCASTLE ST PERTH. 15-7-11	1X 8300 X 2200 SIGN (B).

CITY OF VINCENT
RECEIVED
27 May 2021

CITY OF VINCENT
BUILDING APPROVAL
DATE: 21 AUG 2011 BUILDING LIC NO: 11-385
This Plan is Approved Subject to compliance with the Local Government (Manufacture and Construction) Act 1988, Building Code of Australia, Building Regulations 1995, Council Local Laws and any Conditions of Approval.



BUILDERS COPY

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18 JUL 2011
CITY OF VINCENT

SECTION - A + B	OWNER - SK INVESTMENTS PTY LTD
SCALE 1-100	374 NEWCASTLE ST PERTH. 15-7-11



Reconsideration Submission

For approved Billboard Signage

Lot 801, No. 374 Newcastle Street, Perth

November 2021

TOWN PLANNING | MEDIATION | ADVOCACY

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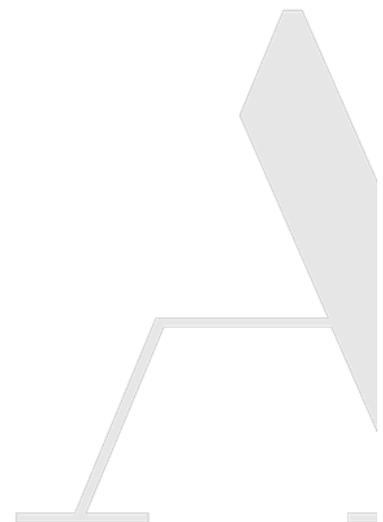
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TOWN PLANNING | MEDIATION | ADVOCACY

1.0 Background

S&K Investments Pty Ltd ('the Applicant'), the owner of Lot 801, No. 374 Newcastle Street, Perth ('the site') has applied to the City of Vincent for development approval for two (2) billboard signs at the above address. The application was submitted to extend the validity of the previous approval, which was time-limited for five (5) years and expired on 28 June 2021.

The existing sign facing Fitzgerald Street has dimensions of 12.66 metres by 3.35 metres and the existing sign facing Newcastle Street has dimensions of 8.3 metres by 2.2 metres. The application did not propose any change to the previously approved size or locations of the signs. The signs take up a small percentage of the total site area, with the predominant use over the site dedicated to landscaping and community services.

In line with the previous time-limited approval, the Applicant sought a further five (5) year time limited approval. The application was put forward to Council, with a recommendation of approval for three (3) years. The Council subsequently approved the application; however, the time limit of the approval was amended to one (1) year.

The Applicant has applied to the State Administrative Tribunal ('SAT') for a review of condition 1, being the time limit of approval. In reconsidering the application, the Applicant provides this additional information, outlining the history of the site, the efforts to develop the property over the past 10 years, and the commercial impact that a shorter approval window will have on the ability of the site to produce income ahead of redevelopment.

2.0 History of the Site

Prior to the Applicants obtaining the site in 2011, the property was unkept, and used as a space for illegal parking (see Figures 1 and 2 below). The property was first for sale in 2009, where the Applicant attempted to arrange purchase. The Applicant was ultimately unsuccessful, and the property was instead sold to an overseas developer.

The property was again listed for sale in 2011. The agent advised the Applicant that the reason for the developer’s decision to sell after two years was due to several unsuccessful attempts to redevelop the site. Some of the constraints for this particular site, besides the small landholding include access issues, an electrical service box at the south east corner of the site (see figure 3), and the footpath, that encroaches onto the site area.



Figure 1 – Subject Site Before Acquisition in 2007 (Google Maps 2021)



Figure 2 – Subject Site Before Acquisition in 2007 (Google Maps 2021)

Once purchased in 2011, the Applicants obtained approval for two (2) billboard signs under a five (5) year time-limited approval as an interim form of development ahead more substantive redevelopment of the site. Included in the approval was a plan to install high

quality landscaping, including pine fencing which is graffiti coated, seating and a water fountain (see Figure 4 below).



Figure 3 – Electrical Service Box

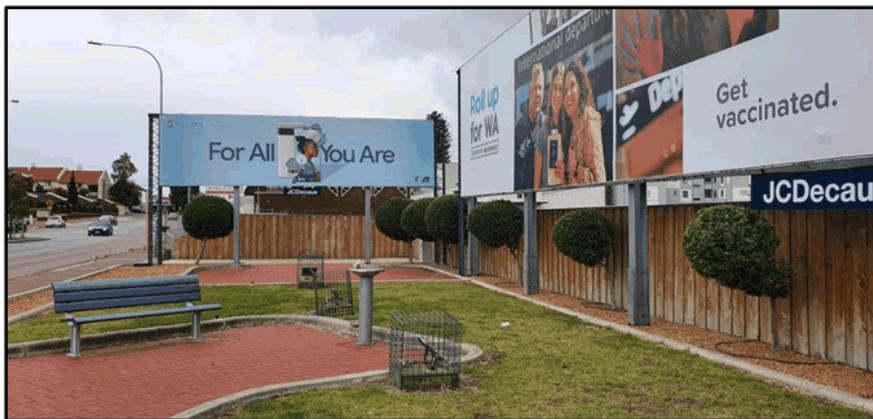


Figure 4 – Subject Site in 2021, with high quality landscaping and seating installation

Furthermore, the Applicants maintain what is effectively a community ‘pocket park’ with a maintenance team that visits the site weekly to clean up rubbish, ensure that the amenities are in working order, and deal with any graffiti on site. As previously submitted by the Applicants, due to the quality of the pocket park, the development

7

increases walkability, inner-city connectedness and green space allocation. Given the highly developed nature of the locality and lack of greenspace within this precinct, the landscaped area sees the public utilizing the site. This has been noted by the Applicants as being most prominent in the mornings. Therefore, the nature of the site, and the community infrastructure it delivers is a consideration that needs to be made with respect to this application.

In 2014 the Applicant had several discussions with Mr Mitchell, who owns Lot 305, No. 120 Fitzgerald Street, which abuts the subject site immediately to the north, about purchasing the property. It was in a very poor state and was often broken into, damaged, graffitied, and posed ongoing issues as the Applicant would have to clean off the graffiti from his house to maintain adequate presentation for their site.

The Applicant investigated whether, if purchased, if the house could be demolished and used for car parking, but the City advised they would not approve that particular use and the purchase fell through.

Mr Mitchell's adjoining land area is very small land area and even if merged with the Applicant's site, the combined lots were considered uneconomical to redevelop.

In 2018, Mr Mitchell arranged a meeting with the Applicant and Mr Leach, the owner of Lot 2, No. 372 Newcastle Street to the immediate east of the site. Mr Mitchell and Mr Leach decided to demolish the existing buildings on both their respective sites and put the vacant land on the market in the interests of targeting a developer to acquire the whole site. The Applicant was asked to join the project, to which the Applicant agreed. The Applicant advised they have an interest in redeveloping and would join in with them if they did find a potential buyer.

The Applicant reached out to their network with regards to potentially selling the site after this meeting. The Applicant spoke to Mr Siew of Colliers International.

Mr Siew took the proposal to a developer client, who rejected the sites as being too small. It was suggested that if the Supermarket to the east of Mr Leach's holding was included then the site would be large enough. Mr Mitchell owns this parcel, and

declined to include that property in any potential sale as it currently generates a substantial income.

Century 21 have also contacted the Applicant to determine if the owners would sell the site as part of package with the adjoining land if he could locate a developer who was interested in the whole site. The Applicant advised that if an offer was received, they would consider it.

Since this time, there have not been any significant changes or developments in the sale of the adjoining properties which continue to be actively marketed.

For the record, the Applicant is willing to sell the land to a developer or alternatively, enter a joint venture application with a developer who acquires the adjoining sites. The adjoining landowners and their relevant real estate agents do understand that the land is unofficially on the market and open to offers. However, for commercial reasons discussed further in section 4, the Applicants accept that it is not being actively marketed.

Given the above, and the clear lack of interest in the adjoining sites as they currently are, any questions as to why the subject site is not specifically listed on the market is purely academic.

3.0 Transitional Arrangements & Timeframes

The details below outline the potential timeframes in a 'best-case' scenario, should a sale be immediately possible for the subject site and adjoining lots:

1. *Properties transacting*

Given the complexity of the site, it is likely that the time taken for a contract to be finalized, and settlement to occur after a brief due diligence period, would be 6 months at a minimum.

2. *Design, preparation, and planning approval process*

Even if the eventual purchaser of the development sites is immediately ready to begin planning for a development at a site, given the scale of any potential development at this site would take 1-2 years at a minimum to complete a detailed proposal. This would include time being taken to develop early concepts, as well as variations and amendments to the plans, after consultation with the City and relevant agencies.

3. *Working drawings, condition clearance and construction contracts*

In addition to planning approval, further detailed design and working drawings together with condition clearances and construction contracts could easily add another 2 years before any construction commences on-site.

Again, we emphasize that the Applicant does not have control of the above aspects. This is particularly poignant when consideration is given to the total land area to be developed that includes the adjoining properties. The Subject Site only forms 17% of the total developable area, and does not have leverage to influence the sale of the whole site.

Therefore, the very best-case scenario is 5 years until any development may reasonably occur, but that is only on basis of the properties immediately transacting and a development application being immediately prepared and ultimately approved. That is why anything less than 3 years is simply not feasible and why 5 years was sought with this application.

4.0 Commercial Aspects: effects of a short time-limit

Most media sub licenses are 5 years plus a further option of 5 years, anything less than that and the Applicant loses substantial negotiating strength and opportunities. During the application period when it appeared that the Applicant was going to receive a three (3) year time-limited approval, two companies declined to enter in

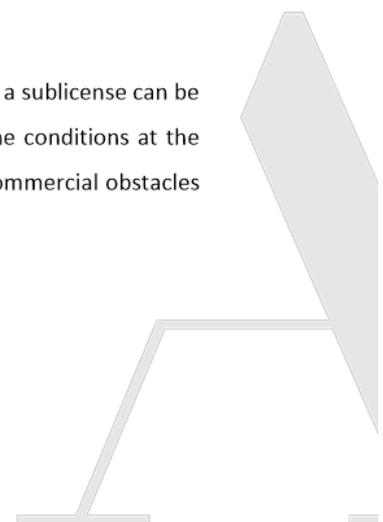
negotiations over a contract. A twelve-month time frame would compound this effect even further, and quash any commercial viability in the site for any advertiser.

The three-year time frame proposed would see the Applicant lose approximately 25% or more of the revenue currently being received. A timeframe less than this would potentially increase losses exponentially.

The Applicant also has to bear higher than normal insurance and public liability costs due the provision of public infrastructure on private land. These costs are offset by the income from the billboard signs, and is paramount to have the commercial capacity to maintain the site to its current level. A loss of this income would jeopardize any potential maintenance of this site.

It is further advised that every sublicense agreement contains a provision regarding the ongoing approval status of approvals by relevant authorities. As the Applicant works within a constantly shifting environment of planning approvals from both local government and also Main Roads. In addition, other factors affect these types of agreements, such as tree planting reducing a sign's view aspect, road work changing traffic flows and vehicle numbers passing a site, and new buildings blocking the site or access to the site. Therefore, all agreements have break mechanisms, usually 90 days' notice is required to be given to amend or terminate an existing agreement. Furthermore, these contracts are written in such a way that they can be terminated, should the property sell.

The above 'fine print' clauses should provide the City comfort that a sublicense can be revoked should the property be sold or redeveloped however, the conditions at the time such sublicenses are entered into remain the most critical commercial obstacles to the signs remaining viable.



5.0 Conclusion and recommendation

In terms of case law, one matter where a temporary approval was proposed was *Vincent & Fitzgerald Pty Ltd and City of Vincent*¹. In refusing to impose the time limit condition, the Tribunal reasoned that it is an important consideration for a planning approval to offer confidence, certainty and continuity to the recipient of the approval. In this respect, a temporary approval represents substantial uncertainty which will compromise commercial viability.

The possibility of a temporary or time-limited approval is provided for pursuant to clause 72 of the Deemed Provisions². Time-limited approvals are regarded as an option that may be deployed where the planning framework in question is in a state of flux or alternatively, allows a user to operate for a finite period following which further assessment can be made of the amenity issues e.g. a short-stay proposals.

This current application is neither of the above scenarios. Rather, the proposal is to simply fill the gap prior to a more substantive redevelopment of the site. The planning framework is silent on when and how approvals should be time-limited nor is there any guidance on whether time-limited approvals should be subject of further renewals.

In the current context, a condition time-limiting the approval to one-year is tantamount to a refusal as it offers not clarity or certainty to the applicant and will compromise commercial viability. Rather, it will likely lead to the proposal being abandoned together with the any use of the site whatsoever. This will only lead to the site being fenced off and abandoned.

A short time-limited approval or even an outright refusal will not necessarily assist, speed-up or mandate that the site (as part of a large parcel of adjoining land) be immediately redeveloped. To that extent, the circumstances in which City granted a time-limited approval in 2016 remain the same with the current application.

¹ *Vincent & Fitzgerald Pty Ltd and City of Vincent* [2014] WASAT 75 [60].

² The Deemed Provisions for local planning schemes are provided for in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Therefore, in simple terms, through a short time-limited approval or an outright refusal, the City cannot force the site to be redeveloped.

Accordingly, it is recommended that the City grant a further 5 year approval as sought by the Applicant. It is reiterated that this will not limit or prevent the sale and/or the redevelopment of the site in the meantime, which are the very least, needs to happen immediately for this timeframe to be effective.

However, the Applicant would prefer not to find itself in the same situation seeking any further term.

As a more practical alternative, the ultimate time limit of development approval for this site should accord with the similar development at Lot 116 Newcastle Street which in 2018 was given a further extension until October 2029. Our position is that any similar interim/time-limited approvals should all have the same sunset clause. This will avoid the needless case by case assessment and associated contentions that go with that, as we are having with the current application. At the end of this term, it is assumed that the City's planning framework will have more robust provisions that will effectively erase all billboard and related third-party advertising.

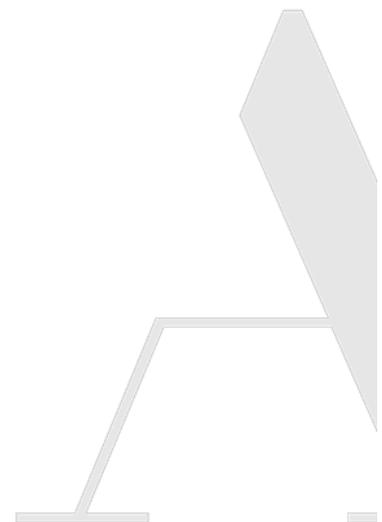
A singular, one sunset date for all proposals will enable the City to do the following:

- i) It will provide sufficient time for the City to update their Scheme and policy framework accordingly;
- ii) It will potentially cease case-by-case considerations of individual applications; and
- iii) The City, and its elected members, will be able to give clear feedback to the public as to when temporary billboard signs approved throughout the City will have their ultimate development approval expiring.

In conclusion, neither of the above time-limiting options prejudice the sale or development of the land. It is emphasized that this should be the City's main consideration. In addition, the Applicant has a preference for the longest possible time-frame for the following reasons:

- i) The Applicant does not have sole control or influence as to when the land can be developed;
- ii) Given the contentions with the current and previous applications for renewal, it does not wish to make further applications for extension should circumstances not change; and
- iii) The signs are simple form of development which, in practical sense, can be removed quickly and can continue to generate income right up until the time of site being 'shovel-ready' development.

The Applicant maintains its position that ultimately, it is interested and motivated to sell or develop their site, and merely asks that the complexities of this unique site be considered, and in the meantime, it be permitted to make use of the site to generate income.



Appendix A: Site Photos



Figure 5 – Image of Development as at November 2021



Figure 6 – Landscaped area at Subject Site



Figure 7 – View of Subject Site from Lot 305 Fitzgerald Street



Figure 8 – View of Lot 305 Fitzgerald Street



Figure 9 – View of Lot 2 Newcastle Street



Figure 10 – View of Lot 2 Newcastle Street

CITY OF VINCENT
RECEIVED
27 May 2021



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

- Attachments:**
1. Consultation and Location Map 
 2. Development Plans 
 3. Previous Council Minutes 
 4. Previously Approved Plans 
 5. Applicant's Written Justification 
 6. Site Photo of Existing Billboard Signs 
 7. Summary of Submissions - Administration's Response 
 8. Summary of Submissions - Applicant's Response 
 9. 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 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 9:

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 unless a further approval is obtained prior to the expiration of this period (refer to advice note 4).

2. Sign Management

- 2.1 This approval is for an Unlisted Use (Billboard Signage) as shown on the Development Plans dated 27 May 2021, included as Attachment 2. 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.

ORDINARY COUNCIL MEETING MINUTES

14 SEPTEMBER 2021

Moved: Cr Topelberg, **Seconded:** Cr Gontaszewski

That the recommendation be adopted.

AMENDMENT

Moved: Cr Gontaszewski, **Seconded:** Cr Hallett

That Condition 1 relating to time limited approval be amended to read as follows:

1. Time Limited Approval

This approval is valid for a period of ~~three (3) years~~ **one (1) year** from the date of this approval. After this period, the use shall cease to operate unless a further approval is obtained prior to the expiration of this period (refer to advice note 4).

REASON:

The city is currently reviewing its policy approach to billboard signage and preliminary data from the community indicates an ongoing opposition to billboards in Vincent.

The previous rationale for permitting the signs in this location was pertaining to the existing built form surrounding the site which virtually precluded other development and made the site unviable to sell. This context has changed.

AMENDMENT CARRIED (5-4)

For: Cr Gontaszewski, Cr Castle, Cr Fotakis, Cr Hallett and Cr Wallace

Against: Mayor Cole, Cr Loden, Cr Topelberg and Cr Smith

COUNCIL DECISION ITEM 9.3

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 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 9:

1. Time Limited Approval

This approval is valid for a period of one (1) year from the date of this approval. After this period, the use shall cease to operate unless a further approval is obtained prior to the expiration of this period (refer to advice note 4).

2. Sign Management

- 2.1 This approval is for an Unlisted Use (Billboard Signage) as shown on the Development Plans dated 27 May 2021, included as Attachment 2. 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**

ORDINARY COUNCIL MEETING MINUTES**14 SEPTEMBER 2021**

- 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.

CARRIED (7-2)

For: Cr Gontaszewski, Cr Castle, Cr Fotakis, Cr Hallett, Cr Loden, Cr Wallace and Cr Smith

Against: Mayor Cole and Cr Topelberg

ORDINARY MEETING OF COUNCIL
14 JUNE 2011

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TOWN OF VINCENT
MINUTES

9.1.9 No. 374 (Lot 801; D/P: 29435) Newcastle Street, corner of Fitzgerald Street, Perth - Proposed Signage Addition (Billboard) and Associated Landscaping

Ward:	South	Date:	31 May 2011
Precinct:	Beaufort; P13	File Ref:	PRO0776; 5.2011.185.1
Attachments:	001 – Property Information Report, Development Application and Plans		
Tabled Items	Applicants submission and associated documentation including a proposed alternative signage elevation		
Reporting Officer:	T Cappellucci, Planning Officer (Statutory)		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES the application submitted by WA Billboards on behalf of the owner Zhens Australia Pty Ltd for proposed Signage Addition (Billboard) to Existing Bank, at No. 374 (Lot 801; D/P 29435) Newcastle Street, corner of Fitzgerald Street, Perth, and as shown on plans stamp-dated 12 April 2011, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the requirements of the Town's Policy No. 3.5.2 relating to Signs and Advertising; and*
- (iii) consideration of the objection received.*

Moved Cr Maier, Seconded Cr Topelberg

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND LOST UNANIMOUSLY (0-7)

(Cr Farrell had not yet arrived to the meeting. Cr Burns was an apology for the meeting.)

Reasons:

1. Difficulty of developing the site;
2. The temporary proposal provides a social dividend to the community; and
3. The proposal is of a temporary nature (i.e. 5 years).

ORDINARY MEETING OF COUNCIL
14 JUNE 2011

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TOWN OF VINCENT
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ALTERNATIVE RECOMMENDATION – COUNCIL DECISION ITEM 9.1.9

Moved Cr Maier, Seconded Cr McGrath

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by WA Billboards on behalf of the owner Zhens Australia Pty Ltd for proposed Signage Addition (Billboards) and Associated Landscaping, at No. 374 (Lot 801; D/P 29435) Newcastle Street, corner of Fitzgerald Street, Perth, and as shown on amended plans stamp-dated 27 April 2011, subject to the following conditions:

- (i) the application is considered a special case and the approval should not be considered a precedent for allowing billboards within the Town of Vincent;*
- (ii) this approval for billboards (2) (signage) is for a period of 5 years only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the Town prior to the continuation of use;*
- (iii) the signage shall not have flashing or intermittent lighting;*
- (iv) the applicant/owner shall maintain adequate setback from the motorists' line of sight through the traffic signals to the nearest edge of the billboards to the satisfaction of Main Roads Western Australia and the Town;*
- (v) the billboards (2) shall not display advertising which by virtue of colour or content may confuse the motorist or imitate the traffic signals or road signs to the satisfaction of Main Roads Western Australia and the Town;*
- (vi) 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 Main Roads Western Australia and the Town;*
- (vii) billboard sizes shall be in keeping with standard industry sizes and are found by Main Roads and the Town to be suitable for this site to the satisfaction of Main Roads Western Australia and the Town;*
- (viii) the provision of appropriate seating and a drinking fountain shall be conveniently located within the site to the satisfaction of the Chief Executive Officer;*
- (ix) provision and maintenance of landscaping using waterwise plants with a preference for local Australian plants to the satisfaction of the Chief Executive Officer on advice from the Manager Parks and Property Services and the Co-ordinator Safer Vincent. The landscaping shall be planted and maintained thereafter by the owner(s)/occupiers at their own expense; and*
- (x) the owner(s), or the applicant on behalf of the owner(s), shall:*
 - (a) within twenty eight (28) days of the issue date of this 'Approval to Commence Development', elect to either undertake a Public Art Project (Option 1) or pay a Cash-in-Lieu Contribution, of \$5,000 (Option 2); and*

MINUTES OF MEETING HELD ON 14 JUNE 2011 TO BE CONFIRMED ON 28 JUNE 2011

ORDINARY MEETING OF COUNCIL
14 JUNE 2011

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TOWN OF VINCENT
MINUTES

- (b) *in conjunction with the above chosen option;*
- (1) *Option 1 –
prior to the approval and subsequent issue of a Building Licence
for the development, obtain approval for the Public Art Project and
associated Artist; and

prior to the first occupation of the development, install the
approved public art project, and thereafter maintain the art work;*
- OR*
- (2) *Option 2 –
prior to the approval and subsequent issue of a Building Licence
for the development or prior to the due date specified in the invoice
issued by the Town for the payment (whichever occurs first), pay
the above cash-in-lieu contribution amount.*

Debate ensued.

ALTERNATIVE MOTION PUT AND CARRIED UNANIMOUSLY (7-0)

(Cr Farrell had not yet arrived to the meeting. Cr Burns was an apology for the meeting.)

ORDINARY MEETING OF COUNCIL 27
28 June 2016

CITY OF VINCENT
MINUTES

9.1.2 No. 374 (Lot: 801; D/P: 29435) Newcastle Street, Corner of Fitzgerald Street, Perth – Extension of the Term of Approval: Billboard Signage and Associated Landscaping (Unlisted Use)

Ward:	South	Date:	10 June 2016
Precinct:	Precinct 13, Beaufort	File Ref:	PR24084; 5.2016.112.1
Attachments:	1 – Consultation Map 2 – Development Application Plans 3 – Copy of Original Planning Approval and Plans granted on 14 June 2011		
Tabled Items:	Nil		
Reporting Officer:	A Dyson, Statutory Planning Officer		
Responsible Officer:	G Poezyn, Director Development Services		

RECOMMENDATION:

That Council, in accordance with Schedule 2, Part 9, Clause 77(4)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, APPROVES BY ABSOLUTE MAJORITY the application for an extension of the term of the existing planning approval granted on 14 June 2011 numbered 5.2011.185.1 for an Existing Billboard and Associated Landscaping (Unlisted Use) at No. 374 (Lot: 801; D/P: 29435) Newcastle Street, Corner of Fitzgerald Street, Perth in accordance with plans date stamped 29 March 2016 as shown on Attachment 2, subject to the following conditions:

1. Compliance with the conditions as detailed on the previous approval dated 14 June 2011 numbered 5.2011.185.1 with the exception of Conditions (i) and (x).

ADVICE NOTES:

1. The signage is to have due regard to the Main Roads “*Policy and Application Guidelines for Advertising Signs*”.

COUNCIL DECISION ITEM 9.1.2

Moved Cr Topelberg, **Seconded** Cr Loden

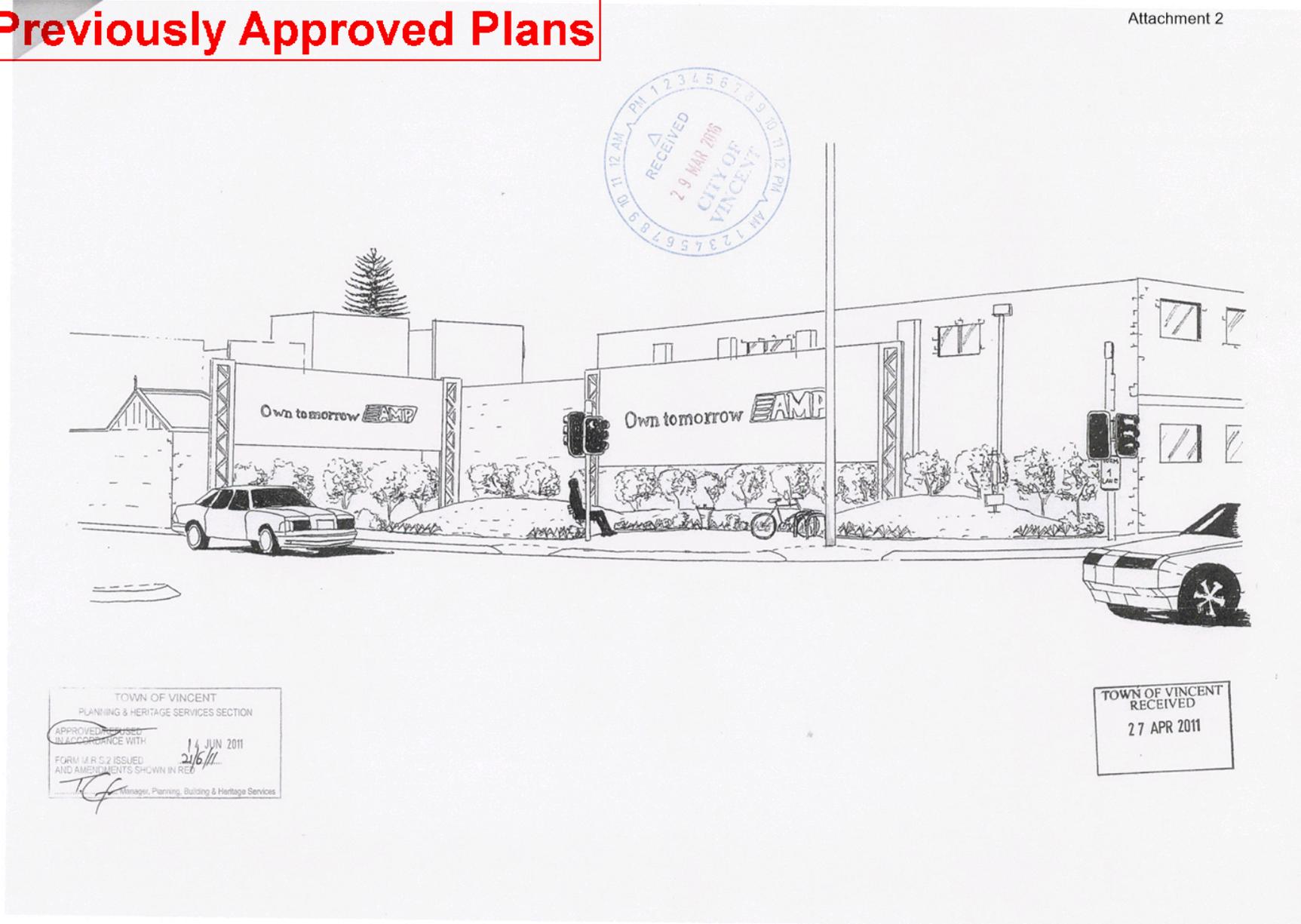
That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED UNANIMOUSLY (9-0)
BY AN ABSOLUTE MAJORITY

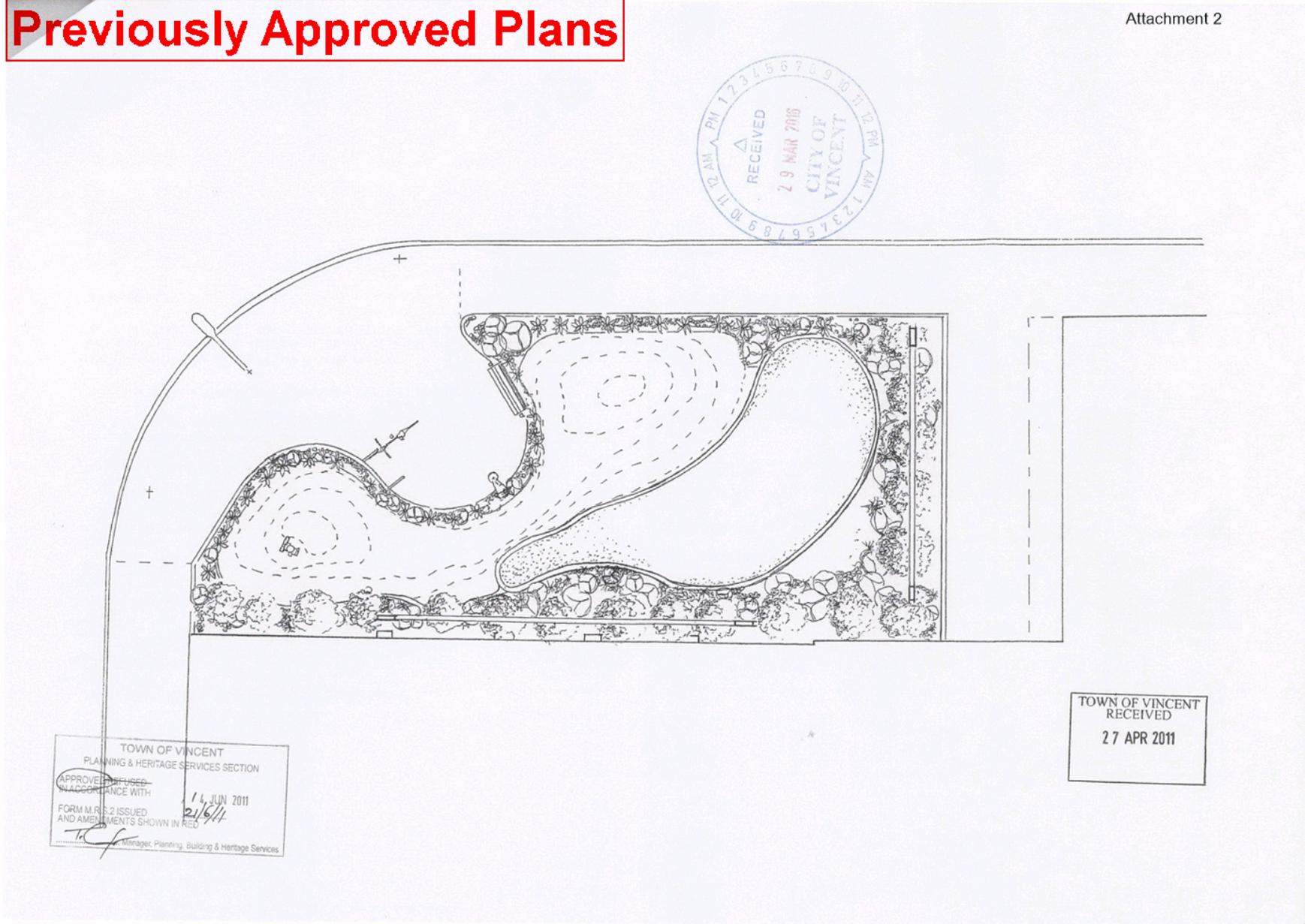
Previously Approved Plans

Attachment 2



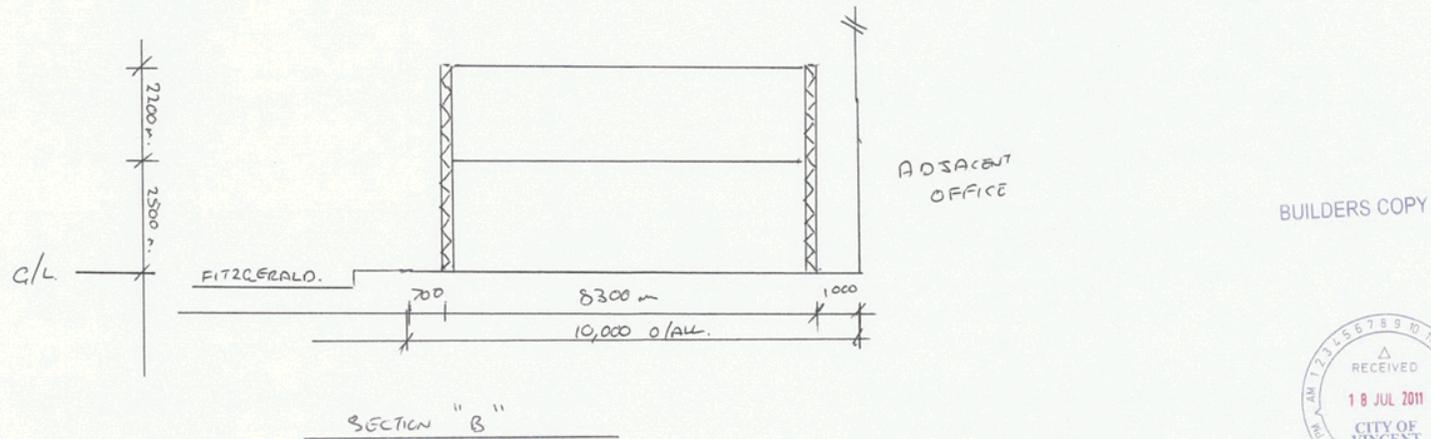
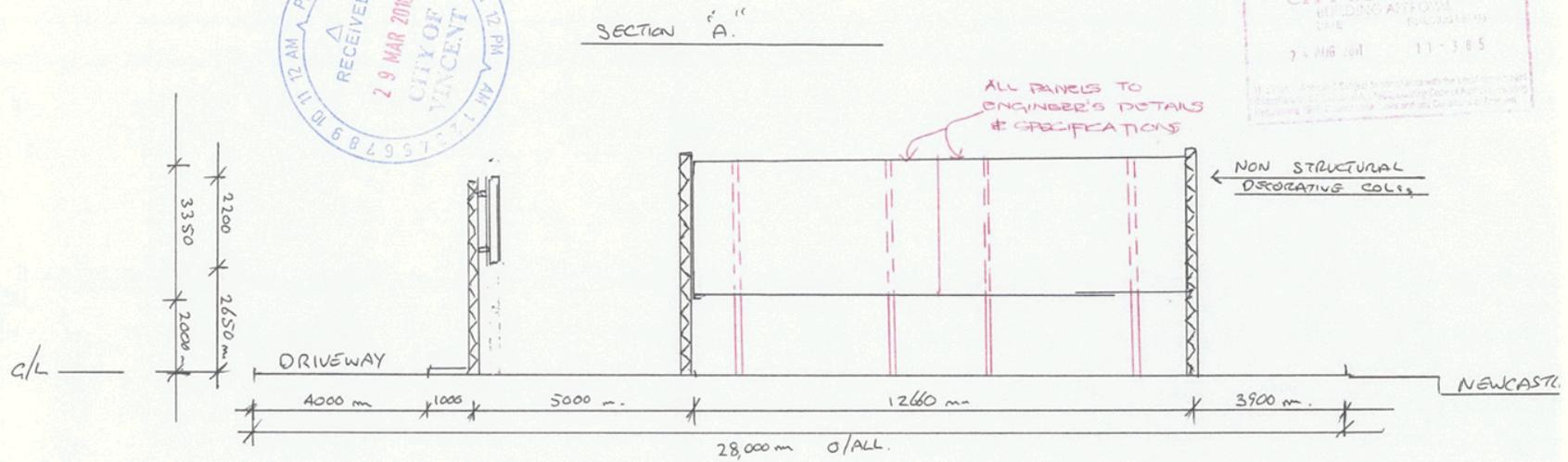
Previously Approved Plans

Attachment 2



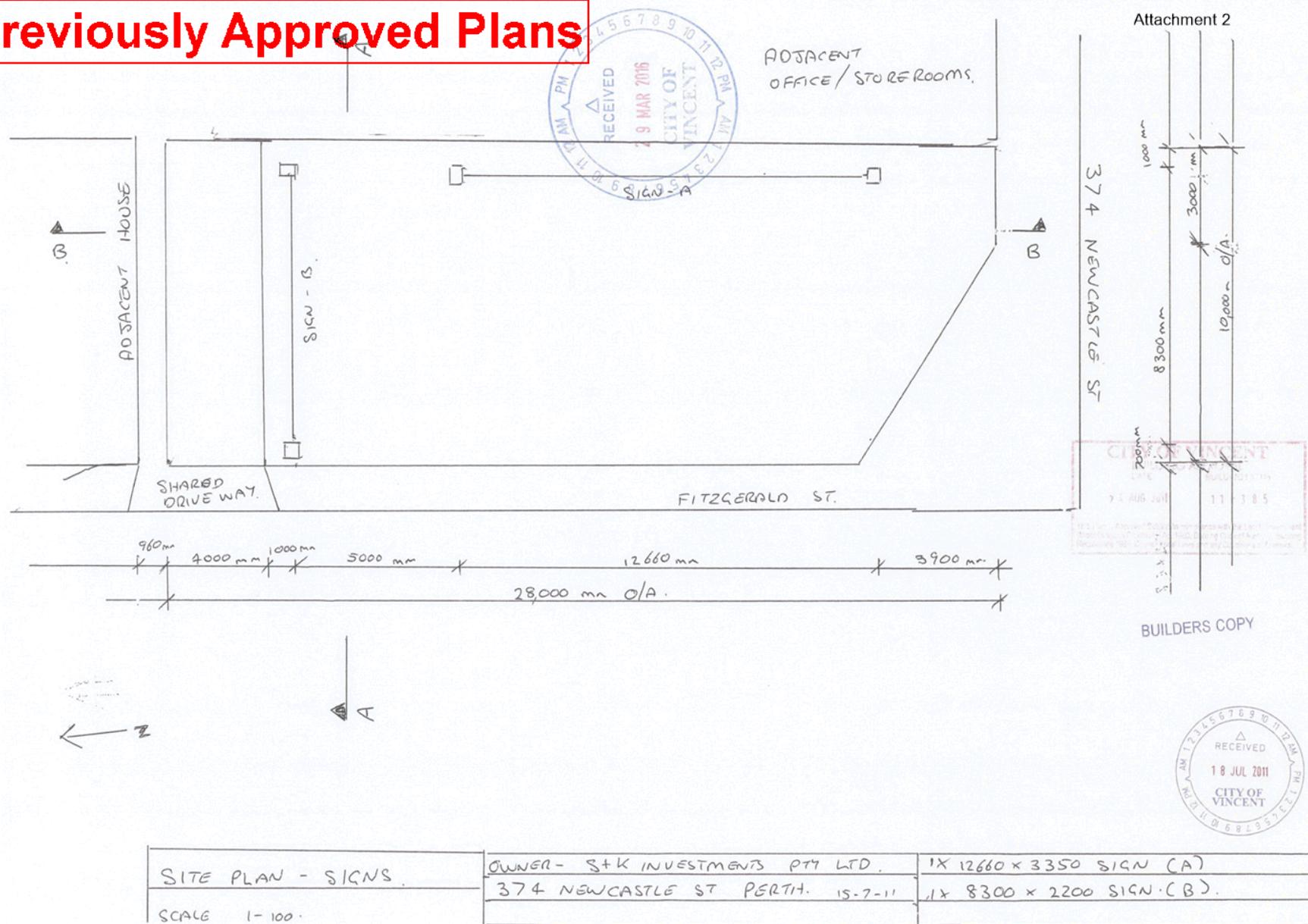
Previously Approved Plans

Attachment 2



SECTION - A+B	OWNER - SK INVESTMENTS PTY LTD 374 NEWCASTLE ST PERTH. 13-7-11
SCALE 1-100	

Previously Approved Plans



Attachment 2

BUILDERS COPY

Previously Approved Plans

Attachment 2

REAR ELEVATION
1:50

FOOTING PAD DETAILS
1:50 (OPTIONAL TO BORED PIER)

BORED PIER DETAILS
1:50

PLAN ON PIER
1:50

SPlice DETAIL
1:10

PLAN OF UPPER & LOWER COLUMNS AT SPLICE
1:10

UPPER COLUMN
1:10

SINGLE SIDED GIRT CLEAT
1:10

DOUBLE SIDED GIRT CLEAT
1:10

WIND TERRAIN CATEGORY 2

GIRD NO TO TOP OF SIGN	COLUMNS		PAD FOOTINGS			PIER FOOTINGS	
	UPPER COLUMN	LOWER COLUMN	WIDTH	LENGTH	DEPTH	DIAMETER	DEPTH
10L	2No C200.25	2No C200.25	1000	2000	1000	900	1800
10R	2No C200.25	2No C200.25	1000	2275	1000	900	2000
20L1	2No C200.25	2No C200.25	1000	2200	1000	900	2000
30L1	2No LL203.32	2No LL203.32	1000	2500	1000	900	2000
30L2	2No 200 PFC	2No 250 PFC	1000	2500	1000	900	2500
42L1	2No 200 PFC	2No 250 PFC	1000	2500	1000	900	2500
42L2	2No 200 PFC	2No 250 PFC	1000	2750	1000	900	2500

WIND TERRAIN CATEGORY 3

GROUND TO TOP OF SIGN	COLUMNS		PAD FOOTINGS			PIER FOOTINGS	
	UPPER COLUMN	LOWER COLUMN	WIDTH	LENGTH	DEPTH	DIAMETER	DEPTH
1000	2No C200.25	2No C200.25	1000	2000	1000	900	1800
1500	2No C200.25	2No C200.25	1000	2000	1000	900	1800
2400	2No C200.25	2No L250.25	1000	2000	1000	900	1800
3000	2No LL203.32	2No LL203.32	1000	2000	1000	900	2000
3600	2No 200 PFC	2No 250 PFC	1000	2500	1000	900	2000
4200	2No 200 PFC	2No 250 PFC	1000	2500	1000	900	2000
4800	2No 200 PFC	2No 250 PFC	1000	2500	1000	900	2000

PHILIP J NADEBAUM CONSULTING ENGINEER
Philip Nadebaum
B.E., M.Eng.Sc., M.I.E. Aust., CPENG

DESIGN WIND LOAD TO AS1702.2 REGION A TERRAIN CATEGORY 2 & 3.

REV	BY	DATE	DETAILS
B			
C			
H			
A	WB	13/10/00	
REV	BY	DATE	DETAILS

PRODUCT: 514 NEWCASTLE ST (PERTH) STANDARD FREE STANDING TWO POLE MOUNTED SIGN

CLIENT: WA BILLBOARDS

NO: 4120 X 3200 SIGN WITH 508 SKIRT

DRAWN: WEBROUGH 12/1/00

CHECKED: [Signature]

DESIGNED: [Signature]

APPROVED: [Signature] 15/10/00

BARRY CARNEGIE & ASSOCIATES PTY LTD
CONSULTING ENGINEERS
STRUCTURAL DESIGN AND DRAFTING SPECIALISTS
111 Upper Field, Henderson, Brisbane, Queensland, Australia, QLD 4017
Tel: (08) 8244 1311 Fax: (08) 8244 1022 Email: andy@barrycar.com.au

CAD REF: 147501
NO. OF SHEETS: 1/10
SCALE: 1:50, 1:10
JOB NO.: 00 475
REV: -1
A

Summary of Submissions:

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

Comments Received in Support:	Administration Comment:
No comments provided.	Not applicable.

Comments Received in Objection:	Administration Comment:
<p><u>Billboard Signage</u></p> <ul style="list-style-type: none"> The existing billboards have an adverse impact on the visual amenity of this section of the City. The billboard signage does not contribute any services to the local area, undermines walkability in the area does not provide any sustainable water or power infrastructure. The billboard signage should not be justified by the provision of the pocket park which does not provide any shade planting, is uncomfortable and does not appear to be well utilised by members of the public. The City's prohibition of billboard signs under the Signage Policy is well founded and over-scaled, commercialised billboard signs are at odds with the aim of this Policy. The billboards do not fit the scale, height, style, materials, street alignment and design of facades along Newcastle and Fitzgerald Streets. The billboard signage is not consistent with the City's long term planning for development along Newcastle Street. The existing billboards are a major disincentive to the redevelopment of the properties around the billboard site. 	<p>Prior to the installation of the billboards in 2011, the subject site was poorly maintained. The installation of the billboards, landscaping, public seating and water fountain has provided an improved streetscape outcome for the community in the interim until the site is redeveloped. The applicant has consistently maintained the existing billboard signage as well as the associated landscaping and amenities since 2011.</p> <p>The City's stance on billboard signage is acknowledged and reflected in the recommendation for a three year renewal of the previous approval.</p> <p>It is acknowledged that the existing billboards do not represent the intended future built form outcomes for the site and reflected in the recommendation for a three year renewal of the previous approval.</p> <p>It is plausible that the continued existence of the billboard signage and omission of the subject site from the real estate listing could be perceived by prospective buyers as a barrier to purchase and development. In the instance that the subject site and adjoining properties were to be purchased in the near future, it is not considered unreasonable that a development could commence, or be close to commencing, within a three year period. The recommended three year renewal would ensure that the applicant is able to continue to utilise the subject site for the current purposes during the applicable approval processes.</p>

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

Summary of Submissions:

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

Comments Received in Support:	Applicant Comment
<ul style="list-style-type: none"> No comments provided 	

Comments Received in Objection:	Applicant Comment
<p><u>Billboard Signage</u></p> <ul style="list-style-type: none"> The existing billboards have an adverse impact on the visual amenity of this section of the City. The City’s prohibition of billboard signs under the Signage Policy is well founded and over-scaled, commercialised billboard signs are at odds with the aim of this Policy. 	<p>The point raised in regard to the visual amenity of the billboards seems a bit strange. When considering the visual amenity of the entirety of the area, the lot at 374 Newcastle Street makes a stark difference from the neighbouring lots.</p> <p>120 Fitzgerald Street and 372 Newcastle Street exist as vacant lots with temporary chain-link fencing and, due to lack of maintenance from owners, has become a dumping ground collecting rubbish and debris.</p> <p>By comparison, WA Billboards maintains 374 Newcastle Street with a maintenance team that visits weekly to clean up rubbish, ensure the amenities are in order and to maintain the green space offered by the Pocket Park. The pine fencing which has been graffiti coated to deter vandalism and anti-social behaviour was an initiative WA Billboards undertook to ensure the visual amenity of the site.</p> <p>Considering the amenity of the entire landscape and not just 374 Newcastle Street in isolation, the visual amenity afforded from the Billboard/Pocket Park far exceeds that of the alternative which is aptly demonstrated by the neighbouring lots.</p> <p>The point regarding the prohibition of billboard signs according to the City’s Signage Policy is similarly confusing. Whilst WA Billboards recognises that the City’s Signage Policy is quite clear in its opposition to signs, 374 Newcastle Street is not the only example of where the City has taken a justified and considered approach which reconciles these types of developments with the intent of the policy.</p> <p>235 Fitzgerald Street, West Perth and 480 Newcastle Street, West Perth are two examples where the City has obviously seen it fit to approve and continue to allow third party advertising despite the prohibition outlined in the policy.</p> <p>Contrasted with these examples, the development at 374 Newcastle Street looks to work cohesively with the City by offering amenities such as the seating area, the water station with drink fountain and dog bowl, and the green space offered by the lawn and olive trees.</p>

Comments Received in Objection:	Applicant Comment
<ul style="list-style-type: none"> The billboard signage does not contribute any services to the local area, undermines walkability in the area does not provide any sustainable water or power infrastructure. 	<p>Given the complimentary benefits the development provides, the City's prohibition was justified in being softened in 2016. Further, as the commercial landscape for the area has not changed, the understandable softening of the policy in response to the development is both reasonable and appropriate.</p> <p>With regard to the claim that the billboards do not provide a service to the local area, this is simply not the case.</p> <p>From the point of view of the signs themselves, WA Billboards offers this signage space at competitive market prices and is available to businesses to purchase advertising space as they wish. Awareness of a brand or product is vital for businesses irrespective of the economic climate, and the opportunity afforded by the signage at 374 Newcastle is something which is often taken up by businesses such as RAC (located a short distance down the road from the site) as well as Toyota who are similarly placed along Newcastle Street but not necessarily in a position where they would be visible to high volume customers. Therefore, with respect to the commercial entities in the vicinity, the signs at 374 Newcastle Street provide the valuable service of allowing awareness.</p> <p>It's only fair that we mention that commercial entities are not the exclusive purchasers of the space at 374 Newcastle Street. The volume of traffic passing through the adjacent intersection means that the site is a prime location for government and safety messages. Two examples of these types of messages are the Western Power 'Stay 8 Metres Away' Campaign, as well as the recent Road Safety Council messages regarding the more severe penalties implemented to crack down on drunk and dangerous driving.</p> <p>Given the signs at 374 Newcastle Street are able to display messages of commercial and safety relevance for local businesses and the local residents; on these points alone the signs can be seen to provide a valuable service for the local area.</p> <p>To address the point of walkability, I think a comparison of the surrounding cityscape needs to be considered. The site as it exists currently is in fact an example of improving inner-city walkability and green space integration. The two major green areas in the vicinity are Robertson Park and Russell Square, which are separated by almost a kilometre of built up commercial and residential allocations.</p> <p>Considering residents of the Newcastle Street area would more than likely be travelling on foot between green spaces, or for a trip to Northbridge for dinner or to the RAC Arena for an event; the Pocket Park in fact permits greater walkability to the city and surrounding areas. In the interest of an interconnected city space which encourages walking and exploration of the what is on offer, the Pocket Park assists in connecting disconnected areas with a rest stop featuring the seat and the water facility. Furthermore, in the evenings the site is illuminated and the light spill has been carefully managed to illuminate the signs and provide essential lighting ambience for the immediate seating space, providing pedestrians with a</p>

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Comments Received in Objection:	Applicant Comment
<ul style="list-style-type: none"> The billboards do not fit the scale, height, style, materials, street alignment and design of facades along Newcastle and Fitzgerald Streets. The billboard signage is not consistent with the City's long term planning for development 	<p>sense of security and discouraging vandalism and disorderly behaviour.</p> <p>To lastly address the claim that the site doesn't provide ongoing sustainable water or power infrastructure I'll put some more context into how the site has evolved over time. Specifically, recalling back to the site before it was developed, 374 Newcastle existed as a dilapidated illegal parking facility. This parking facility had no power infrastructure and no water infrastructure. WA Billboard's redevelopment plans featuring the signs and Pocket Park therefore had to bring in to the corner lot sufficient power and water upgrades to facilitate the illumination requirements and to adequately water the green space.</p> <p>With the above in mind, it's fair to say that the development at 374 Newcastle Street not only provides a local service, but also has integrated power and water infrastructure for use into the future and in fact improves the walkability of this particular area.</p> <p>While it could be claimed that the scale, height, style, materials and design of the structures is inconsistent with the streetscape, this has only been a recent occurrence and was at the prerogative of the adjacent landowners.</p> <p>The proposed development design was specifically tailored to integrate with the adjacent lots. For example, archival images of the corner-scape will show that the front and rear of both signs at 374 Newcastle Street were painted in the same palette as the adjacent buildings. Further, the height and scale of the signs were never peaking or infringing on the surrounding buildings. The result of this considered sign was an integration into the building facades which nestled the structures into the space, integrated the facades and creating an innovative 'levitation' illusion for the signs which was both safe, unique for this type of development and a captivating use of the space.</p> <p>When the adjacent landowners approached us in late 2019 indicated they would be demolishing the infrastructure on their respective lots to decrease maintenance costs, we were understandably disappointed. Although the demolishing of the surrounding buildings has drastically altered the scale of the site, WA Billboards has endeavoured to do all it can to maintain the amenity of the site irrespective of the unsightly adjacent lots.</p> <p>For example, to maintain the site's street-level integration until the surrounding lots are redeveloped, WA Billboards elected to build and maintain a pine fence. This fence has been graffiti coated to subdue vandalism attempts and our maintenance teams visit on a weekly basis to check and clear graffiti on both the fence and the sign structures themselves.</p> <p>In a similar vein point two, the long-term planning for development of the Newcastle Street area is a process which works with all stakeholders to nurture a unique, functional and bespoke landscape for all</p>

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Comments Received in Objection:	Applicant Comment
<p>along Newcastle Street.</p> <ul style="list-style-type: none"> The billboard signage should not be justified by the provision of the pocket park which does not provide any shade planting, is uncomfortable and does not appear to be well utilised by members of the public. 	<p>parties to enjoy.</p> <p>Although the City will maintain its prohibition on signage, the variations which it does account for in its policy should be in the interest of the community, the liveability of the space, with regard also being given to the nature of the space; in this case, much of the Newcastle Street strip is providing commercial services to the area.</p> <p>Hence, in allowing for the long-term planning of facilitating the commercial services in the area as well as the liveability of the space; the development at 374 Newcastle Street can be seen to be contributing to both. As outlined in point three, the signs provide a valuable advertising service for local enterprises and for government messages, and the nature of the Pocket Park increases walkability, inner-city connectedness and green space allocation.</p> <p>This objection stating the Pocket Park appears to be underutilised is misinformed. In addition to our maintenance teams which visit on the weekly basis, by the nature of our work we are often commuting to Northbridge to meet with industry design firms. Our commutes take us past the site often and we can report the space sees significant utilisation. The majority of utilisation is primarily in the mornings when local residents are out walking or walking with their pets (around the same time our maintenance teams visit the area), then also some further utilisation in mid-morning.</p> <p>These utilisation times we suspect link to the cooler temperatures and the need to exercise pets before work, but the mid-morning utilisation seems connected to the shade which is cast by the signs in the morning hours. Casting shade over the lot, the bench and the grass; the space is generally considerably cooler compared to other nearby plaza spaces where hot concrete pavement radiates heat upwards to pedestrians.</p> <p>This also addressing the point of the shade, so although the site doesn't feature any shade planting or canopy, the artificial shade offered by the signs themselves is contributing to utilisation and cooling of that particular space. Meanwhile in the winter months the signs, trees and now the pine fencing, act as wind barriers breaking the harsh cold winds which move over and through the adjacent vacant lots.</p> <p>Further, while the bench seating provided may be claimed to be uncomfortable, the featured seating was elected for its relative comfort as a short-stay space. In the consideration of space design we consulted the City of Vincent for recommendations on the street furniture used in other areas (to further integrate the space with other areas of the City) and decided on what is currently installed there.</p> <p>To address the other component of this objection, WA Billboards understands the City's position on signage yet also believes strongly that a development should be considered on the basis of all its</p>

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Comments Received in Objection:	Applicant Comment
<ul style="list-style-type: none"> The existing billboards are a major disincentive to the redevelopment of the properties around the billboard site. 	<p>offerings. In this case, notwithstanding the prohibition on signage, the Pocket Park has been and continues to offer complimentary community benefits. These benefits are broad and widely applicable to not just residents but to citizens working, commuting and making a living in the City and specifically along the Newcastle Street, Fitzgerald Street area.</p> <p>So, as the City has always done and as it allows for in many of its policy documents, the consideration of all facets of an application or proposal should be accounted for, and given the lot at 374 Newcastle Street offers a range of services and community benefits, the Pocket Park should be considered. More so given it does indeed have a track record of utilisation and provision of services.</p> <p>Lastly, WA Billboards stands by its openness to the redevelopment of the adjacent spaces. In the same way that WA Billboards designed and integrated our lot to suit the adjacent buildings around us, there is no reason that the new developments could not take a similar approach and collaborate with ourselves to create an integrated and bespoke corner space.</p> <p>Our dealings with the neighbouring owners has however indicated that there is no interest in purchase or redevelopment of the lots. In turn meaning that to make the best of the current circumstances, the Pocket Park and Co-Operative Billboards remain a viable option for the continued development and maintenance for the amenity and service of the space at 374 Newcastle Street.</p>

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Determination Advice Notes:

1. This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.
2. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
3. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.
4. The applicant is advised that at its Ordinary Meeting on 20 October 2020, Council moved a Notice of Motion and adopted a recommendation requesting that Administration investigate the suitability of billboards through community consultation and a review of the Signage Policy by December 2021. This review should be concluded prior to the expiration of the three year development approval. The applicant is also advised that the City's Local Planning Strategy and Local Planning Scheme No.2 is due for review in 2023. The review of the Signage Policy and the preliminary review of the Local Planning Scheme No.2 has identified the potential for a new land use definition for 'Signage – Billboards' to be included and to apply an 'X' land use classification in all zones. This review and any potential amendments could be concluded prior to the expiration of the three year development approval. Any further applications for renewal of the billboard signage would be subject to assessment against the applicable planning framework at that time and it cannot be guaranteed that any such applications would receive a favourable determination by the City for these reasons.
5. The applicant is reminded that the letter size and legibility of text should accord with the guidelines set out in Austroads' Guide to Traffic Management Part 10 – Traffic Control and Communication Devices and shall not include website and social media email addresses or text messaging instructions.