



CITY OF VINCENT

NOTES

Council Briefing

13 September 2022

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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, 13 SEPTEMBER 2022 AT 6.00PM**

PRESENT:	Mayor Emma Cole Cr Susan Gontaszewski Cr Alex Castle Cr Jonathan Hallett Cr Dan Loden Cr Suzanne Worner Cr Ron Alexander Cr Ross Ioppolo	Presiding Member South Ward North Ward South Ward North Ward North Ward North Ward South Ward (electronically)
IN ATTENDANCE:	David MacLennan Peter Varris Virginia Miltrup John Corbellini Jay Naidoo Rhys Taylor Tara Gloster Karsen Reynolds Joslin Colli Wendy Barnard	Chief Executive Officer A/Executive Director Infrastructure & Environment Executive Director Community & Business Executive Director Strategy & Development Manager Development & Design (left at 7.07pm after Item 5.1) Executive Manager Financial Services (electronically) (left at 7.55pm after Item 7.6) Manager Policy and Place (left at 7.26pm after Item 5.6) Coordinator Planning Services (left at 7.07pm after Item 5.1) A/Executive Manager Corporate Strategy & Governance Council Liaison Officer
Public:	Approximately seven 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

Cr Ashley Wallace on approved leave of absence from 27 August 2022 to 18 September 2022.

Cr Worner advised that she no longer requires the approved leave of absence for the period 7-24 September 2022 and will be in attendance.

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 Colin Cafarelli of North Perth – Item 5.2

- Stated that he is the applicant for the development

- Presented photos of the proposed development to show that it complies with regulations
- Mentioned that 13 Blake Street was allowed to build a three storey building

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

3.2 Melissa Ledger of Shakespeare Street – Item 5.3 and 5.4

- Spoke in favour of the recommendations to refuse
- Mentioned that she is a health professional in the field of cancer prevention
- Stated that there are significant health risks to shisha smoking, both to the smoker and those exposed to second hand smoke
- Agreed with the reasons given in the reports for the refusal recommendations

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

3.3 Theresa Mangione of Perth – Item 5.1

Ms Mangione provided the following written statement, which she spoke to:

I am the owner of the neighbouring property on the eastern side 103/105 Summers Street, also of 36 Cheriton Street on the northern side at the rear of the proposed development, which is also included in the subject site and scheme area.

I am all for progress and development in the street, however not when the properties surrounding the new development will be adversely affected. I have 3 objections that heavily affect my properties:

1. Height of the Build

The height is too excessive, 6 units are very large and do not match the density of the other properties in Summers Street. If the unit numbers were to be reduced, as in line with neighbouring developments (not Lord Street) the height would be reduced to equal 111 Summers Street, which at 3 levels is more than enough.

Photo 1 - shadowing and privacy - This is a photo I took showing the shadow cast on 107 Summers Street. The building is exactly the same configuration as the child care centre next door. As you can see, if one more level is added the entire property will be in darkness on the eastern side of the new development.

Diagram 2 - This was not displayed at all in any overshadowing diagram. Why was it omitted from the report? The only overshadowing diagram is the northern aspect overlooking the commercial properties on Cheriton Street. The sun goes down in the west, so why was a diagram not presented showing the overshadowing to the eastern side? The explanation in the report is that a child care centre is a commercial property and is therefore exempt from the R Codes and not required to meet the regulations.

When the child care centre was built the regulations were that it must have natural light and ventilation. These both will be taken away from the centre if a 4 level development is built next door, also with the setbacks compromised as well, bringing the building closer.

The height is justified in the report by stating there are 6 level and 8 level blocks in Summers Street. This is not true, the units they are referring to are on the Cnr of Lord & Bulwer, opposite a main intersection, overlooking a tennis court, an office block at 131 Summers Street and car yards, mechanics and gyms.

2. Privacy

New amended plans have been lodged accommodating the western side, at 111 Summers Street, but none have been amended to reduce privacy issues with 105 Summers Street or 36 Cheriton

Street. The reasoning again is that they are commercial properties and therefore no consideration for privacy applies.

[Diagram 3](#) is a photo of the Cheriton Street staff recreation and lunch area. 4 Levels with top balconies on that corner, no tree is tall enough for them to ever have privacy. Why can't they put in screening? The balconies on this side also look directly into the playground (open air) at the child care centre and private courtyard.

3. **Visitors Bay**

One visitors bay is inadequate, it does not suffice for a 6 unit property, 3 bedrooms plus study each, so potentially 6 x 4 bedroom homes. I guarantee there will be more than 1 visitor at any one time. The traffic report referenced to is outdated, since 2018, there are more business and traffic interactions in the area both day and night that occupy the majority of the bays. I don't think including bays in Cheriton Street or Claisebrook can justify this one bay adaptation to the regulations required.

Conclusion

This development boasts a 6.3 star rating which is fantastic, it ticks all the boxes to be approved but at the expense and detriment of the existing neighbourhood properties on all sides.

[Diagram 4](#) - They have lodged plans in the report supporting 6.3 star ratings for all units, with fantastic colour schemes, diagrams of sunlight and airflows and extra large balconies allowing the normal light to penetrate the apartments, at the expense of putting the property in darkness and taking away any natural light, air flow and privacy benefits, that I had prior to the build. The playground and all rooms adjacent to the new build that will be impacted adversely, as will the rear outdoor area of 36 Cheriton Street. The extreme height of the build and reduced set backs plus no privacy measures put in place have a huge adverse affect on the eastern and northern properties. The northern property is a child care centre, a commercial property, therefore sunlight and natural airflow and privacy is not a requirement.

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

3.4 **Petar Mrdja of Perth - Item 5.1**

- Stated he is from Urbanista Town Planning, the applicant for the proposed development
- Mentioned that the site is currently a duplex lot, with separate driveways, which will be combined into one with the new development
- Stated that there are a number of amenities close to the site, making it an ideal place for density
- Mentioned that the plans have been updated following Design Review Panel and community comments
- Stated that the development has been designed to fit in with the local streetscape
- Encouraged Council to approve this development

The Presiding Member, Emma Cole, asked if they have liaised with the neighbours specifically the Child Care Centre. Mr Mrdja advised that they have not, but did consider them in the design, through the use of setbacks, putting the driveway on that side to have some separation between the development and the Centre, and the landscaping of the balconies.

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

3.5 **Giday Hailu of Perth - Item 5.3**

- Stated he is the applicant
- Mentioned that Shisha is legal in WA as long as it is outdoors

- Stated that there will only be 20 patrons, and he will install fans to disperse the smoke. He mentioned that it will not be noisy
- Mentioned that they have provided all the information the City has requested
- Encouraged Council to approve the application as they have been paying rent and bills on the premises for over a year

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

3.6 Sami Berhe of Perth – Item 5.3

- Stated he is the joint applicant for the Shisha Bar
- Mentioned that they have provided all the information the City has requested
- Encouraged Council to approve the application, as they have been paying rent on the premises for over a year with no income

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

3.7 Frances Hopkins of Mt Lawley – Item 5.4

Submitted a statement in writing, below, which she spoke to:

I am the owner of the property next door to the proposed business 225 Beaufort Street a heritage building I have operated as travellers accommodation for over 40 years. We have people from all over Australia and all over the world stay. It is operated as a quiet venue, as guests usually are from different time zones and like to have a good nights rest when they arrive before they go on tour and they are tired when they get back. Many of the bedrooms have windows facing the property line and are less than 5 metres away from the proposed outdoor area. I am very concerned about noise pollution and any air pollution that would undoubtedly disrupt my guests late at night or indeed at any other time.

Therefore any entertainment next door to the building would have an extremely detrimental effect on my business. Also the property is surrounded by residential properties right next door on the other side is a block of apartments and residential buildings on both sides at the back. The proposed venue should be in an area alongside other night time venues or offices that don't operate at night.

The whole time I have owned and operated North Lodge 225 Beaufort Street there has never been a problem with next door Commercial users but I fear this could force my business to close after just getting back on our feet after COVID.

I would stress any night time business is not suitable in this residential precinct.

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

The following questions were received in writing prior to the meeting.

Ms Yoko Kashihsara of Perth – Item 5.3

We have three questions and also would like the Councillors at the meeting to be aware we live adjoining the proposed 'Shisha Bar' and have very significant concerns about its adverse impacts, including smoke and noise, as the proposed development directly abuts established sensitive residential uses, including our house and rear outdoor living area.

Our questions are:

1. *Will Council, when this matter is considered, utilise the provisions of cl 18(4)(c) of the City's Local Planning Scheme 2, to determine that the unlisted use 'shisha bar' is, in this instance, a use that is not consistent with the objectives of the zone and therefore NOT PERMITTED? We are concerned the officers report, while finding in reason 1.1 of the officer recommendation that this is the case, the recommendation does not expressly rely cl 18(4)(c) of LPS 2 and appears to treat the 'Shisha Bar' use which is a use not listed as discretionary, when the Council is first required to determine if this is the case.*

2. *Will the Council instruct the CEO to ensure that the administration's comments in the report are internally consistent, because at the moment they are not?* For example the comments regarding Smoking Emissions on page 11 appear to reflect the broad community concerns that have been raised and the complete lack of detail provided by the applicant. However the administration comments later in the report – on page 5 of 14 of the Schedule of Submissions tells a inconsistent story - and also on page 8 of 14. It is import the Council is provided with correct, consistent and clear advice before a decision is made on this application at the Council meeting next week.
3. The comparisons drawn in the officer report to McDonalds and the Ellington Jazz Club are entirely incorrect and inaccurate. These premises do not have sensitive established residential land uses directly adjoining them (e.g. residential open balconies, back yards, bedrooms). In the case of the Ellington, this premises was required at the time the MRA granted approval, to put in place detailed noise management controls which means the music from the venue, and those attending, cannot be heard and it has no effect on neighbours. The smoking area of the Shisha Bar is required by law to be 50 percent open sided - allowing smoke and noise to directly and negatively impact the established residential neighbours. This will occur 7 days a week until late every evening. *Will Council give careful consideration to the negative amenity impacts of this proposal, including the smoke and the noise which will be directly detrimental to the adjoining established local residential amenity located immediately to the north and the south of this site?*

Veerendra Bidduluri of North Perth – Item 5.2

On a quiet family street how can we allow a 3 storey development without impacting the privacy of the neighbours? This development will end up being a watch tower for the entire street.
My property is behind this property and use the access lane next to this property. If there is active construction happening there then there needs to be enough protection on the site for my tenants while using the access lane to the Chelmsford Road.

There being no further speakers, Public Question Time closed at approximately 6.23pm.

4 DECLARATIONS OF INTEREST

Cr Ross Ioppolo declared a financial interest in Item 11.1 Claim for Reimbursement – Legal Costs as he stands to benefit from approval of this recommendation. He will not participate in the debate or vote in this matter.

5 STRATEGY & DEVELOPMENT

5.2 NO. 166 (LOT: 1, S/P: 80901) CHELMSFORD ROAD, NORTH PERTH - PROPOSED ALTERATIONS AND ADDITIONS TO SINGLE HOUSE

Ward: North

- Attachments:
- 1. Consultation and Location Map 
 - 2. Development Plans 
 - 3. Summary of Submissions - Administration Response 
 - 4. Applicant Justification 

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, REFUSES the application for Alterations and Additions to Single House at No. 166 (Lot: 1; S/P: 80901) Chelmsford Road, North Perth in accordance with the plans shown in Attachment 2 for the following reasons:

1. The development would not satisfy the Design Principles of Clause 5.1.2 Street Setbacks of State Planning Policy 7.3: Residential Design Codes – Volume 1 and the Local Housing Objectives of Clause 5.1 of the City's Policy No. 7.1.1 – Built Form because:
 - 1.1 The proposed Chelmsford Road façade would not incorporate predominant features of the streetscape and would not contribute to or be consistent with the established streetscape;
 - 1.2 The development would not provide sufficient articulation of upper floors and does not incorporate design features to minimise visual bulk and scale of the building and distinguish parts of the dwelling, and would detract from the streetscape character; and
 - 1.3 The proposed development does not appropriately consider the prevailing and future development context of Chelmsford Road as outlined in Policy 7.1.1 – Built Form;
2. The development would not satisfy the Design Principles of Clause 5.1.6 Building Height of State Planning Policy 7.3: Residential Design Codes – Volume 1 and the Local Housing Objectives of Clause 5.3 of the City's Policy No. 7.1.1 – Built Form because:
 - 2.1 The development would not respond to the surrounding development context and due to its bulk and scale would not preserve or enhance the neighbourhood context or character of the existing streetscape;
 - 2.2 The height of the proposal would not be complementary to existing developments in the streetscape as it predominantly consists of single storey dwellings; and
 - 2.3 The height of the proposal does not consider its building bulk and scale to the primary street elevation and would adversely impact the character of the existing streetscape; and
3. As a consequence of the proposed street setback, building height and building design (relating to massing, materials, detailing and roof form), the proposal:
 - 3.1 Would result in a bulk, scale and dominating appearance that would not be compatible with and complementary to the established residential area in which it is located (Clause 67(m)) of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*);
 - 3.2 Would detract from the amenity and character of the residential neighbourhood (Clause 67(n)) of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and

- 3.3 Would not enhance the amenity and character of the existing neighbourhood and is not compatible with the established area (objective of the Residential zone under Clause 16 of the Local Planning Scheme No. 2).

MAYOR COLE:

Could further information please be provided about the approval of No. 13 Blake Street, North Perth.

COUNCILLOR LODEN:

Could further information please be provided on the three storey developments referred to by the applicant in their deputation, at No. 13 Blake Street, North Perth and No. 101A Alma Road, North Perth and why these were considered to be acceptable.

COORDINATOR PLANNING SERVICES:

When considering the building height and street setback of a development, the R Codes and Built Form Policy design principles and local housing objectives require consideration of whether the development is consistent with the established 'streetscape'.

The streetscape is considered to be the immediate area surrounding the subject site, which in this case is Chelmsford Road and Leake Street.

The surrounding context along Chelmsford Road, as well as on Leake Street is dominated by low-scale residential development with predominantly single storey character dwellings with some two-storey contemporary developments. The planning framework for this area sets a deemed-to-comply height of two storeys for this immediate streetscape.

Administration have reviewed the information provided by the applicant regarding other developments at No. 13 Blake Street and No. 101A Alma Road. Neither of the developments referred to by the applicant are within the immediate streetscape of No. 166A Chelmsford Road.

No. 101A Alma Road, North Perth

No. 101A Alma Road, North Perth is a three-storey single house that was approved by Council at its 29 May 2018 Ordinary Meeting.

The site is zoned R40 and is within the Residential Built Form Area with a two storey height standard. It is bounded on three sides by rights of way. To its west, across a 5 metre wide right of way, lots are zoned District Centre and are within the Town Centre Built Form Area with a building height standard of six storeys.

The development uses an asymmetrical gable roof design. Assessed under the current planning framework the development incorporates a maximum wall height of 7.6 metres and ridge height of 10.1 metres in lieu of the deemed-to-comply height of 7 metres wall height and 10 metres ridge height.

The third floor of the dwelling is partially concealed within the roof space of the development which assists in reducing the apparent impact of the third storey. The development also incorporates a variety of design features including colours and materials and setbacks to provide articulation to the façades which assist in reducing the bulk of the development and integrating it into the Alma Road streetscape and adjacent District Centre.

No. 13 Blake Street, North Perth

No. 13 Blake Street is a three-storey ten multiple dwelling development on a 1,011 square metre lot that was ultimately approved by the JDAP on 7 October 2019 and is currently under construction.

The site is zoned R30/R40 and is within the Residential Built Form Area within a two-storey building height area.

The site has frontages to Blake Street and Donley Lane. The site slopes down approximately 2.4 metres from Blake Street to Donley Lane. The three storey portions of this development are contained to the lower southern (Donley Lane) portion of the site, with a two-storey presentation to Blake Street.

The City recommended that the application be refused because of the presentation of building bulk to

adjoining properties and inconsistency with the existing neighbourhood streetscape character. The development was deferred by the JDAP at its 23 May 2019 meeting. The application was then appealed to the State Administrative Tribunal and following modifications to the design, was approved by the JDAP under a Section 31 reconsideration on 7 October 2019.

While the City was of the opinion that the proposed development was not consistent with the Donley Lane streetscape, it was noted in the City's Responsible Authority Report that the three storey building responded to the topography of the site and the façade incorporated articulation through the use of colours and materials to reduce the appearance of building bulk.

MAYOR COLE:

Could the Administration please make contact with the applicant to enquire whether they are willing to modify the proposal to address the concerns raised in the report and expressed by the community?

COORDINATOR PLANNING SERVICES:

Administration met with the applicant on the morning of 15 September 2022 to discuss the proposal and encourage modifications to be made to the plans to address Administration's concerns relating to building height and bulk.

While the applicant advised they were willing to consider modifications to the primary street setback of the second (top) floor, this would not sufficiently address the overall height or the reasons for refusal.

The applicant advised they did not wish to work with Administration to find solutions to the current concerns and requested that the application be determined based on the current plans. They advised that they would likely appeal any determination to the SAT.

Previous Discussions with Applicant

Following submission of the development application in July 2021, Administration made numerous efforts to work with the applicant to achieve modifications to the proposal that would result in a favourable outcome.

The City sent two formal letters requesting modifications to the plans. A number of phone calls were made with the applicant and their designer which offered in-person meetings to discuss the proposal and potential solutions. These offers were not accepted by the applicant and on 10 June 2022 they requested the proposal be determined based on current information. The City then advertised the proposal before presenting the application to Council for determination.

CR LODEN:

Please provide clarification on the lot boundary setbacks that have been provided.

COORDINATOR PLANNING SERVICES:

The R Codes provide the following deemed-to-comply setbacks to the northern boundary:

- 1.2 metres for the first floor; and
- 1.4 metres for the second floor.

The first and second floors propose a setback of 7 metres to the northern lot boundary to No. 166A Chelmsford Road.

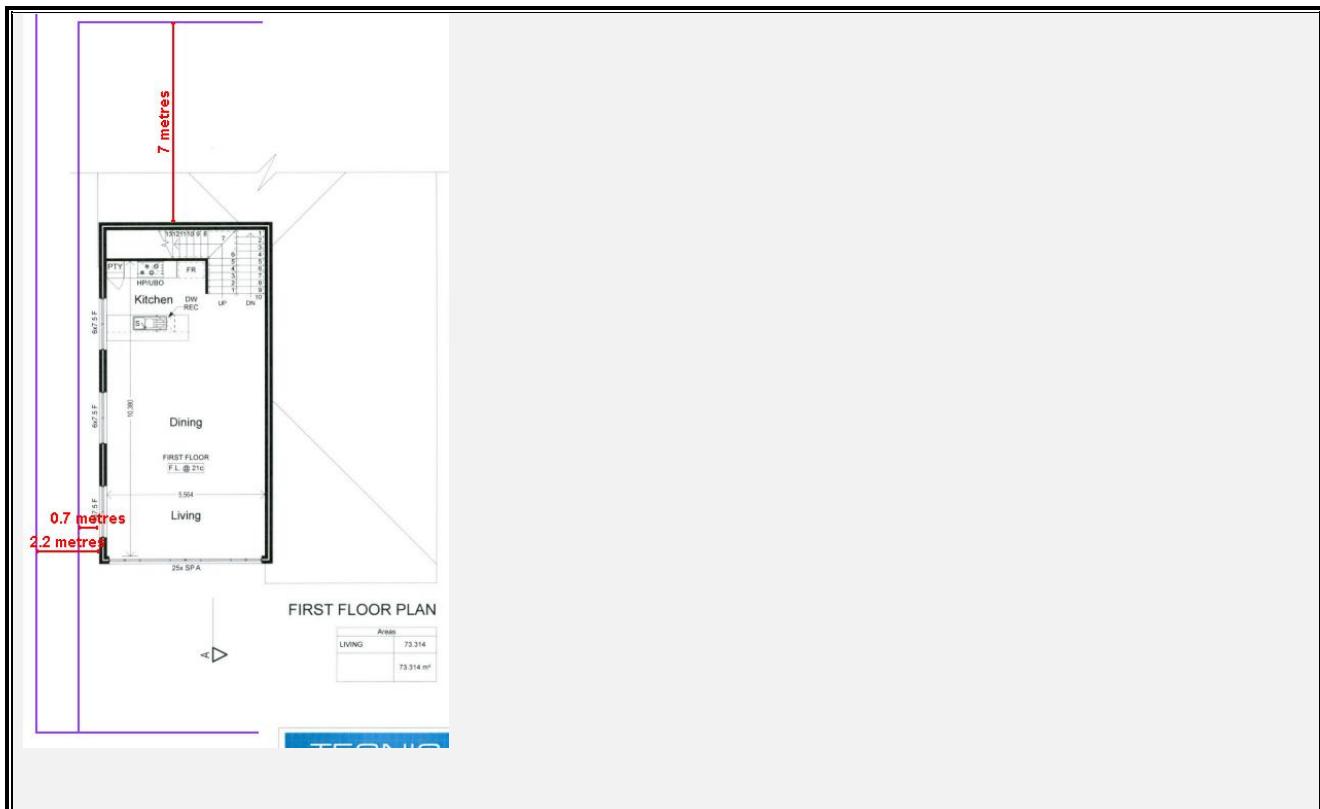
The R Codes provide the following deemed-to-comply setbacks to the western boundary:

- 1.5 metres for the first floor; and
- 1.8 metres for the second floor.

The development propose a setback of 0.7 metres to the western survey strata lot boundary.

Due to the subdivision of the original lot, a 1.5 metre wide pedestrian access leg to No. 166A Chelmsford Road runs along the western boundary of the subject site. The first and second floor would be set back 2.2 metres from the original western lot boundary.

The lot boundaries and the setbacks proposed from the additions are shown in the below image.



5.3 NO. 221 BEAUFORT STREET, PERTH - CHANGE OF USE FROM EATING HOUSE TO RESTAURANT/CAFÈ AND UNLISTED USE (SHISHA BAR) INCLUDING ALTERATIONS AND ADDITIONS (SIGNAGE)

Ward: South

Attachments:

1. Consultation and Location Map 
2. Development Plans 
3. Noise Management Plan 
4. Venue Management Plan 
5. Land Use Context Plan 
6. Previous Approvals 
7. Summary of Submissions - Administration's Response 
8. Summary of Submissions - Applicant's Response 

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, REFUSES the application for Change of Use from Eating House to Restaurant/Café and Unlisted Use (Shisha Bar) including Alterations and Additions (Signage) at No. 221 (Lot: 3; D/P: 1879) Beaufort Street, Perth, as shown in Attachment 2, for the following reasons:

1. As a consequence of the location of the Unlisted Use (Shisha Bar) within an unenclosed patio at the rear of the subject site and adjoining residential and other sensitive land uses, with this exacerbated by the operating hours and intensity of the Unlisted Use (Shisha Bar), the proposal:
 - 1.1 Would be inconsistent with the objectives of the Commercial zone under the City of Vincent's Local Planning Scheme No. 2, as the development would be detrimental to the amenity of the adjoining properties. This is because it would result in smoke, vapour and odour emissions associated with the use. The off-site amenity impacts related to these emissions from the proposal would negatively impact on adjoining properties;
 - 1.2 Would have an undue amenity impact on the adjoining residential and sensitive land uses, and subsequently would not be compatible with its setting, as the proposal has not demonstrated that the emissions associated with the use could be appropriately mitigated as outlined in reason 1.1 (Clause 67(m), (n) and (x) of the *Planning and Development (Local Planning Schemes) Regulations 2015*);
 - 1.3 Would have an adverse impact on the amenity of the adjoining properties as evidenced through written objections received from surrounding owners and occupants (Clause 67(y) of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and
 - 1.4 Would be inconsistent with orderly and proper planning as it would be inconsistent with the objectives and approach of the City's draft Local Planning Policy: Restricted Premises – Smoking. This is because the proposal has not demonstrated that the emissions associated with the use could be appropriately mitigated as outlined in reason 1.1 (Clause 67(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and
2. As a consequence of the extent of the proposed Alterations and Additions (Signage), the proposal:
 - 2.1 Would not satisfy the objectives of the City's Local Planning Policy – Signs and Advertising as it would result in a proliferation of advertisement that is not aligned with the City's Public Health Plan objective to reduce exposure of tobacco advertising; and
 - 2.2 Would be inconsistent with orderly and proper planning as it would be inconsistent with the objectives and approach of the City's draft Local Planning Policy: Restricted Premises – Policy for the reasons outlined in reason 2.1 (Clause 67(b) of the *Planning*

and Development (Local Planning Schemes) Regulations 2015).

MAYOR COLE:

At the time when the plans were submitted for the patio that was approved under delegated authority, was that structure labelled a smoking area? Was Administration aware that the purpose of the patio was primarily to be a patio that would be appropriate for a shisha bar?

MANAGER DEVELOPMENT & DESIGN:

No, the patio was not labelled a smoking area on the plans that were initially submitted. Administration was not aware at the time of the previous development application for the patio that the primary purpose for the patio was that it was to be used for a shisha bar.

It should be noted that the applicant for this previous application for the patio was a patio company rather than the business owner now proposing the shisha bar.

The following is a summary timeline of the City's previous discussions with the tenant of the premises:

- June 2021 – Tenant first contacts the City, seeking to confirm the approved use of the property as they would like to operate it as a café. The City confirmed a café had received previous approval at the property.
- July 2021 – Tenant engages a patio company who submits a development application for a patio at the property. The application form and plans submitted stated that the application was for a new patio associated with an existing café. Administration contacted the applicant who confirmed that the application was only for the patio.
- August 2021 – Administration completed an assessment of the application. It contacted the applicant, being the patio company, to confirm how the patio area would be used. The applicant stated that the use of the property is going to remain the same, as a café, and that the patio would be used as a seating and smoking area where no food or drinks would be served. Administration was not aware that the primary purpose of the patio and the business that would be occupying the premises was intended to be a shisha bar or a smoking related use.
- October 2021 – Administration issued approval under delegated authority for the application. The development approval includes a condition stating it is only in relation to a patio addition to a café and not any other development.
- December 2021 – The tenant of the premises submitted a food business registration form to the City. The application included their Record of Registration for Business Name, with the name being “Marihana Shisha Café”. At this point Administration became aware that the primary purpose of the business may not be intended to be a café for the provision of food and drinks. Administration contacted the tenant to explain that a shisha bar is an Unlisted Use and is considered a different land use to a café under the planning framework. Administration advised that a development application would need to be submitted, and that there is no guarantee that they would receive approval.
- March 2022 – The current development application was submitted for a shisha bar at the premises but was incomplete. The applicant is the tenant of the premises. Administration advised the tenant that the application was missing information which was needed before it could be lodged.
- April 2022 – The current development application was lodged.
- June 2022 – After the application had been assessed and community consultation had been completed, Administration contacted the tenant to advise of the submissions received during consultation and that the application would need to be determined by Council given that more than five objections were received. Administration also requested additional information to be submitted relating to reduced operating hours, an updated noise management plan, a venue management plan (including details on the management of smoke emissions) and signage. Administration advised that submitting this additional information would give them the best chance of receiving approval. Administration advised the tenant they should strongly consider whether they want to proceed with the application as there is a risk that they may not receive approval even if this information was provided. The tenant confirmed that they still wanted to proceed with the application. Administration had advised the tenant in previous discussions that they could still open the café component and operate this, but the tenant stated that this wouldn't be

worthwhile as the primary purpose of their business is a shisha bar.

- July 2022 to present – Administration continued to liaise with the tenant to assist them to provide the information that had been requested, including through multiple in-person meetings, phone calls and emails. Administration continued to reiterate that there is a risk that they may not receive approval for their application, and provided context on the City's Public Health Plan and the City's Restricted Premises – Smoking policy which was in the process of being prepared and considered by Council. The tenant continued to reiterate their frustration with the length of the process, the time and money they had invested, and that they'd first engaged with the City last year. They stated that they understood that they may not receive approval and wanted to proceed to receive a decision on the application for the purpose of certainty.

MAYOR COLE:

In relation to the report talking about emissions and the other item which has been previously operating as a shisha lounge, has there been any attempt to measure the impact of emissions?

MANAGER DEVELOPMENT & DESIGN:

For Item 5.4, which has previously operated unauthorised as a shisha lounge, there has not been any investigations or measurements taken of impacts of emissions such as smoke, vapour or odour. This is because the complaints received about the previous operations of the business were in relation to noise impacts and waste management issues. As set out in the Background section of Administration's report, in response to complaints received Administration opened an investigation into the unauthorised use and works associated with the business in accordance with the City's Policy No. 4.1.22 – Prosecution and Enforcement (Enforcement Policy), and an investigation into noise impacts in accordance with the Environmental Protection (Noise) Regulations 1997 (the Noise Regulations).

For both Items 5.3 and 5.4, Administration has not attempted to measure or investigate how emissions such as smoke, vapour or odour would be emitted from the premises, or what an acceptable level of emissions would be. As set out in the Comments section of Administration's report, Administration has noted that there is no safe level of exposure to second-hand smoke as all exposure carries risk of being potentially harmful to health. For this reason Administration considers that these emissions would have an amenity impact on the adjoining properties and associated sensitive uses that are in close proximity to the patio areas which are proposed to be used for smoking shisha. The applicants for both applications have also not provided details, reports or evidence which demonstrate that there would not be an amenity impact from smoke, vapour or odour being emitted out from the premises towards these adjoining sensitive uses.

Administration also notes that under the tobacco products legislation that shisha is legally required to be consumed within an outdoor area that is no more than 50 percent enclosed. This means that inherently the patios proposed to be used for the consumption of shisha will have open sections of roof and walls, and that there is limited ability for the applicants to contain any emissions such as smoke, vapour or odour within the patio. There is also limited ability for these emissions to be controlled and managed through the introduction of physical measures such as barriers, filters or smokestacks.

MAYOR COLE:

In relation to the three questions from Ms Yoko Kashihara, could we have some responses to those?

MANAGER DEVELOPMENT & DESIGN:

In relation to the first question, it was seeking clarification whether there needs to be specific reference to the clause of the City's Local Planning Scheme No.2 that deals with Unlisted Uses in regards to the objectives of the zone. Administration's report body set out that the proposed shisha bar would not satisfy the objectives of the zone.

Administration has reviewed this and agrees that the recommendation should include reference to the applicable clause of Local Planning Scheme No.2, being Clause 18(4) that deals with Unlisted Uses, and specifically Clause 18(4)(c) where it states that the local government may determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted. Administration's report and recommendation to Council for both Items 5.3 and 5.4 have been updated accordingly.

In addition and for both Items 5.3 and 5.4, Administration has also updated its report and recommendation to Council to include a recommended reason for refusal in relation to not meeting the Aims of the City's Local Planning Scheme No.2. This was discussed under the Comments section of the reports and the subheading 'Matters to be considered by Local Government – 1. Clause 67(2)(a) – Aims of LPS2'.

The second and third questions from the resident were responded to during the Council Briefing Session.

5.4 NO. 624 BEAUFORT STREET, MOUNT LAWLEY - CHANGE OF USE TO UNLISTED USE (SHISHA LOUNGE) INCLUDING ALTERATIONS AND ADDITIONS (UNAUTHORISED EXISTING DEVELOPMENT)

Ward: South

Attachments:

1. Consultation and Location Map 
2. Development Plans 
3. Applicant's Cover Letter 
4. Acoustic Report 
5. Land Use Context Plan 
6. Summary of Submissions - Administration'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:

1. REFUSES part of the application for Change of Use to Unlisted Use (Shisha Lounge) including Alterations and Additions (Fence and Gate) (Unauthorised Existing Development) at No. 624 Beaufort Street, Mount Lawley (Lot: 700; D/P: 400441), as shown in Attachment 2, for the following reasons:

- 1.1 As a consequence of the location of the Unlisted Use (Shisha Lounge) within an unenclosed patio and outbuilding at the rear of the subject site and adjoining sensitive residential land uses, with this exacerbated by the operating hours and intensity of the Unlisted Use (Shisha Lounge), the proposal:
 - 1.1.1 Would be inconsistent with the objectives of the District Centre zone under the City of Vincent's Local Planning Scheme No. 2, as the development would adversely impact the amenity of the adjoining properties and residential areas. This is because it would result in smoke, vapour and odour emissions, noise emissions, and impacts from the lack of management of the activities associated with the use. The off-site amenity impacts related to these emissions from and the activities of the proposal would negatively impact on adjoining properties;
 - 1.1.2 Would have an undue amenity impact on the adjoining sensitive residential land uses, and subsequently would not be compatible with its setting, as the proposal has not demonstrated that the emissions and activities associated with the use could be appropriately mitigated as outlined in reason 1.1.1 (Clause 67(m), (n) and (x) of the *Planning and Development (Local Planning Schemes) Regulations 2015*);
 - 1.1.3 Would have an adverse impact on the amenity of the adjoining properties as evidenced through written objections received from surrounding owners and occupants (Clause 67(y) of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and
 - 1.1.4 Would be inconsistent with orderly and proper planning as it would be inconsistent with the objectives and approach of the City's draft Local Planning Policy: Restricted Premises – Smoking. This is because the proposal has not demonstrated that the emissions and activities associated with the use could be appropriately mitigated as outlined in reason 1.1.1 (Clause 67(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and
 - 1.2 As a consequence of the height and materials of the proposed Alterations and Additions (Fence and Gate) at the front of the subject site along the Beaufort Street frontage, the proposal:
 - 1.2.1 Would not satisfy the Element Objectives of Volume 3 Clause 1.7 – Public Domain

Interface of the City's Policy No. 7.1.1 – Built Form as it would not enhance the amenity and safety of the adjoining public domain; and

1.2.2 Would not satisfy objectives of the District Centre zone under Local Planning Scheme No.2 as it would not result in high quality, pedestrian-friendly, street-orientated development that responds to and enhances key elements of the District Centre; and

2. APPROVES part of the application for Alterations and Additions (Patio) (Unauthorised Existing Development) at No. 624 Beaufort Street, Mount Lawley (Lot: 700; D/P: 400441), as shown in Attachment 2, subject to the following conditions and advice notes included in Attachment 7:

- 2.1 This approval is for Alterations and Additions (Patio) as shown on the approved plans dated 21 December 2021. No other development forms part of this approval; and
- 2.2 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:

If we do approve a patio can it be stipulated that this is not to be used as a smoking area for the purposes of an Unlisted Use (Shisha Lounge) that cannot be used as a smoking area?

MANAGER DEVELOPMENT & DESIGN:

The following changes have been made to Administration's recommendation:

- Condition 2.1 has been updated to specify that the patio addition is to the existing shop use.
- Condition 2.2 has been added stating that the patio addition shall not be used for the purpose of an Unlisted Use (Shisha Lounge) or the like.
- Advice Note 6 of the Determination Advice Notes in Attachment 7 of Administration's report has been included that states that the approval of part of the application is for the patio addition only, and that the Unlisted Use (Shisha Lounge) subject to the application will need to remain ceased. It then states that any use of the patio for a different activity that is not associated with the approved use of the site for a shop use, may require development approval prior to it occurring.

This would ensure that the patio cannot be used for the purpose of an Unlisted Use (Shisha Lounge) and that the applicant is notified that any other activities may need development approval.

CR CASTLE:

If this is passed as recommended by Administration to refuse the application but approve the patio, what does this practically mean for the applicant? With a patio approval, where does this leave us with noise and the noise complaints that have been received in the past?

If we are to approve the patio, but refuse the application for change of use, then what types of use would be available to applicant under the existing approval? Just so we're aware what we are potentially approving if the applicant decides to change tack, not to seek a change of use but to open an establishment using the patio, what types of uses would that entail and what hours would they be able to operate?

MANAGER DEVELOPMENT & DESIGN:

For both Items 5.3 and 5.4, and if the shisha bar/lounge use component of the applications is refused, the applicants are able to operate businesses that are consistent with existing approved uses of their respective sites.

The property subject of Item 5.3 has an existing approved use allowing a restaurant/café to operate and the property subject of Item 5.4 has an existing approved use allowing a shop to operate. This extends to any patio areas approved on the sites and in accordance with any conditions of approval.

Alternatively, they could operate a use at these properties (including within the buildings and patio areas) which is a 'P' (Permitted) use under the City's Local Planning Scheme No. 2 that are exempt and do not require development approval within those zones under the Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations). This could include uses such as Restaurant/Café, Shop or Liquor Store – Small. As they are exempt from requiring development approval, there would be no restriction on operating hours.

If these other uses were to operate at the properties and under the patio areas, they would still be subject to the requirements and assigned noise levels under the Environmental Protection (Noise) Regulations 1997 (the Noise Regulations).

Similar to what occurred when the business subject of Item 5.4 has previously operated, if complaints are received about other uses then Administration would complete investigations in accordance with the City's Policy No. 4.1.22 – Prosecution and Enforcement (Enforcement Policy) and the Noise Regulations. Administration would then take actions accordingly if it was found that the uses were non-compliant with the relevant requirements.

Administration also notes that whether or not there are patios located over the rear spaces of these properties, these spaces could still be occupied and used as part of the activities associated with a previously approved or exempt use.

CR IOPPOLO:

When an application or recommendation is refused for change use, but is approved in relation to a patio, is there any mechanism in the planning guidelines that says that if more of what is considered material (i.e. the change of use) is being denied, that the whole application needs to be denied? Or is it possible that a less material item can be approved but a more material item be knocked back?

MANAGER DEVELOPMENT & DESIGN:

As set out in the Legal/Policy section of Administration's report, Clause 73 of the Planning Regulations provides the ability for approval to be granted for a part or aspect of that development for which approval is sought.

As part of this application, approval is sought for a development made up of two components being 1. the proposed use of a shisha lounge, and 2. works including signage, a patio and a fence and gate.

Under Clause 73 of the Planning Regulations, it is possible for the patio works to be approved while other parts or aspects of the application are refused (such as the shisha lounge use and the fence and gate works).

Administration also notes that the patio for which approval is being sought has already been installed on the site (as are the fence, gate and signage).

5.1 NOS. 107 - 109 (LOTS: 1 - 2; S/P: 1896) SUMMERS STREET, PERTH - PROPOSED SIX GROUPED DWELLINGS

Ward: South

Attachments:

1. Consultation and Location Map 
2. Final Development Plans 
3. Environmentally Sustainable Design Report 
4. Urban Design Study 
5. Superseded Development Plans 
6. Summary of Submissions - Administration's Response 
7. Summary of Submissions - Applicant's Response 
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 development application for Six Grouped Dwellings at Nos. 107 – 109 (Lots: 1 - 2; S/P: 1896) Summers Street, Perth in accordance with the plans in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 8:

1. Development Plans

This approval is for Six Grouped Dwellings as shown on the approved plans dated 20 July 2022. 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

- 4.1 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; and
- 4.2 Prior to occupancy or use of the development, permanent fixed cabinetry no less than 600 millimetres in width shall be provided against the western wall of the 'Kitchen' of Unit 6, 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 they are attached so as to not be visually obtrusive, to the satisfaction of the City;

6. Landscaping

- 6.1 All landscaping works shall be undertaken in accordance with the approved plans dated 20 July 2022, prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City; and
- 6.2 Prior to the first occupation of the development, the redundant or “blind” crossovers shall be removed, the verge area landscaped and the kerb made good to the City’s specifications and to the satisfaction of the City, at the applicant/owner’s full expense;

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 metres 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 driveways and parking areas shall be in accordance with AS2890.1;
- 9.2 All driveways, car parking and manoeuvring areas 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;
- 9.3 Prior to the occupation or use of the development, one visitor parking bay shall be permanently marked, maintained and legally accessible at all times for use exclusively by visitors to the property, be clearly visible or suitably sign posted from the street or communal driveway and be located, together with the reversing area, in front of any security gates or barrier for the development unless otherwise approved by the City; and
- 9.4 No good 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. Construction Management Plan

A Construction Management Plan shall be lodged with and approved by the City prior to issue of a building permit. This plan is to detail how construction 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;
- The impact on traffic movement;
- Notification to affected land owners; and
- Construction times.

The approved Construction Management Plan shall be complied with for the duration of the construction of the development; and

11. Noise Attenuation Requirements

- 11.1 Prior to the issue of a building permit a detailed Noise Management Plan must be submitted to and approved by the City which demonstrates that the development has been designed to meet the relevant requirements of State Planning Policy 5.4 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning' (SPP5.4). The report must be prepared by a suitably qualified and competent person in accordance with the SPP5.4; and
- 11.2 Prior to occupation or use of the development, the development shall incorporate all noise mitigation measures as outlined in the noise management plan or quiet house design package, to the satisfaction of the City.

CR LODEN:

Comments from the DRP Chair received regarding the additional treatments of the garages. Seek clarification as to whether Administration is disagreeing with the DRP Chair, and that garage doors are acceptable as they are, and there is sufficient variable materials used on the site.

COORDINATOR PLANNING SERVICES:

The materiality of the garage doors as well as the colours and materials throughout the development are supported by Administration.

This is because design measures delineate the ground floor from the first floor above and break down the massing of the ground floor of the dwellings as they present to the common property.

Although further changes to the garages were not undertaken as part of the final plans as recommended by the DRP, the DRP Chairperson noted that the revised selection and application of colours and materials have reduced the visual impact of the dwellings and their interaction to the common property.

CR LODEN:

The plans show deep soil zones and four trees on the eastern side of the lot (driveway). Two of the trees have deep soil zones and two do not. Why is this? Refer page 30 of the plans.

COORDINATOR PLANNING SERVICES:

The two trees along the eastern boundary have been provided in tree-triangles that measure 1.1 metres by 1.5 metres that do not constitute deep soil zones.

The City's Parks team confirmed the tree-triangles could accommodate the growth of medium trees such as a coral gum. The tree-triangle configuration has been provided to reduce conflict with the adjacent driveway.

CR LODEN:

The driveway and crossover are removed to Lot 107. Would like to better understand why an additional verge tree cannot go in there. There is a tree right next to existing tree why is this not the same for an additional new/proposed tree.

COORDINATOR PLANNING SERVICES:

An additional verge tree cannot be provided to the western portion of the verge as:

- *The two Tipuana Tipu trees in the verge have a maximum canopy width of 20 metres and have not yet grown to maturity. The current verge trees are 10 years (eastern tree) and 4 years old (western tree), and would likely reach maturity 20 years after planting; and*
- *The 5 metre separation between the existing western verge tree and the adjoining western property is insufficient for an additional tree without compromising the growth of proposed trees in the front setback, and that of the existing verge trees to both the subject site and adjoining western property.*

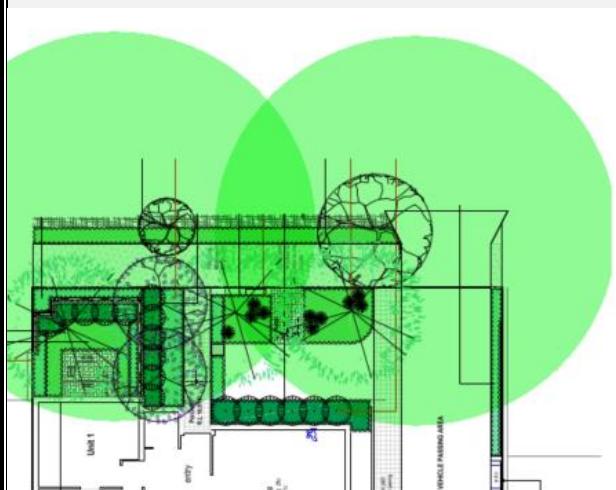
The City's Parks team have noted that the canopy coverage of the existing verge trees to Summers Street are not accurately demonstrated on the site plans.

The diagram below demonstrates an example of the potential maximum canopy of these trees maturity.

Nearmaps Aerial – 30 August 2022 – Example of *Tipuana Tipu* tree canopy at maturity on Windsor Street



Indicative image of verge tree canopy at a 20 metre maturity at the subject-site:



CR ALEXANDER:

The existing development to the west has floor to ceiling windows. The setbacks to the new development are reduced. Are there issues with bulk and privacy issues because of this?

COORDINATOR PLANNING SERVICES:

Building Bulk Impacts to the West

The building has been designed to reduce building bulk impacts to the adjoining western properties. This is because:

- *There are no major openings on the upper floors of the adjoining development to the west facing the subject site;*
- *The western properties upper floor windows facing the subject site have a sill height of 1.6 metres above their respective floor level; windows are frosted to a height of 1.6 metres above finished floor levels; and balconies are screened;*
- *The screening of windows and balconies at the western property reduces vision to the western façade of the subject site; and*
- *Compliant ground floor setbacks with the deemed-to-comply standards are provided to the east-facing courtyards of the adjoining western properties. The articulation and design detail provided to the western façade of the subject site would further assist in reducing visual impacts to the eastern adjoining properties.*

Visual Privacy Impacts to the West

All openings from the subject site facing the western property meet the deemed-to-comply standards of the R Codes Clause 5.4.1 Visual Privacy with the exception of the Unit 6 kitchen window.

While the Unit 6 window does not comply with the cone of vision setback of 4.5 metres, Administration have recommended Condition 4.2 which requires permanent cabinetry to be installed which would increase the cone-of-vision setback to meet the deemed-to-comply standard of 4.5 metres from the western boundary.

All other upper floor windows comply with the deemed-to-comply standards given they are provided as highlight windows or as minor openings to non-habitable spaces such as stairwells or foyers (stair landings).

The adjoining western properties would not be adversely impacted from overlooking and subsequent loss of privacy for these reasons.

CR CASTLE :

Seek clarification on query raised in the gallery around the impact on overshadowing and visual privacy on surrounding commercial properties and how that is different in this case, particularly in relation to the child care.

MAYOR COLE:

Can impacts from overshadowing and visual privacy be considered from a sensitive use and amenity perspective? There is the babies play area and large external play area at the rear. Is it possible to get an idea as to what the view lines would be like from those balconies as to where this would fall and how much coverage the shade sail provides. Also any feedback from the child care centre itself regarding any perceived or real impact to their amenity.

COORDINATOR PLANNING SERVICES:

Yes, amenity impacts from overshadowing and visual privacy are relevant. The R Codes prescribes standards for residential development to protect the amenity of adjoining properties where they are residential.

The commercial sites to the east and south of the development site, which include a warehouse and a child care centre are not subject to the visual privacy and shadow deemed-to-comply standards.

Clause 67 in the Deemed Provisions of the Planning Regulations sets out matters to be considered by the decision maker in determining a development application. This includes the consideration of amenity of the locality and this is not limited to the impact of a development on residential properties only.

In considering the impact on the amenity of the child care centre based on visual privacy and overshadowing, the applicant has introduced the following measures to reduce actual and perceived shadow and privacy impacts:

- The location of the driveway provides separation between the proposed development, reducing visual impacts and shadowing to the east;
- Planter boxes to a depth of 0.8 metres are provided along the balconies to increase separation between the dwellings and child care centre, to reduce the vertical overlooking and to provide a landscaping buffer; and
- The child care centre is open from 7:00am to 6:30pm Monday to Friday. The use of the balcony spaces is most likely to occur on weekends and after the end of the working day.

The child care centre is located in a residential zone and an area that permits medium-high density residential development. The proposed development is of a density and scale planned for the area. The design would not unreasonably impact the amenity of the neighbouring properties, including the child care centre as well as the streetscape.

Vertical Cone of Vision Diagrams 103 – 105 Summers (Child Care Centre)

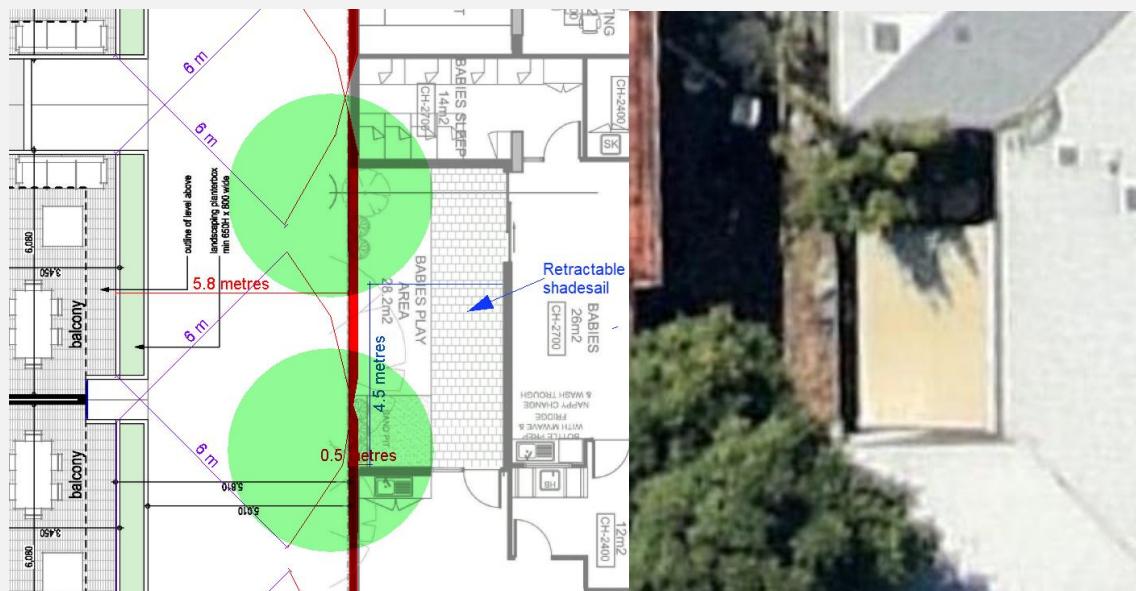
Administration have prepared visual privacy diagrams to demonstrate how the development relates to the child care commercial land use.

The diagrams demonstrate that the development would not have adverse amenity, privacy and shadow impacts on the child care centre.

Babies Play Space

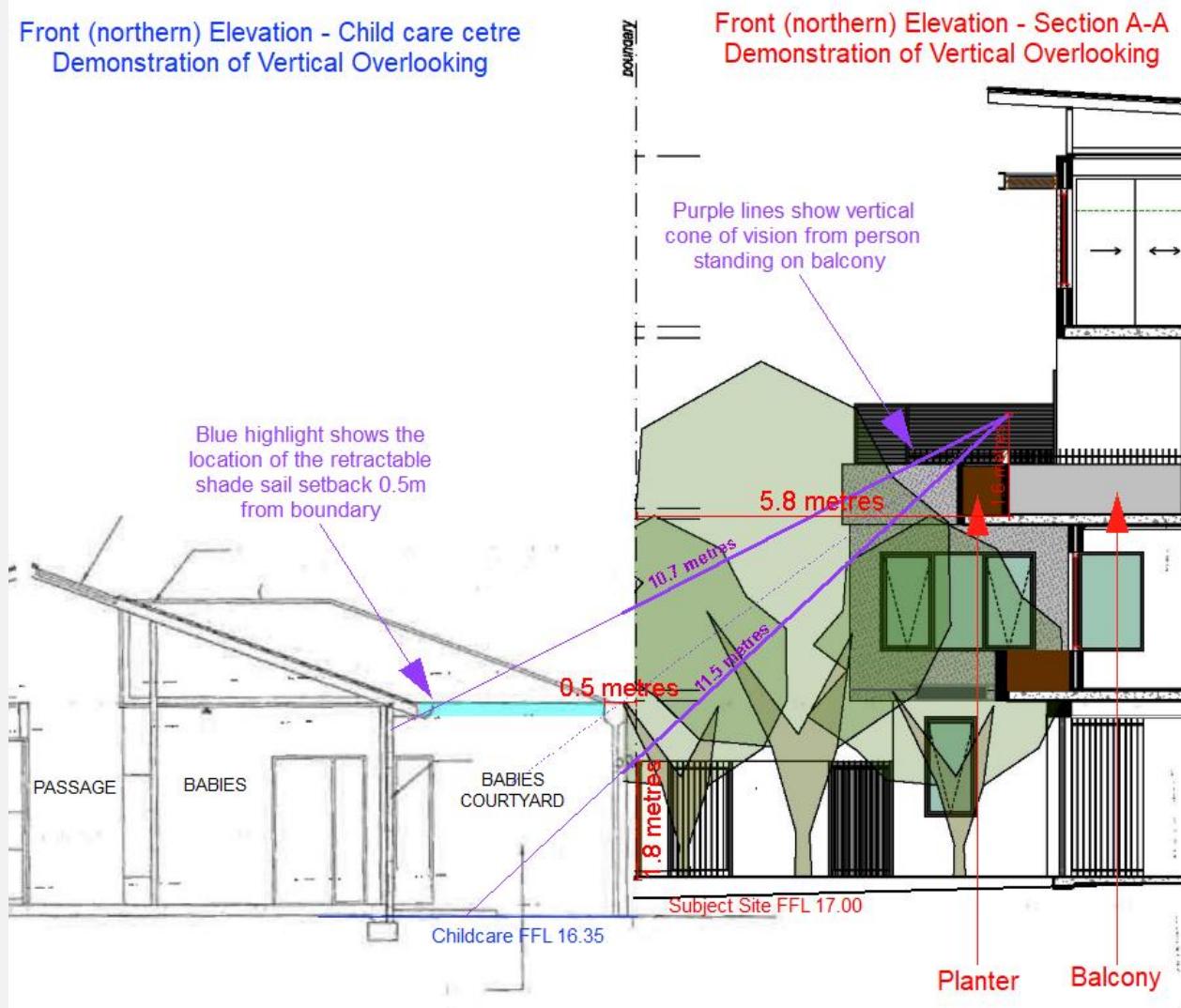
- The balconies provide a 5.8 metre setback to the eastern boundary from the internal balcony edge. If the eastern property was residential, the balconies would require a deemed-to-comply 6.0 metre cone-of-vision setback would apply to the eastern boundary as per the R Codes;
- Two medium trees are proposed to the eastern boundary to align with location of the play space, assisting in reducing overlooking;

- An existing evergreen tree exists in the baby play space as well as a retractable shade sail that sits 0.5m from the shared boundary; and
- Vertical overlooking is largely restricted by the abovementioned elements before it reaches windows and the outdoor play space.



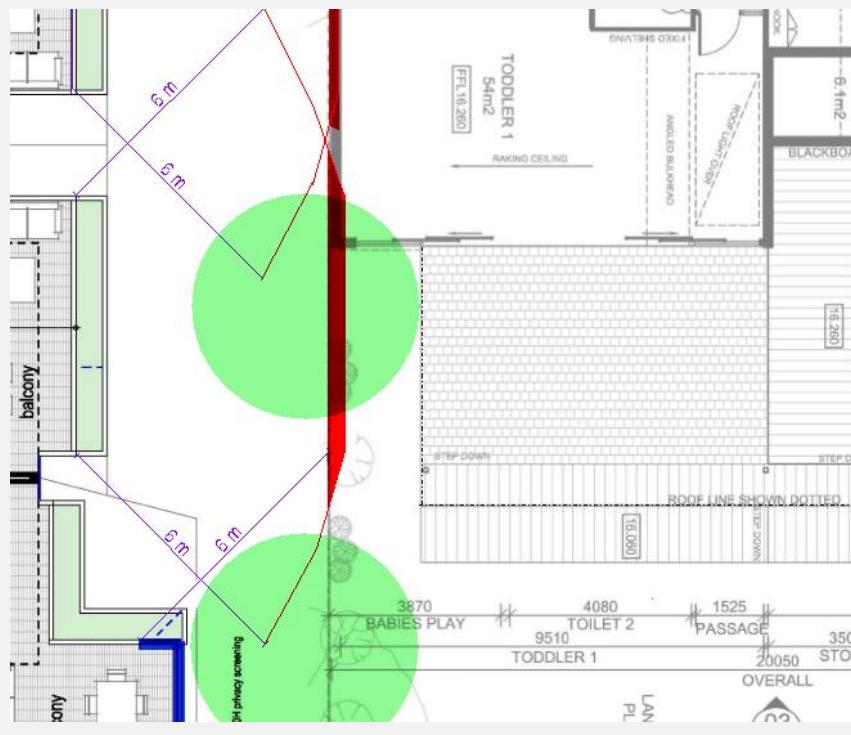
Front (northern) Elevation - Child care centre
Demonstration of Vertical Overlooking

Front (northern) Elevation - Section A-A
Demonstration of Vertical Overlooking

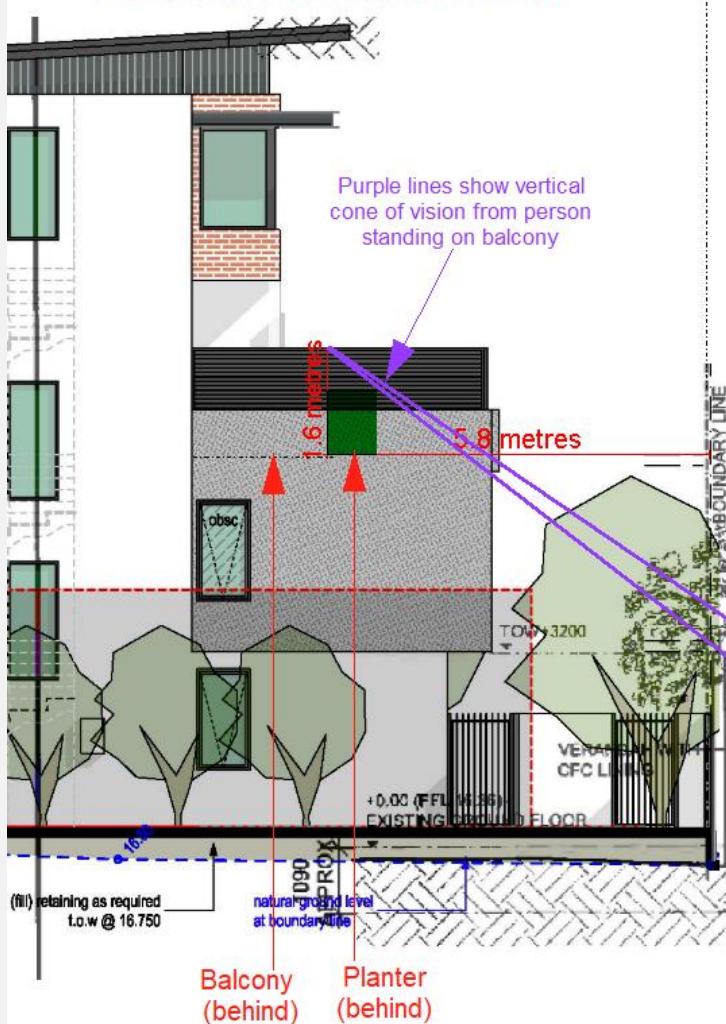


Rear External Play Space

- The 1.6 metre high screening to the eastern portion of the Unit 6 balcony reduces overlooking;
- The unscreened balconies provide a 5.8 metre setback to the eastern boundary from the internal balcony edge. If the eastern property was residential, a deemed-to-comply standard of 6.0 metre cone-of-vision setback to the eastern boundary would apply;
- The height of the balcony planter boxes reduce the extent of vertical overlooking;
- The Unit 6 balcony facing north provides a 6 metre minimum setback to the east;
- Two medium trees proposed to align with location of the play space for landscape screening; and
- The vertical cone of vision would fall to the boundary walls and roofline of the toddler's room and the covered sections of the rear play area.



**Rear (southern) Elevation - Proposed Development
Demonstration of Vertical Overlooking**



**Rear (southern) Elevation - Child care centre
Demonstration of Vertical Overlooking**

COLORBOND ROOF SHEETING TO NEW & EXISTING (MODIFIED) ROOF. NEW ROOF PITCH TO MATCH EXISTING (NOM. 20°)

CF
TEXTURE

N.G.L. ON BOUNDARY

MAYOR COLE:

Neighbouring property at No. 103 – 105 Summers request a shadow diagram be provided specific to this property. Can this be provided

CR ALEXANDER:

The overshadowing diagram is not representative of the entirety of a day or the seasonality of the sun's passage. Shadowing of the western building will occur of a greater impact because the building is much closer to the boundary.

COORDINATOR PLANNING SERVICES:

The extent of shadow is calculated to the southern boundary under the R Codes. This is because it demonstrates the worst case shadow cast developments at the winter solstice on 21 June when the sun is at its lowest angle. There are not standards applicable to the shadow that would fall to other elevations throughout the day.

In addition, the commercial properties to the east and south of the subject site are not subject to the solar access deemed-to-comply standards.

Administration has prepared an additional overshadowing diagram which depicts the location and extent of shadow from the subject site to the eastern adjoining property at 3:00pm on 21 June.

The shadow would largely fall to the roof of the child care centre as well as to the external spaces of the babies play area and portions of the landscaped play area to the rear.

The external baby play space of the child care centre would already receive shadow from a standard

1.8 metre dividing fence and portions of the rear external play space would already receive shadow from the child care building itself. Portions of rear play space would remain open to sunlight at different times during the day.



CR ALEXANDER:

Streetscape elevation is not to scale and does not show adjoining development or reflect this being 30% larger.

COORDINATOR PLANNING SERVICES:

Both Administration and the applicant have prepared streetscape diagrams depicting the proposed development in the context of the neighbouring properties.

A comparison of these diagrams is provided below. This shows the applicant's streetscape elevation is consistent with Administration's review.

Applicant's Streetscape Elevation:





CR ALEXANDER:

Suggestion from the affected properties notes that flipping the development would mitigate some impacts. Has this been explored?

COORDINATOR PLANNING SERVICES:

ADMINISTRATION discussed an alternative flipped development proposal with the applicant during the assessment but the applicant elected not to pursue this because:

- *Relocation of the current development form and footprint to the eastern elevation and driveway access to the west this would see the overall massing of the development shifted closer to the child care; and*
 - *The direct cone of vision from the balconies and major openings would fall to ground floor major openings and primary outdoor living areas of No. 111 – 113 Summers Street.*

A flipped proposal would result in adverse amenity, bulk and scale impacts on both the abutting commercial and residential properties.

CR ALEXANDER:

Parking survey was done in 2018, and now there is a child care centre. How has this been considered in the City's parking review? The site is required to have the two visitor bays.

COORDINATOR PLANNING SERVICES:

The City's Parking survey was undertaken by an independent consultant in 2018 and represents the City's most up to date parking data at this time.

The child care at No. 103 – 105 Summers Street was approved by Council at its Ordinary Council meeting on 20 September 2016 for 60 children and 15 staff and was completed in early 2018.

The City's parking survey undertaken in 2018 should have captured how and if the child care centre impacted occupancy and demand to Summers Street and the immediate locality. The City's Parking data, as noted in Administration's report, demonstrates there is on street parking capacity to Summers Street as well as West Parade, Cheriton Street and Lord Street.

The subject and neighbouring sites form part of the Perth Parking Management Plan area, which sets out maximum parking requirements. As per comments in the report, Administration are satisfied that the one visitor parking bay would be adequate to cater for the demands generated by the six dwellings proposed, having regard for the availability of on-street car parking options in close proximity to the subject site.

CR HALLETT:

Can Administration comment on the assessment regarding the sustainability? Despite reviewing the proposal four times, the DRP Chair was still of the opinion that it was still amber. We have moved towards a NatHERS 7 stars assessment and they are proposing 6.1 and 6.3. Meeting the bare minimum currently wouldn't be meeting the sustainability tick. Can Administration provide comment on that to warrant not meeting the other deviations?

COORDINATOR PLANNING SERVICES:

The applicant has submitted energy efficiency reports for each of the dwellings. The application proposes the following key sustainability measures as part of their development:

- Deciduous trees to be provided for natural shading during summer months, and to allow for low winter

- sun to penetrate and heat internal spaces in the winter months;
- Openable windows on opposing walls to facilitate cross ventilation;
- Roof overhangs and eave details to minimise excess solar gains in summer; and
- North facing habitable rooms and outdoor spaces for access to natural sunlight.

These measures would result in the development being designed to incorporate sustainability principles.

As the Environmentally Sustainable Design (ESD) local housing objectives of the City's Built Form Policy have not yet been adopted or approved by the WAPC, they are given regard only in the assessment of the application. This means that the City cannot require a higher NatHERS rating for the development proposal based on the ESD provisions itself.

The 6.1 – 6.3 Energy Efficiency ratings for the dwellings would meet compliance under the current National Construction Codes (NCC) which currently requires a minimum standard of 6-star NatHERS. The requirement for a 7-star NatHERS rating are currently voluntary until 1 May 2023 when NCC 2022 is adopted. The development would need to demonstrate compliance with the minimum NCC standard applicable at the time of their building permit lodgement.

CR GONTASZEWSKI:

Given the deviations to visitor car parking, extent of hardstand and lack of landscaping in the front setback, planting areas, upper floor balconies, lot boundary setbacks and outdoor living areas – foreshadow an alternative for refusal.

COORDINATOR PLANNING SERVICES:

Noted. Administration will prepare an alternative recommendation and will circulate this before the Council Meeting.

At 6:59 pm, Cr Dan Loden left the meeting.

At 7:02 pm, Cr Dan Loden returned to the meeting.

At 7.07pm Manager Development & Design left the meeting and did not return.

At 7.07pm Coordinator Planning Services left the meeting and did not return

5.5 ROBERTSON PARK DEVELOPMENT PLAN

- Attachments:
1. Endorsed Robertson Park Development Plan 
 2. Revised Robertson Park Development Plan 

RECOMMENDATION:

That Council:

1. APPROVES the revised Robertson Park Development Plan at Attachment 2; and
2. NOTES the revised project budget is proposed to be reflected in the 4-year Capital Works Program 2022/23 – 2025/26.

CR LODEN:

What elements of the budget are new vs renew?

MANAGER POLICY & PLACE:

The Council report has been updated to reflect what elements are new or renew as per the below:

Stage 1	Budget	Renew or New	Grant Funding	Year
Multi Sports Courts	\$338,300	renew	\$206,600	22/23 & 23/24
Tennis Courts	\$1,488,600	renew	\$825,400	23/24
Tennis Centre Entrance – thoroughfare, shelters, hit up wall, half court and furniture	\$734,700	renew	\$200,000	23/24
Project Fees – preliminaries, design contingency, professional fees and escalation	\$1,091,205			23/24
Tennis Centre – repurposing tennis hut for entrance, verandah extension, additional picnic settings and bins, additional contingencies and professional fees	\$171,300	renew/new		24/25
Stage 2	Budget	Renew or New		Year
Leisure Park – nature play and exercise equipment	\$160,000	renew		24/25
Leisure Park – seating wall, picnic settings, bench seats and lighting	\$43,700	part renew/new		24/25
Leisure Park – wetland heritage signage upgrade	\$20,000	renew		24/25
Dog Park – paving, fences and seating wall	\$91,300	new		25/26
Public Toilet	\$250,000	new		25/26
Turf/Eco Area – turf/planting, trees, path and irrigation	\$518,000	renew/new		24/25 & 25/26
Turf/Eco Area - bench seats and public lighting	\$59,500	new		24/25
Community Garden	\$22,500	new		25/26
Fitzgerald Street Crossing	\$7,100	new		25/26
Public Art (1% of total project cost - percent for art fund)	\$49,900	new		25/26

CR LODEN:

What will the Project Fees be spent on?

MANAGER POLICY & PLACE:

The Project Fees include the following elements:

Design Contingency

An allowance to cover the risk of the design complexity as the project and design evolves. This was estimated by the Quantity Surveyor at a rate of 7.5 percent. Administration revised this to a rate of 2.5 percent based on the assumption that the City will coordinate all design inputs for the construction documentation prior to tender. This sum would cover any unforeseen changes or gaps in the design during the detailed design and construction phases.

Construction Contingency

An allowance to cover the risk of variations and unforeseen items encountered during construction. This was estimated by the Quantity Surveyor at a rate of 10 percent. Administration revised this to a rate of 12.5 percent due to the complexity, risk, and profile of this project.

Preliminaries

Fees such as traffic management, general labour, plant and equipment, waste management, insurance, health and safety, site fencing, shop drawings and manuals for handover, final site clean, and storage sheds.

Professional Fees

An allowance calculated at 5 percent of the total construction costs to allow for potential consultants fees for, but not limited to electrical, structural, hydraulics and environmental professions. Administration believe this allowance is appropriate for a project of this nature, size, and complexity.

Forecasted Escalation

An allowance for the purpose of forecasting escalation. The Quantity Surveyor relies on the Construction Cost Index Forecast. Escalation has been calculated based on the project timeframe.

CR LODEN:

What was the original budget when the development plan was approved and what has changed?

MANAGER POLICY & PLACE:

The estimated project cost of Stage 1 of the Development Plan when approved in September 2021 was \$2,422,205. The project cost for Stage 1 has increased by \$1,401,900 to \$3,824,105. This increase can be attributed to the unprecedented rise in construction costs across the industry due to COVID-19, and increases resulting from a refined understanding of the scope of works through detailed design including the addition of required preliminaries, professional fees, design and construction contingency and forecasted escalation. Stage 2 has not increased.

The more significant changes to the construction costs include:

- **Preliminaries - additional \$303,000.** The Quantity Surveyor itemised the more accurate preliminaries required to implement the project.
- **Tennis Centre Thoroughfare Including Shelters, Landscaping & Furniture - additional \$262,950.** A generic rate of \$150/m² was applied to generate the original cost estimate. Detailed design has allowed for a more accurate estimate, which now factors in required drainage infrastructure, and up to date costs for landscaping and furniture items.
- **Tennis Centre Court Resurfacing, Fencing and Lighting - additional \$41,515.** This increase is due to general inflation.
- **Tennis Hitting Wall - additional \$34,100.** This increase is due to the original cost estimate being under-scope. Detailed design has allowed for a more accurate estimate.
- **Tennis Centre Entrance Upgrade - additional \$29,100.** The original estimate included provisional sums that were under-scope. Detailed design has allowed for a more accurate estimate.

- **Veranda Extension - reduction of \$98,070.** Administration identified an opportunity to reduce the footprint of this feature in order to save costs.

CR ALEXANDER:

With the new clay courts being used by Tennis West, does this reduce the community use of these courts, reducing the number of courts from 18 to 12.

MANAGER POLICY & PLACE:

Tennis West is not seeking exclusive use these courts, and strongly encourage community use. The community use of these courts was one of the reasons Tennis West chose Robertson Park as its preferred venue. Tennis West is seeking priority use on weekdays between 3pm and 7pm. The community would have use of the clay courts during weekdays until 3pm and again after 7pm and would have shared usage on weekends.

Administration has worked closely with Tennis West to ensure there is an appropriate level of tennis provision within the City of Vincent, Perth Metropolitan Area and at Robertson Park specifically. The Tennis West usage of these clay courts does not alter the City's ability to meet and exceed the required provision of tennis courts at Robertson Park and within the Perth Metropolitan Area.

CR IOPPOLO:

What is the incremental position against a do nothing scenario?

MANAGER POLICY & PLACE:

The do nothing scenario would initially cost the City over \$1,966,231. Tennis West are proposing a 25 year lease, subject to the Development Plan going ahead. Under a do nothing approach, if the City could attract a tenant, at a minimum the City would be responsible for the resurfacing costs of the hard courts every 7 – 10 years. This would total \$1,641,798 over 25 years (excluding CPI). So the total do nothing scenario would cost the City \$3,608,029 (excluding CPI).

Rent has not been included on the basis that the redevelopment of the centre, in line with the development plan, would result in the same or higher rent return to the City, compared to the do nothing scenario. This is due to the reduction of courts, which is offset by the reduction in grass court maintenance and extension of usable hours.

The implementation of Stage 1 of the Development Plan would cost the City \$2,592,105, with all ongoing annual maintenance and hard court renewal costs proposed to be met by a lessee.

In the current lease arrangement capital works are the lessor's (the City's) responsibility as per the below:

Capital Works

- (a) *The Lessor may, at its discretion, undertake Capital Works including (but not limited to) the:*

- (i) *replacement or resurfacing of the tennis courts; and*
- (ii) *replacement or upgrade of the bore and lighting at the Premises.*

The tennis courts are at end of life and require renewal if they are to continue to be used.

Financial considerations for the do nothing scenario include, but are not limited to the following:

- *\$1,591,231 for the renewal of 18 hard courts and lighting (noting that courts would not meet the current minimum required size standard)*
- *\$85,000 p/a for the grass court maintenance (with inflation to over \$1 million over 10 years)*
- *\$60,000 Bore replacement for grass courts*
- *\$230,000 for drainage works to comply with AS/NZS 3500.3*
- *The new tennis centre is costed at \$3,824,105, with \$1,232,000 anticipated funding. The City would not receive the anticipated funding for the do nothing option.*

Redevelopment of the Robertson Park tennis centre into an 18 hard court centre has been proposed in order to create a smaller and more self-sufficient facility with higher overall usage (noting the multipurpose and additional lit courts), where the City can set up a lease that requires a lessee to cover all ongoing maintenance costs, court resurfacing costs and pay into a sinking fund for the subsequent renewal requirements of the smaller but better utilised centre.

At 7.10pm David MacLennan left the meeting.

At 7.15pm David MacLennan returned to the meeting.

**5.6 COMMUNITY SPORTING AND RECREATION FACILITIES FUND FORWARD PLANNING
GRANT APPLICATION**

Attachments: Nil

RECOMMENDATION:

That Council AUTHORISES Administration to submit a funding application for the Community Sporting and Recreation Facilities Fund – 2023/2024 Annual and Forward Planning Grants for the Robertson Park Development Plan Tennis Precinct Implementation.

NO QUESTIONS

At 7.26pm Manager Policy and Place left the meeting and did not return.

6 INFRASTRUCTURE & ENVIRONMENT

Nil

7 COMMUNITY & BUSINESS SERVICES

7.1 FINANCIAL STATEMENTS AS AT 31 JULY 2022

Attachments: 1. Financial Statements as at 31 July 2022 

RECOMMENDATION:

That Council RECEIVES the Financial Statements for the month ended 31 July 2022 as shown in Attachment 1.

MAYOR COLE:

POS cash in lieu contribution, what area the money in the reserve must be spent in?

EXECUTIVE DIRECTOR STRATEGY & DEVELOPMENT:

The Planning and Development Act 2005 and the Western Australian Planning Commission's Development Control Policy 2.3 states that cash-in-lieu of public open space (POS) must be spent within the "locality" of the contribution. The term "locality" is not defined in either document but the Department of Planning, Lands and Heritage officers have advised that "locality" should be interpreted as meaning the walkable catchment of the public open space as determined by its function under the City of Vincent's Public Open Space Strategy (POS Strategy). The POS Strategy sets the walkable catchments of different types of POS, for example a 400 metre catchment for local parks and an 800 metre catchment for neighbourhood POS.

The money is required to be expended either for the purchase of land for POS or, with the approval of the Minister for Planning, for the improvement of existing POS.

In relation to the second option it should be noted that the subject site is located within the 800 metre walkable catchment Oxford Street Reserve, which is planned to be expanded and improved under the Leederville Precinct Structure Plan.

There is no timeframe placed on the City to expend the cash-in-lieu of POS.

It is proposed that the expenditure of these funds be discussed with Council as part of the finalisation of the Leederville Car Parks Request for Proposal process, so that the full context of the Oxford Street Reserve expansion can be considered.

7.2 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 1 JULY 2022 TO 31 JULY 2022

- Attachments:
- 1. Payments by EFT and Payroll July 22  
 - 2. Payments by Cheque July 22  
 - 3. Payments by Direct Debit July 22  

RECOMMENDATION:

That Council RECEIVES the list of accounts paid under delegated authority for the period 1 July 2022 to 31 July 2022 as detailed in Attachments 1, 2 and 3 as summarised below:

EFT payments, including payroll	\$6,421,741.45
Cheques	\$32,966.50
Direct debits, including credit cards	\$224,532.57
Total payments for July 2022	\$6,679,240.52

MAYOR COLE:

Why did we pay a tiler to fix a leak to the indoor pool, should that be under warranty?

EXECUTIVE MANAGER FINANCIAL SERVICES:

The tiling was damaged due to crack in pre-existing pipework that was not renewed during the renovation so it was not covered under warranty.

7.3 INVESTMENT REPORT AS AT 31 JULY 2022

Attachments: 1. Investment Statistics as at 31 July 2022 

RECOMMENDATION:

That Council NOTES the Investment Statistics for the month ended 31 July 2022 as detailed in Attachment 1.

NO QUESTIONS

7.4 OUTCOME OF ADVERTISING AND ADOPTION OF NEW COMMUNICATIONS AND SOCIAL MEDIA POLICY

- Attachments:**
- 1. Communications and Social Media Policy 
 - 2. 4.1.20 - Social Media Protocol 
 - 3. 4.1.25 - Media Policy 

RECOMMENDATION:

1. **ADOPTS** the Communications and Social Media Policy at Attachment 1; and
2. **REPEALS** 4.1.20 Social Media Protocol at Attachment 2 and 4.1.25 Media Policy at Attachment 3.

CR HALLETT:

Should 7.1 bullet point 4 be two bullets, or should it be one?

EXECUTIVE DIRECTOR COMMUNITY & BUSINESS SERVICES:

The attachment has been amended and some minor formatting changes made.

7.5 OUTCOME OF ADVERTISING AND ADOPTION OF AMENDMENTS TO RECOVERY OF DEBTS, RATES AND SERVICE CHARGES POLICY

Attachments: 1. Recovery of Debts, Rates and Service Charges Policy 

RECOMMENDATION:

That Council ADOPTS the Recovery of Debts, Rates and Service Charges Policy Attachment 1.

NO QUESTIONS

7.6 ADOPTION OF THE LONG TERM FINANCIAL PLAN FOR THE PERIOD 2022/23 - 2031/**CR LODEN:**

Low case scenario shows asset sustainability rate average of 89% which is below the criteria of 90%. Is there a way that could be amended to add slightly more money into it so that it could actually meet that criteria? What would that require, like an extra 0.2% increase in rates at some point along that journey?

EXECUTIVE MANAGER FINANCIAL SERVICES:

In the low rating scenario an additional capital investment of ~\$2.2m would be required between 2026/27 to 2031/32 to achieve an average of 90% in the Asset Sustainability Ratio across the 10 years. This would require an additional rate increase of 0.5% in 2026/27 & 2029/30.

CR LODEN::

How much does the Beatty Park grandstand contribute to the overall costs over the 10year?

Assumably BP is part of our overall assets and the grandstand is a chunk of that as well and so that contributes to how we work out our asset sustainability ratio? So based on that was interested to know how much we need to spend every year or over the 10 years to provide sufficient funding to maintain that to keep that asset sustainability target.

EXECUTIVE DIRECTOR COMMUNITY AND BUSINESS SERVICES:

The City's asset renewal program for buildings represents \$38.3m in capital expenditure over 10 years. \$914K is specifically allocated to heritage grandstand projects in the first 4 years. In years 5 to 10 of the LTFP there is a general building renewal budget of approximately \$4m per annum which is allocated within a rolling 4-year program.

A 2019 assessment of the grandstand's condition identified \$7.5m in structural repairs was required. Approximately \$300K of works has already been completed to date, and the proposed 4-year capital works program includes the heritage grandstand's electrics project at \$650K and water ingress works of \$264K [together totalling the \$914k above]. This work addresses immediate maintenance requirements in the eastern and southern wings of the heritage grandstand.

The high rating scenario of the LTFP includes sufficient funds to remediate the heritage grandstand. Full remediation of the heritage grandstand is not funded in the base scenario of the LTFP.

We are investigating the development of an asset management plan specific for Beatty Park to give us a greater understanding of the renewal requirements to maintain the facility over the next 10-15 years.

At 7.55pm Executive Manager Financial Services left the meeting and did not return.

8 CHIEF EXECUTIVE OFFICER

8.1 ADOPTION OF CORPORATE BUSINESS PLAN 2022/23 - 2025/26 AND FOUR YEAR CAPITAL WORKS PROGRAM 2022/23 - 2025/26

Attachments: 1. Draft Corporate Business Plan 2022/23 - 2025/26 and Four Year Capital Works Program 2022/23 - 2025/26 

RECOMMENDATION:

That Council:

1. ADOPTS BY ABSOLUTE MAJORITY the City of Vincent Corporate Business Plan 2022/23 - 2025/26 at Attachment 1 including the Four Year Capital Works Program 2022/23 – 2025/26, including figures as adopted in the Long Term Financial Plan; and
2. NOTES that final editorial, design and formatting of these documents will be determined by the Chief Executive Officer prior to publication.

MAYOR COLE:

Should the title include reference to the CEO KPIs?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Annual CEO Performance Review 2021-2022 and Key Performance Indicators 2022-2023 were approved by Council at its 23 August 2022 Meeting (Item 17.2). Administration notes the CEO KPIs were addressed in this aforementioned Item and are not subject of consideration in this item.

CR GONTASZEWSKI:

Community engagement column – can columns be completed, or info included in the report?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

The Community Engagement column in the Capital Works Program has been removed as the information provides little additional value. Items listed in the Capital Works Program include community consultation as required by the City's Community and Stakeholder Engagement Policy. Last year's CBP and CWP were adopted prior to the City adopting the Community and Stakeholder Engagement Policy. As this policy is now operational, Administration notes it is an appropriate informing document to direct the way in which the City consults with the community for these capital works projects.

Consultation requirements are assessed in the planning stages of each project in line with the City's Project Management Framework.

CR CASTLE:

Could we consider a change of wording for BP grandstand – to make it clearer?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

The wording for Strategic Project 3.1, Beatty Park Leisure Centre – Repair and maintain Heritage Grandstand has been amended to 'repair and maintenance of the Heritage Grandstand that includes water ingress and electric works'.

Regarding the FY23 budget for Strategic Project 3.1, the \$715,400 includes the following:

- \$200,970 carried forward budget from FY22 relating to the electrical works;
- \$250,000 relating to electrical works planned for FY23; and
- \$264,430 relating to water ingress planned for FY23.

CR IOPPOLO:

Four year capital work program, list of works by project, estimated cost, how much financed by municipal rates, existing commitments by year?

EXECUTIVE MANAGER FINANCIAL SERVICES:

The four year capital works program of works is attached with the municipal funded amounts included. Commitments have been included for 2022/23 based on information currently available and are subject to change.

8.2 INFORMATION BULLETIN

- Attachments:
1. Minutes of the Tamala Park Regional Council meeting held on 18 August 2022 
 2. Unconfirmed Minutes of the Mindarie Regional Council meeting held on 25 August 2022 
 3. Unconfirmed Minutes of the Sustainability and Transport Advisory Group - 4 August 2022 
 4. Statistics for Development Services Applications as at the end of August 2022 
 5. Register of Legal Action and Prosecutions Monthly - Confidential
 6. Register of Legal Action - Orders and Notices Quarterly - Confidential
 7. Register of State Administrative Tribunal (SAT) Appeals - Progress report as at 1 September 2022 
 8. Register of Applications Referred to the MetroWest Development Assessment Panel - Current 
 9. Register of Applications Referred to the Design Review Panel - Current 
 10. Register of Petitions - Progress Report - August 2022 
 11. Register of Notices of Motion - Progress Report - August 2022 
 12. Register of Reports to be Actioned - Progress Report - August 2022 
 13. Council Workshop Items since 26 July 2022 
 14. Council Meeting Statistics 
 15. Council Briefing Notes - 16 August 2022 

RECOMMENDATION:

That Council RECEIVES the Information Bulletin dated September 2022.

NO QUESTIONS

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**11.1 CLAIM FOR REIMBURSEMENT - LEGAL COSTS**

Attachments: 1. Cr Ioppolo Application for Legal Costs 2021 - Confidential
2. Statutory Declaration - Cr Ioppolo - Confidential

RECOMMENDATION:

That in accordance with policy 4.2.1 *Legal Representation for Council Members and Employees Council:*

1. APPROVES Cr Ioppolo's application for reimbursement of legal costs related to his summons to appear before the Court of Disputed Returns in November 2021; and
2. LIMITS reimbursement of costs in relation to Cr Ioppolo's application to \$2,376.

MAYOR COLE:

Can WALGA's advice be included in the report?

A/EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:

The information has been included in the report.

At 8:06 pm, Cr Ross Ioppolo left the meeting due to a previously declared financial interest and he did not return.

12 CLOSURE

There being no further business the meeting closed at 8.11pm.