



CITY OF VINCENT

NOTES

Council Briefing

10 September 2024

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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, 10 SEPTEMBER 2024 AT 6.00PM**

PRESENT:	<p>Mayor Alison Xamon Cr Alex Castle Cr Ron Alexander Cr Suzanne Worner Cr Nicole Woolf Cr Ashley Wallace Cr Sophie Greer Cr Ashlee La Fontaine</p>	<p>Presiding Member North Ward North Ward North Ward North Ward South Ward South Ward South Ward</p>
IN ATTENDANCE:	<p>David MacLennan Peter Varris Rhys Taylor Jay Naidoo Karsen Reynolds Mitchell Hoad David Gerrard Hannah Ellwood Dale Morissy Thomas Gosling Thomas Bruins Sarah Hill Janine Neugebauer Joslin Colli Wendy Barnard</p>	<p>Chief Executive Officer Executive Director Infrastructure & Environment A/Executive Director Community & Business Services A/Executive Director Strategy & Development A/Manager Development & Design (left at 6.48pm after Item 5.1) A/Manager Strategic Planning (left at 6.59pm after Item 5.4) Coordinator Parks Strategy and Projects A/Manager Engineering Manager Community Facilities (left at 7.08pm after Item 8.1) Coordinator Sport & Recreation (left at 7.05pm after Item 6.4) Project Engineer Manager Parks (left at 7.05pm after Item 6.4) Executive Assistant Infrastructure & Environment (left at 7.05pm after Item 6.4) Executive Manager Corporate Strategy & Governance Mayor and Council Support</p>
Public:	Approximately 10 members of the public.	

1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member, Alison Xamon, 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 and present acknowledging that as the City of Vincent we have a role to play working towards reconciliation and justice for First Nations people.”

2 APOLOGIES / MEMBERS ON APPROVED LEAVE OF ABSENCE

Cr Jonathan Hallett on approved leave of absence from 01 September 2024 to 15 September 2024.

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 Frances Thomas of Perth – Item 5.2

Due to technical difficulties the first part of this public speaker was not recorded. The below is a transcript of her written statement, up to when the recording starts.

I have lived at number 11 Baker Avenue for 50 years and raised my family there, also caring for my later mother there. My elderly neighbours at 13 Baker Ave have lived in Baker Avenue much longer, one of them since childhood.

The concert venue at number 13 has caused me and neighbours considerable distress. I do not feel comfortable speaking with Mr Mondia or his associatees, I find him both demanding and intimidating. He has always had a lot of social events at his place that I have juts put up with in the spirit of avoiding conflict with my neighbour. My house and his house, like most houses of the era, don't have the side setbacks that would be required these days. The houses are very close together. My house does not have double glazing, it has traditional leadlight windows that allow a lot of noise in.

Mr Mondia's outdoor area abuts my fence line and whenever he entertains outdoors till late at night and into the morning it is easily audible in my bedrooms.

The rest of her statement can be heard [here](#)

3.2 Nunzio Mondia of Perth – Item 5.2

Full statement can be heard at [here](#)

3.3 Andrew Pierce of Cottesloe – Item 5.1

Full statement can be heard at [here](#)

3.4 Dudley Maier of Highgate – Item 5.2 and 6.1

Full statement can be heard at [here](#)

What happened to the street sweeper that had an educting unit on it?
Why do commercial properties have to retain more stormwater than residential properties?

3.5 Nick Mondia of Perth – Item 5.2

Full statement can be heard at [here](#)

3.6 Stephanie Elson of North Perth – Item 5.1

Full statement can be heard at [here](#)

3.7 Nicola Burton of North Perth – Item 5.1

Full statement can be heard at [here](#)

There being no further speakers, Public Question Time closed at approximately 6.21pm.

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

Frances Hopkins of Perth - Item 5.2

1. What compliance checks has the City of Vincent undertaken to confirm that the musical performance space is being used in accordance with the approval that was given on 15 October 2019?

2. What was checked and on what dates? For example was any check made on whether the numbers exceeded the approved 40 or whether food or alcohol was provided on the premises after the show? Were any checks made to confirm whether the number of performances or the duration of the performances exceeded the council approval? Were checks made to ensure that patrons immediately left the performance and didn't congregate drinking and socialising outdoors?

Response to Q1 and Q2

No planning or building compliance checks have been required to be undertaken since the Music Studio approval commenced operation.

In accordance with the City's [Development Compliance Enforcement Policy](#), the City would only investigate an alleged breach to an approval if it is brought to our attention through a community complaint. It is not the City's approach to proactively monitor all development to ensure that they are in compliance with their development approval.

Since operation commenced, there have been no alleged breaches to the terms of approval raised by the community to trigger any consideration of a compliance investigation.

3. Mr Mondia has asserted that the 18-month approval should be from when he says he had his first performance rather than from the 2019 date that the approval was given despite the fact that Mr Mondia was actually continuously using his residence as a recording studio even prior to the 15 October 2019.

Condition 1 of the previous Council approval specifically states that the 18-month approval was granted from the date that the first musical performance was held.

The first musical performance was in February 2022. The City has no record of the use operating prior to this time, aside from the applicant confirming they used the studio for personal/private use.

4. Mr Mondia says his first performance was two and a half years later in February 2022. Given even on Mr Mondia's timeline the approval expired in August 2023 isn't it a fact that he been operating without approval for over a year at this point in time? And that even after lodging this most recent application he has continued to hold large shows without any approval in place such as he did on August 31st and September 1st 2024? What action, if any, has the City taken to ensure that his residential property wasn't used for fully commercial purposes without approval since August 2023?

As stated in response to question 2 above, the City has not received any concerns, complaints or requests to investigate alleged unauthorised use of the venue since it commenced operation. The City also does not conduct routine inspections of businesses or developments to ensure that they are complying with their development approval.

The applicant has been made aware they are unable to hold any events until they receive further development approval to do so.

5. Why should an approval be given "in perpetuity" to an individual who has so conspicuously breached his approval and conditions?

For reference here is a list of some of his obvious breaches:

- Operating the business without any approval prior to council approval in 2019.
- Operating the business for at least a year after his approval had expired.
- Consistently exceeding the approved numbers by over double the permitted number. The City approved 40 and Mr Mondia consistently has 80-100 persons in attendance.
- Serving food and alcohol after performances despite this being specifically listed as not permitted in his approval.
- In good weather entertaining patrons and performers in his outdoor area in his backyard till after midnight and sometimes much later.

- *Administration has recommended the proposal be approved in perpetuity having regard to the locational context of the subject site as well as noise, parking and venue management measures proposed.*
- *Administration's rationale for this is detailed within the Comments section of the Officer Report.*
- *Conditions of approval have been recommended to ensure the use operates in perpetuity in accordance with relevant management plans, occupancy numbers and operating hours. This is to manage potential amenity impacts to surrounding properties.*
- *The City has not previously received evidence to suggest conditions of approval have been breached. In the instance that the City does receive a complaint regarding the operation of the use or concerns that a condition of approval has been breached, the City would investigate the alleged breach at that time and in accordance with the Development Compliance and Enforcement Policy.*

6. What are the penalties or consequences for breaching approvals of this kind?

Section 223 of the Planning and Development Act 2005 prescribes penalties for persons who commit an offence under this Act.

Section 2 of the City's Development Compliance Enforcement Policy sets out a range of options available depending on the seriousness of the breach/offence and whether the matter is considered to be dangerous, or of a high risk.

For an alleged breach, such as a condition breach pertaining to operating times, the City may take a graduated approach by having a verbal discussion with the alleged offender, followed by written communication. If the alleged breach has still not been rectified, the City has the option of serving a Planning Infringement Notice (PIN) which carries a penalty of \$500, serving a Written Direction, or as a last resort, initiating legal proceedings.

7. Has Mr Mondia been subject to any penalties? If not, given he had approval for a total of 40 to be in attendance and he regularly had over 80 people in attendance, what is the consequence if he in future has well over 100 people in attendance should that number be actually approved for a residential zone?

The operator has not been subject to any penalties since operation commenced.

Condition 2.5 of the previous approval permits a maximum of 100 attendees for Musical Performance Events. The City has not previously received any evidence to suggest the applicant breached terms of approval relating to permitted occupancy numbers.

8. If Mr Mondia is unfortunately again given approval why wouldn't the City impose an approval period of say 2 years, renewable subject to all new conditions actually being met? How can the City seriously give an in-perpetuity approval to an entertainment venue in a residential zoning especially when the applicant has continuously thumbed his nose at the original conditions imposed on his approval?

As mentioned in response to Question 5, Administration's assessment concludes that the use is capable of being approved in perpetuity.

The previous time limited approval provided the applicant with the opportunity to demonstrate that the use can be managed successfully. Operation over the last two years has demonstrated that the conditions of approval and management measures implemented are sufficient in ensuring the use of the venue does not result in adverse amenity impacts to surrounding properties. This is evidenced through no complaints being received by the City during the previous time-limited approval when the use was operating.

The amenity of adjacent properties would remain to be safeguarded through similar conditions of approval, management measures and the design of the venue.

The City has not previously received evidence to suggest the applicant breached terms of approval but would investigate any future complaints to ensure the use continues to operate in accordance with terms of the approval.

9. Given Mr Mondia serves alcohol at his commercial musical events what action has the City taken with respect to the continued breaches of approval? (this is evident in many social media photos that he, Centrestage and others have posted- where bottled beer, champagne glasses and red wine in tumblers are clearly visible at every event).

The Racing, Gaming and Liquor (RGL) division of the Department of Local Government, Sport and Cultural Industries manage all approvals and compliance relating to liquor licences.

The Liquor Control Act 1988 does provide circumstances where the sale, supply and consumption of liquor is exempt from the Act under the Liquor Control Regulations 1989.

The Applicant has advised the City that serving of alcohol at the venue occurs in accordance with these exemptions and on advice they have received from RGL. The City has advised the applicant they will need to re-engage with RGL if the development approval is received, to ensure the updated operation meets relevant liquor licencing obligations. An advice note has been included reiterating this information.

The City is unable to confirm whether these exemptions were complied with across historic events, noting that any investigation would be undertaken by RGL.

We have raised concerns received with RGL and any future complaints should be directed to them for their investigation.

10. Is the City familiar with the requirements of the WA Liquor Licensing Act with respect to the sale of alcohol and specifically that if an entry fee is charged and alcohol is served that is by law the sale of alcohol and requires a liquor license and failure to take out a license is subject to a fine of up to \$20,000?

The City is aware of this requirement.

Racing, Gaming and Liquor has advised that the venue/operator does not hold a liquor licence but could be operating as a BYO venue or under exemptions.

If the applicant is considering selling alcohol, they could apply for an occasional liquor licence, special liquor licence or club licence.

As mentioned in the response to Question 9, the applicant is aware of these requirements and the City has recommended the applicant re-engage with RGL to ensure they are complying with relevant liquor licencing obligations moving forward.

11. Is the City aware as to whether Mr Mondia has on any of the many occasions that he has held paid ticketed events ever obtained a liquor license? If so which events and on what dates?

No, the City is not aware of this information. As mentioned above, there are specific circumstances where venues can serve liquor without a liquor licence.

12. How many toilets are provided at the venue, and would this meet the requirement for a 100-person theatre in a commercial zone?

Three on-site toilets are provided. This meets the sanitary convenience requirements of the Public Building Regulations 1997 and the National Construction Code (NCC).

13. By allowing Mr Mondia to operate from his house in a residential zone wouldn't you be giving him an unfair commercial advantage over similar businesses where he used to perform such as the Ellington Jazz Club that operates on commercially zoned land and pays commercial rates? If not, why not?

Threat of economic competition between businesses is not a valid consideration in determining a planning application. This is in accordance with Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015.

14. Would an in-perpetuity approval given to Mr Mondia be transferable to another person or entity or would it require a fresh approval by the City of Vincent? For example could Mr Mondia lease or sell his premises to another person to run music or other events in his theatre or would the approval be restricted to Mr Mondia?

Development approvals run with the land and not the operator. This means it would be available for the land use to be facilitated through an alternate operator.

Any operator would be required to run the Music Studio land use in accordance with the terms of the development approval, including the approved venue management plan and acoustic report, unless further development approval were sought.

This includes assumptions and conditions made within the Acoustic Report which specifies that noise emitted from music inside the venue is unlikely to be audible at the subject receivers provided the three following conditions are fulfilled:

- (a) Noise levels inside the venue are kept at values no more than specified in the Acoustic Report (indicated in Table 4);*
- (b) Low frequency (bass) sound is kept to a minimum; and*
- (c) External doors and windows are kept closed as much as practicable.*

On this basis, further acoustic modelling may be required if any future proponent sought to facilitate musical performances of different musical genres.

15. Usually someone conducting a business or non-residential activity from their home in a residential zoning has to apply for a home business or home occupation why doesn't this apply to Mr Mondia?

Home Business and Home Occupation uses are distinct land uses defined within the City's Local Planning Scheme No. 2. While Home Business and Home Occupation land uses are common within Residential Zones, it is also open for proponents to seek approval for other non-residential land uses as detailed within the Zoning Table of the City's Local Planning Scheme No. 2.

The Music Studio proposal does not fit within these respective definitions or any other land use definitions. This is because the proposed Music Studio land use is not specifically referred to in the zoning table of LPS2 and cannot reasonably be determined as falling within the interpretation of one of the listed land uses.

This means that the Music Studio land use is required to be considered as an Unlisted Use in accordance with Clause 18(4) of LPS2. An Unlisted Use is not a prohibited land use and can be approved at the discretion of the local government, in consideration of the [objectives](#) of the Residential zone, and following community consultation.

Administration has assessed the acceptability of the land use against relevant considerations set out in the planning framework.

16. Aren't home businesses in the City's Town Planning scheme restricted to 50m² and can only involve 2 people who are not members of the household? Why doesn't this apply to Mr Mondia? For example, a single hairdresser or dressmaker operating from home would be subject to these restrictions and would only operate on standard weekdays or Saturdays with no business occurring after 5pm. This use would cause minimal disruption to a residential street by comparison. How can such a huge and successful business venture operating during the week with up to 80 in attendance at any one time and attracting up to 600 people on a weekend be permitted at someone's house in a residential zone?

These standards do not apply given approval is not sought for a 'home business' land use. The proposal is instead seeking development approval for an Unlisted Use (Music Studio) which is capable of consideration and approval in accordance with the planning framework.

Following a planning assessment, Administration considers the proposed use is appropriate for the reasons detailed within the Comments section of the Officer report and should be approved subject to conditions.

17. Can the City confirm that what is proposed here is a 7 day a week business in a residential zone operating till 11pm on Fridays and Saturdays and 10pm on Sundays, with the biggest crowds and impositions being on weekends and evenings?

The terms of approval would permit the Music Studio to operate as stated in question 17, noting Condition 2 provides restrictions for the number of weekends Musical Performances and number of sessions that can be held in any given month.

18. Why wouldn't it be reasonable to expect that the City wouldn't at least oppose a commercial business operating in a residential zone on a Sunday? Especially given the proposed business model would permit 2 shows on a Sunday, each with 100 persons present? I note here that Mr Mondia frequently boasts that his shows have sold out and the sheer number of arrivals in his driveway for his concerts are a testament to his commercial success.

Administration is supportive of Sunday operation, subject to reduced operating hours between 12:00pm and 7:00pm only (or until 11:00pm if the following Monday is a public holiday).

*The acoustic report submitted by the Applicant, included as **Attachment 4** of the Officer Report, confirms noise levels meet the relevant assigned levels of the Noise Regulations during these approved operating times. This along with other management measures would reduce any undue impact to surrounding properties on a Sunday.*

19. Can the City provide any advice about anywhere else in the city where up to a total of 500 people are regularly permitted to enter and leave a home in a residential zone on a Friday night, a Saturday night and again on a Sunday?

Administration is not aware of similar venues that operate in the Residential zone.

Nevertheless, each application is considered on its merits noting this proposal is considered appropriate due to its unique locational context, venue design and management measures. This makes it acceptable when considered against the relevant planning framework.

20. In the briefing agenda it refers to a number of "performances". For example on page 18 it says that 14 musical "performances" took place in the 18 months that he had an approval, yet currently the applicant defines a performance as having 4 sessions (14x4 = 56 shows) and proposes that if his current application is approved to have 5 sessions of each "performance" presumably because the sessions are generally fully booked and he can easily sell a fifth session. Is the City aware that what is being asked for is 12 "performances" times 5 sessions for each performance per year - that is 60 commercial events with up to 100 people entering and leaving and socialising in a residential zone for each of them?

Yes.

21. On every weekday Mr Mondia wants to increase the number of musicians/performers to 80 at any one time so he can accommodate a small orchestra, are there any other businesses operating in a residential zone that have permission for 80 visitors at one time on weekdays? If so, could you provide examples?

The City is not aware of other examples in Vincent that would operate in a similar manner.

22. Recommendation 2.1 says that there will be no more than one musical performance in any calendar month yet 2.3 says the 5 sessions of up to 4 hours each with 100 persons can be held over 2 weekends. Am I right in interpreting the following as being possible with these recommendations: A show on Friday night 7pm -11pm, a show on Saturday night 7-11pm, a show on Sunday night 6-10pm and then the very next weekend another show on both Friday and Saturday night 7pm- 11pm? And again, on the Sunday night utilizing recommendation 2.4?

Yes, the scenario as outlined would be possible.

23. Can you clarify if recommendation 2.4 adds an additional one more session or one more performance of 5 sessions per month?

Condition 2.4 would allow one additional musical session only per calendar month.

Each one-off musical performance session shall run for a maximum of four hours and shall not commence prior to 10:00am or conclude later than 10:00pm Sunday to Thursday and 11:00pm on Friday and Saturday.

24. Why wouldn't it be clearer to refer to each "session" as a show rather than admit that each so-called performance is really a cover for 4 or 5 individual performances? Effectively each session is a separate performance with a new 100 persons! The applicant has clearly chosen this terminology to attempt to downplay and minimize the sheer number of fully commercial shows that he is holding in a residential area and the hundreds of people attending.

The format of conditions was prepared by Administration to provide flexibility for the applicant when scheduling Musical Sessions whilst also ensuring that there would be weekends in each month where there is no or only one musical session.

25. Under this proposed approval could performances effectively be held over 3 weekends in addition to the weekday business hour use of the premises to record orchestras and bands.

Yes. One Musical Performance Event that consists of 5x musical sessions can occur over two-consecutive weekends. The third weekend could only operate 1x four-hour musical session. This possible scenario would equate to a total of 6x musical sessions (24 hours of operation) across three weekends per month, plus the ability to operate the Music Studio on weekdays between 9:00am-5:00pm.

26. Is the City satisfied that the premises meet the Fire Safety requirements for a commercial theatre with 100 people in attendance and if so, how has the City satisfied itself of this and what responsibility does the city have for ensuring the safety of patrons at this venue?

Fire safety requirements are part of the Public Building Regulations and were approved on 28 January 2022.

The City's Health Services conduct routine inspections of public buildings to assess the compliance of fire safety provisions such as exit suitability, decorative treatment such as wall structures or curtains to be made with non-toxic fire-retardant materials, firefighting equipment serviced and well maintained, evacuation plan, and exit lighting maintenance.

In response to concerns raised, an inspection was undertaken on 12 September 2024 that confirmed the premises complies with fire safety requirements of the Health (Public Buildings) Regulations 1992.

In response to concerns raised, an inspection is due to be undertaken on 12 September 2024.

4 DECLARATIONS OF INTEREST

Cr Suzanne Worner declared an impartiality interest in Item 5.2 No. 9 (Lot: 22, D/P: 6645) Baker Avenue, Perth - Change of Use from Single House to Single House and Unlisted Use (Music Studio) (Amendment to Approved). The extent of her interest is that she is acquainted with the applicant and has helped him arrange events in the space, and has attended events in the space.

Mayor Alison Xamon declared an impartiality interest in Item 6.3RFT IE346/2024 Sullivan Logistics Stadium Sports Floodlighting Upgrade. The extent of her interest is that she is a member of the East Perth Football Club.

Mayor Alison Xamon declared an impartiality interest in Item 6.4RFT IE345/2024 Sullivan Logistics Stadium Playing Surface Redevelopment. The extent of her interest is that she is a member of the East Perth Football Club.

Cr Ashley Wallace declared a financial interest in Item 5.4 Outcome of Advertising and Adoption of Local Planning Policy: Development Guidelines for Heritage Places. The extent of his interest is that his home is on the municipal heritage inventory. He is not seeking approval to participate in the debate or to remain in Chambers or to vote on the matter.

Cr Ron Alexander declared a financial interest in Item 5.4 Outcome of Advertising and Adoption of Local Planning Policy: Development Guidelines for Heritage Places. The extent of his interest is that his home is on the municipal heritage inventory. He is not seeking approval to participate in the debate or to remain in Chambers or to vote on the matter.

REPORTS

The Presiding Member, Mayor Alison Xamon, requested Council Members to indicate:

Items which Council Members wish to discuss which have not already been the subject of a public question/comment and the following was advised:

COUNCIL MEMBER	ITEMS TO BE DISCUSSED
Mayor Xamon	6.3 and 6.4
Cr Worner	5.3 and 8.1
Cr Woolf	5.4

REPORTS WITH DISCUSSION

5.2 NO. 9 (LOT: 22, D/P: 6645) BAKER AVENUE, PERTH - CHANGE OF USE FROM SINGLE HOUSE TO SINGLE HOUSE AND UNLISTED USE (MUSIC STUDIO) (AMENDMENT TO APPROVED)

Ward: South

Attachments:

1. Location and Consultation Plan
2. Development Plans
3. Applicant Justification
4. Acoustic Report
5. Parking Management Plan
6. Venue Management Plan
7. Matters to be Considered - Administration Comment
8. Summary of Submissions - Administration Response
9. Summary of Submissions - Applicant Response
10. Determination Advice Notes

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES, the development application for a Change of Use from Single House to Single House and Unlisted Use (Music Studio) (Amendment to Approved) at No. 9 (Lot: 22; D/P: 6645) Baker Avenue, Perth, in accordance with the plans in Attachment 2, subject to the following conditions, with the associated advice notes in Attachment 10:

1. All conditions and requirements detailed on the development approval 5.2019.171.1 granted on 15 October 2019 are deleted and replaced as follows:

1. Extent of Approval

This approval is for Change of Use from Single House to Single House and Unlisted Use (Music Studio) (Amendment to Approved) as shown on the approved plans dated 14 May 2024 other development forms part of this approval;

2. Use of Premises:

2.1 No more than one musical performance event shall be held in any given calendar month;

2.2 Each musical performance event shall consist of a maximum of five musical performance sessions that shall run for a maximum of four hours each and shall not be held outside of the following hours:

- Friday: 11:00am – 11:00pm;
- Saturday: 11:00am – 11:00pm;
- Sunday: 12:00pm – 7:00pm; and
- Sunday, if the following Monday is a public holiday: 11:00am – 11:00pm;

2.3 A musical performance event outlined in Condition 2.2 may run across a maximum of two consecutive weekends, including the preceding Friday;

2.4 In addition to the music performance events outlined in Condition 2.2, one additional one-off musical performance session may be held per calendar month. Each one-off musical performance session shall run for a maximum of four hours and shall not commence prior to 10:00am or conclude later than 10:00pm Sunday to Thursday and 11:00pm on Friday and Saturday;

- 2.5 The musical performances outlined in Condition 2.2 and Condition 2.4 shall have a maximum occupancy of 100 persons in attendance at any given time inclusive of staff and performers;
- 2.6 All patrons are to have left the premises by the time which the musical performance is required to have concluded as outlined in Condition 2.2 and Condition 2.4;
- 2.7 Outside of dedicated musical performance events, the Music Studio may be used between 9:00am and 5:00pm Monday to Saturday for music related activities including, but not limited to:
- Sound and film recording;
 - Educational sessions;
 - Masterclasses;
 - Conferences and meetings; and
 - Community events.
- 2.8 When used as outlined in Condition 2.7, the Music Studio shall have a maximum capacity of 80 persons at any given time;

3. Venue Management Plan

- 3.1 Prior to the commencement or use of the development, an amended Venue Management Plan, to the satisfaction of the City, shall be submitted to and approved by the City. The amended Venue Management Plan shall detail how the development will operate, including, patron numbers, management of patrons before and after attendance for musical performance events and other musical related activities. The amended Venue Management Plan shall be consistent with the Venue Management Plan stamp-dated 4 April 2022 and shall include management strategies for the approved operation, addressing the following:
- Scheduling of musical performances;
 - Patron control measures inside and outside the venue before, during and after musical performance events and music related activities to minimise noise impacts on adjoining properties;
 - Parking and transport management for musical performance events and musical activities, including:
 - The use of the two on-site car parking bays;
 - Attendees being directed to use the Brisbane Street public carpark;
 - Promotion of Public Transport and Rideshare;
 - Discouraging the use of Baker Avenue parking bays; and
 - Identification of drop-off and pick-up locations for taxis rideshare, with no drop-off and pick-up to be from Baker Avenue; and
- 3.2 The use of the premises shall be carried out in accordance with the approved Venue Management Plan outlined in Condition 3.1 or any Plan approved by the City thereafter and all requirements of the Venue Management Plan shall be implemented to the satisfaction of the City; and

4. Acoustic Report

All recommended measures in the acoustic report produced by Lloyd George Acoustics and dated 7 June 2019 shall be undertaken in accordance with the report to the City's satisfaction, prior to the use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers

CR CASTLE:

The calculations of the number of events seems overly complicated so I'm just wondering if we can have an explanation about why it is structured this way as opposed to just setting a maximum number of events or sessions per month?

A/MANAGER DEVELOPMENT & DESIGN:

The structure of the recommended conditions of approval are proposed to respond to the applicant's business model, where multiple sessions of one-performer could occur on a given weekend.

This is while also ensuring that there would be weekends each month where events are not held.

This would mean that there would be one or two weekends per month where there would be no events. There would be only one weekend, and not two, without events in the instance that a one-off event is held. A one-off event could be on a weekday or weekend.

The scheduling of events as recommended reduces potential detrimental impacts to the amenity of adjoining residential properties by reducing the frequency of events and containing them to two weekends per month only. The additional one-off event per month is to provide some flexibility to the applicant while reducing the number of events outside of scheduled Musical Performances.

CR ALEXANDER:

Is there any evidence that the entire street supports the development application?

A/MANAGER DEVELOPMENT & DESIGN:

Administration consulted with all owners and occupiers of Baker Avenue as part of our formal community consultation undertaken as part of the assessment of this application. The City did not receive any formal submissions of support as part of this process.

Where no submission is made, this does not indicate support nor opposition to a development application that has been advertised.

Administration has not received any other evidence to suggest that Baker Avenue owners and occupiers specifically support the proposal.

The applicant has advised they do have letters of support from owners and/or occupiers of Baker Avenue which they will circulate to Council Members prior to the Council meeting.

*The applicant submitted messages received in support of events through social media platforms and included in **Attachment 3** of Administration's Report. Administration has no evidence to confirm that these messages of support are from owners and occupiers of Baker Avenue or the broader community.*

CR CASTLE:

Regarding the service of alcohol, are they allowed to sell or supply alcohol? Is liquor licencing approval required?

A/MANAGER DEVELOPMENT & DESIGN:

The Racing, Gaming and Liquor (RGL) division of the Department of Local Government, Sport and Cultural Industries manage all approvals and compliance relating to liquor licences.

The Liquor Control Act 1988 does provide [circumstances](#) where the sale, supply and consumption of liquor is exempt from the Act under the Liquor Control Regulations 1989.

The Applicant has advised the City that serving of alcohol at the venue occurs in accordance with these exemptions and based on advice they have received from RGL.

The City is unable to confirm whether these exemptions were complied with across historic events, noting that any investigation would be undertaken by RGL.

We have raised concerns received by community members with both the applicant and RGL to ensure compliance with liquor licencing moving forward. The applicant has confirmed they will re-engage with RGL at the stage in which they receive further development approval. An advice note has been included reiterating this information.

CR CASTLE:

What are the measures in place to control of comings and goings of patrons and the noise associated with this?

A/MANAGER DEVELOPMENT & DESIGN:

Measures to control patrons entering and exiting the venue and to mitigate noise and disturbance to surrounding properties are managed through the Venue Management Plan (VMP) as included as **Attachment 6**. These measures are summarised as follows:

- Patron exit and entry from the venue being from Baker Avenue only. No use of Astone Lane is permitted, except for emergency evacuation.
- A staff member is stationed at the entry/exit point of the site to direct patrons to the rear of the site. A second staff member would guide patrons to their seats within the facility.
- Staff members present ensure that noise is kept to a minimum when patrons arrive/leave, this includes ensuring patrons do not stop and chat outside the venue.
- Ticketing and website information discourages parking and pick-up/drop off from Baker Avenue and instead encourages the following:
- Visitors to utilise the Brisbane Street Public Carpark for parking:
 - Walk to the venue or use public transport;
 - Use Bulwer Steet or Beaufort Street for rideshare pick-up/drop-off (Uber, Taxi etc).
- Zero tolerance provided to visitors who are disruptive. Such visitors would be asked to leave immediately.

Condition 3.1 seeks for an amended VMP to be provided prior to the commencement of the use to provide additional management strategies to mitigate noise disturbance to surrounding properties from human behaviour. This includes:

- Specific discouragement of Baker Avenue parking. This would be via website information.
- The identification of specific pick-up / drop-off locations on Bulwer Avenue, Brisbane Street or Beaufort Street, with specification that no pick-up / drop-off shall occur on Baker Avenue. This would be via website information and staff direction at the end of musical performance sessions.
- Additional patron control measures inside and outside the venue to minimise noise impacts.
- Following Council Briefing, the condition has been modified to include a requirement that patrons shall not congregate within outside areas adjacent to the venue before or after a musical performance.

Condition 3.2 would require the use of the premises to be carried out in accordance with the approved VMP, including the above measures, at all times.

CR WORNER:

It was mentioned that the subject site was mixed use at the time of purchasing the property. Is this the case?

A/MANAGER DEVELOPMENT & DESIGN:

The subject site has been zoned Residential since the current landowner purchased the property in 1996.

A history of density changes across the current and previous Planning Scheme's is summarised as follows:

- The subject site is currently zoned Residential R50 under the City's Local Planning Scheme No. 2, which was gazetted in 2018.
- The site was also zoned Residential R50 between 1994-2018 under the City of Vincent Town Planning Scheme No. 1.
- The site was zoned Residential R80 prior to 1994 under the City of Perth Planning Scheme.

While the density of the site decreased from R80 to R50 in 1994, the City has no record of the subject site being zoned for anything other than Residential.

5.1 NOS. 367 AND 369 (LOT: 273 & 274; D/P: 1237) FITZGERALD STREET, NORTH PERTH - PROPOSED VIEWING PLATFORM (UNLISTED USE) (UNAUTHORISED EXISTING DEVELOPMENT)

Ward: South

Attachments:

1. Consultation and Location Plan
2. Development Plans
3. Site Photos
4. Assessment of Clause 67 – Matters to be Considered by Local Government
5. Summary of Submissions - Applicant's Response
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, **APPROVES** the development application for a proposed Viewing Platform (Unlisted Use) (Unauthorised Existing Development) at Nos. 367 and 369 (Lot: 273 & 274; D/P: 1237) Fitzgerald Street, North Perth, in accordance with the plans shown in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 7:

1. Development Approval

This approval is for a temporary Viewing Platform (Unlisted Use) including associated fencing (Unauthorised Existing Development) as shown on the approved plans dated 10 June 2024 and 19 August 2024. No other development forms part of this approval;

2. Time Limited Approval

This development approval is valid for a maximum period of 9 months from the date of this approval, until 17 June 2025. The Viewing Platform and associated fencing shall be disassembled and removed entirely from the subject site by 1 July 2025, being 14 days after the approval ceases, by the applicant/landowner and to the satisfaction of the City;

3. Use of Viewing Platform

3.1 The Viewing Platform shall be limited to the following hours of operation, by appointment only:

- Monday to Friday: 10:00am to 6:00pm; and
- Saturday and Sunday: 10:00am to 5:00pm;

3.2 No more than three people are permitted on the Viewing Platform at any one time, to the satisfaction of the City;

3.3 The base of the Viewing Platform shall be enclosed by the approved fencing during its entire operation and securely locked outside of viewing times, to the satisfaction of the City; and

3.4 Attendees shall be accompanied by a staff member associated with the Viewing Platform at all times, to the satisfaction of the City; and

4. Car Parking

Prior to use of the Viewing Platform, three (3) car parking bays and related access ways as shown on the approved plans shall be available for the Viewing Platform use. These bays shall be line marked, sign-posted and maintained in accordance with Australian Standard AS2890.1, to the satisfaction of the City.

CR CASTLE:

Can we please have some reasoning why Administration consider visually impermeable fencing to be acceptable in this instance?

A/MANAGER DEVELOPMENT & DESIGN:

The metal sheet fencing that surrounds the temporary Viewing Platform would be consistent with the element objectives of the Built Form Policy. This is because:

Site Security & Minimised Opportunities for Concealment

The purpose of the fencing is to prevent unauthorised entry to the Viewing Platform. The fence is locked when the Viewing Tower is not in use, and the metal sheet material would mean that the fence would be non-climbable. This assists in reducing potential safety impacts resulting from unauthorised entry.

Opportunities for concealment are reduced because the pedestrian entry gate to provides access behind the fence is locked when not in use and the fence material is non-climbable. This reduces potential safety issues to the broader community.

External Surveillance

External to the fenced area around the Viewing Platform there would be opportunities for passive surveillance of the structure. This includes from the Office at No. 369 Fitzgerald Street, located adjacent to the structure to the north, and provides windows fronting Fitzgerald Street that would provide actual and perceived surveillance.

There are also windows that would be facing the subject site from existing dwellings and businesses along Raglan Road and Fitzgerald Street that would further contribute towards actual and perceived surveillance to reduce anti-social behaviour from occurring.

Temporary Nature

The use of metal sheet fencing is common around the perimeter of construction sites. While not the desired long-term outcome for the subject site, the use of this material is supported because of the security benefits that it provides and set out above, and that it is a temporary measure only.

The fencing would be required to be removed from the subject site at the same time as the Viewing Platform once the time-limited approval expires. This is reflected in Condition 2 as recommended by Administration.

CR WOOLF:

Please provide an overview of antisocial behaviour occurring and what is being doing to mitigate it?

A/MANAGER DEVELOPMENT & DESIGN:

Administration does not have any record of complaints received regarding antisocial behaviour occurring on or around the temporary Viewing Platform since it was erected in June 2024. Because of this Administration is unable to validate any claims of antisocial behaviour.

The applicant has also confirmed that they have not received any complaints of antisocial behaviour relevant to the Viewing Platform.

Measures to reduce antisocial behaviour have been implemented by the applicant as part of the temporary Viewing Platform.

This includes the secure fencing to prevent unauthorised entry, any use of the Viewing Platform being under supervision only, the fencing being coated in an anti-graffiti coating, prompt removal of graffiti and "no unauthorised entry" signs posted on the perimeter of the fencing.

Administration is aware of some instances of antisocial behaviour occurring in the broader area. This is a separate matter to the subject application and Administration have been working with the WA Police and outreach services in response to this.

At 6.48pm A/Manager Development & Design left the meeting and did not return.

6.1 OUTCOME OF ADVERTISING AND ADOPTION OF STORMWATER DRAINAGE CONNECTIONS POLICY

- Attachments:
1. Stormwater Drainage Connections - Final Policy
 2. Survey Results of Stormwater Drainage Connections Amended Policy
 3. Current Stormwater Drainage Connections Policy
 4. Marked Up - Stormwater Drainage Connections Final Policy

RECOMMENDATION:

That Council **ADOPTS** the Stormwater Drainage Connection Policy at Attachment 1.

CR WALLACE:

What is the Feasibility of storage on site? Please look at a case study of 1000m² commercial lot, what would be the storage requirement and financial cost?

EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:

For a 1000m² **commercial development**, it is required to design for 100 Year ARI.

Assuming 90% of impervious area for commercial development.

- 800m² Roof Area
- 100m² Impervious Paved Area
- 900m² Total Impervious Area
- Sand – Soil Type
- 60 Design Duration (mins)
- 35.15 Inflow Volume (m³)
- 8 x 1.8m dia x 1.8mh = 36.6 m³ Storage
- Cost Estimate (ex gst): \$3,951.00 each x 8 = \$31,608.00

For a 400m² **residential development**, it is required to design for 20 Year ARI.

Assuming 75% of impervious area for residential development.

- 300m² Total Impervious Area
- Sand – Soil Type
- 60 Design Duration (mins)
- 8.3m³ Storage required
- 2 x 1.8m D x 1.8m H = 9.2m³ Storage
- Cost Estimate (ex gst): \$3951 each x 2 = \$7,902.

5.3 ADVERTISING OF DRAFT AUCKLAND STREET CHARACTER AREA GUIDELINES

- Attachments:
1. Auckland Street Survey Summary of Comments
 2. Draft Auckland Street Character Area Guidelines

RECOMMENDATION

That Council:

1. **PREPARES** the amendments to Local Planning Policy: Character Area Guidelines as included as Attachment 2 in accordance with Schedule 2, Part 2, Clause 5(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. **AUTHORISES** the Chief Executive Officer to advertise the proposed amendments in accordance with Schedule 2, Part 2, Clause 4(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

NO QUESTIONS

At 6:57 pm, Cr Ashley Wallace left the meeting due to a previously declared financial interest.

At 6:57 pm, Cr Ron Alexander left the meeting due to a previously declared financial interest.

5.4 OUTCOME OF ADVERTISING AND ADOPTION OF LOCAL PLANNING POLICY: DEVELOPMENT GUIDELINES FOR HERITAGE PLACES

- Attachments:**
1. Draft Local Planning Policy Development Guidelines for Heritage Places - clean copy
 2. Draft Local Planning Policy Development Guidelines for Heritage Places - Initial Version for Consultation
 3. Summary of Submissions - Administration Response
 4. Department of Planning, Land & Heritage Review of Heritage Management Local Planning Policies
 5. Draft Local Planning Policy Development Guidelines for Heritage Places - markup

RECOMMENDATION:

That Council:

1. **PROCEEDS** with amendments to Policy No. 7.6.1 – Heritage Management – Development Guidelines for Heritage and Adjacent Properties included as Attachment 5, pursuant to Schedule 2, Part 2, Clause 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. **NOTES** that Administration will publish a notice in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CR WOOLF:

What supporting information is available from Administration if landowners have questions about the policy and how this impacts on their property?

A/MANAGER STRATEGIC PLANNING:

The City has a wide range of information available on its [website](#) for community members in relation to heritage in Vincent.

This includes an overview of State and local heritage listings and how these are to be considered in undertaking works to heritage-listed properties.

There is also a specific [information sheet](#) that provides more detailed information on works that are exempt from requiring planning approval and an outline of the planning approval process.

Should Council approve the proposed amendments to the Local Planning Policy – Development Guidelines for Heritage Places, the information sheet as well as the City's website content will be updated to provide additional guidance to reflect the updated policy setting and to assist community members.

Administration will also carry out a postcard drop to the owners of heritage-listed properties to ensure landowners are aware of the changes to the policy and directing them to the supporting information that is available on the City's website in the first instance.

At 6:59 pm, Cr Ron Alexander returned to the meeting.

At 6:59 pm, Cr Ashley Wallace returned to the meeting.

At 6.59pm A/Manager Strategic Planning left the meeting and did not return.

6.3 RFT IE346/2024 SULLIVAN LOGISTICS STADIUM SPORTS FLOODLIGHTING UPGRADE

Attachments: 1. Evaluation Worksheet RFT IE346-2024 - Confidential

RECOMMENDATION:

That Council:

1. **NOTES** the outcome of the evaluation process for Tender IE346/2024 Sullivan Logistics Stadium Sports Floodlighting Upgrade;
2. **ACCEPTS** the alternate tender submission of Stiles Electrical & Communication Services Pty Ltd for Tender IE346/2024 Sullivan Logistics Stadium Sports Floodlighting Upgrade; and
3. **In accordance with section 6.8 of the *Local Government Act 1995* APPROVES (by Absolute Majority) the establishment of the following capital budget to undertake Stage 1 and 2 of the Sullivan Logistics Stadium Redevelopment works –**

Capital Expenditure – Sullivan Logistics Stadium Redevelopment (Stage 1 & 2)	\$5,125,887Dr
Capital Income – Sullivan Logistics Stadium Redevelopment (Grant & Contributions)	\$4,876,083Cr
Capital Income – Transfer from Reserve (Asset Sustainability) (Leederville Oval)	\$ 249,804Cr

MAYOR XAMON:

Please provide commentary on the time frames and affect this may have on the project in relation to the Western Power transformer upgrade, when is the latest we need them to come to the party to have the ground usable?

MANAGER COMMUNITY FACILITIES:

Western Power has indicated that a quote for the required transformer upgrades will be available by July 2025, with the work likely to be completed between December 2025 and March 2026.

The current transformer provides sufficient capacity for general usage for training and 500 lux night games (untelevised). The transformer upgrade is necessary to meet the increased power demands of the upgraded floodlights (at 1000 lux) as well as any future enhancements to the grandstand and venue infrastructure. It has been confirmed that the upgraded lights can be commissioned without the transformer upgrade, and based on discussions with our lighting consultant, the floodlights will be able to operate at full 1000 lux capacity for televised sporting events even without the transformer upgrade, however the load will need to be managed (either through isolating unnecessary load or supplementing with a generator). While this arrangement can be managed in the short term, an upgraded transformer is required to address future power requirements, such as grandstand improvements or other enhancements. The cost of the transformer upgrade has been factored into the overall project budget, ensuring we future-proof the facility for additional developments.

It's important to note that the delay in the application for the transformer upgrade from Western Power stems from an administrative error on Western Power's part. They cancelled the City's transformer review application, which was lodged previously, due to a lack of response. Upon further investigation, it was revealed that their emails were sent to an incorrect address, despite their previous acknowledgment of the updated contact information. This oversight has been formally acknowledged by Western Power. We are continuing to pursue all avenues to ensure that any further delays are minimised and that the project remains on track.

CR GREER:

Please provide commentary regarding the maintenance/warranty advice on the lighting project

MANAGER COMMUNITY FACILITIES:

Floodlighting systems designed to meet specific lux levels incorporate a maintenance factor, which accounts for issues such as gradual dimming of LED luminaires and the accumulation of dust or dirt on the lens. For

example, a maintenance factor of 0.89 means the system is designed to perform at 11% above the required lux level to ensure that performance is maintained over time. Industry standards for maintenance factors typically range between 5-10% across different designers and vendors. It is also standard practice for luminaires to come with a 5-year warranty, though this generally does not include annual testing of lux levels.

The proposed submission offers a maintenance factor of 0.92, which is 8% above the required lux level, along with a 10-year warranty and the inclusion of an annual lux test at no additional cost to the City. The tender review panel considers this an acceptable and advantageous alternative to the industry norm of a 0.89 maintenance factor, a 5-year warranty, and no annual testing provision.

Additionally, it should be noted that the industry standard design life for sport floodlighting luminaires is approximately 50,000 hours. This translates to 2 hours and 45 minutes of daily use for roughly 50 years, offering long-term reliability and durability.

MAYOR XAMON:

Are the toilet blocks Heritage listed?

MANAGER COMMUNITY FACILITIES:

Leederville Oval itself is heritage listed but based on the description and the statement of significance the listing is related to the grandstand/oval itself. There's no reference to the toilets [inHerit - State Heritage Office \(dplh.wa.gov.au\)](https://www.inherit.wa.gov.au)

6.4 RFT IE345/2024 SULLIVAN LOGISTICS STADIUM PLAYING SURFACE REDEVELOPMENT

Attachments: 1. Evaluation Worksheet RFT IE345-2024 - Confidential

RECOMMENDATION:

That Council:

1. **NOTES** the outcome of the evaluation process for Tender IE345/2024 Sullivan Logistics Stadium Playing Surface Redevelopment; and
2. **ACCEPTS** the tender submission of Newground Water Services for Tender IE346/2024 Sullivan Logistics Stadium Playing Surface Redevelopment.

MAYOR XAMON:

I would like an indication about what measures need to be put in place for ongoing protection to the new turf if other events are to be held there given the amount of money being outlaid.

MANAGER COMMUNITY FACILITIES:

The recent request for a Licence to use Sullivan Logistics Stadium for a series of events has been withdrawn as the applicant could not agree to several terms including those related to turf care and remediation costs. Moving forward, all event applications will be processed through the City's established Event Application system. Each application for the use of Leederville Oval will be carefully evaluated on its individual merits in consultation with the City's Parks team, to ensure the venue is suitable for the proposed event and to safeguard the playing surface. For any event approved to take place on the oval, strict conditions will be imposed regarding turf care and ongoing maintenance. In addition, a substantial bond will be required to cover any potential remediation costs should damage to the turf occur. This ensures that the necessary protections are in place to safeguard the playing surface and maximize its lifespan following the recent investment.

Furthermore, the contractor responsible for the turf installation will provide a comprehensive handover to the City's grounds maintenance contractor, which will include detailed maintenance schedules to ensure the longevity of the new turf.

The biggest ongoing risk to the stadium turf is excessive football usage, particularly to high-wear zones. The City will actively collaborate with the football clubs and the AFL to distribute facility usage more evenly. This will involve strategic scheduling and a reduction in non-essential use of the facility to mitigate wear and tear on the turf in combination with a well-developed turf management and maintenance schedule to encourage optimal turf condition for years to come.

At 7.05pm Manager Parks left the meeting and did not return.

At 7.05pm Executive Assistant Infrastructure & Environment left the meeting and did not return.

At 7.05pm Coordinator Sport & Recreation left the meeting and did not return.

8.1 CONSIDERATION OF AUTHORISATIONS ASSOCIATED WITH LAND MANAGEMENT

- Attachments:
1. Deed of Discharge and Release No. 51 Albert Street, North Perth
 2. Certificate of Title No. 51 Albert Street, North Perth
 3. Right of Carriageway Easement to No. 177 (Lot: 2) Scarborough Beach Road, Mount Hawthorn
 4. Proposed Delegation - Power to Modify Documents

RECOMMENDATION:

That Council:

1. **APPROVES** the Withdrawal of Caveat over No. 51 Albert Street, North Perth;
2. **APPROVES** the:
 - 2.1 Surrender of Easement over Lot 3 on Diagram 62595; and
 - 2.2 Grant of an Easement over a portion of Lot: 109 on Plan: 3642;
3. **AUTHORISES** the execution of such documents as required to effect the:
 - 3.1 Withdrawal of Caveat G758743 – No. 51 Albert Street, North Perth; and
 - 3.2 Surrender of Easement and Grant of Easement – Coogee St carpark;to be executed in accordance with the Execution of Documents Policy; and
4. **DELEGATES BY ABSOLUTE MAJORITY** the power to approve modification, variation, amendment or removal of an existing encumbrance, right or burden condition already approved by Council under Delegated Authority or as required by a condition of a subdivision approval relating to the land within the control and management of the City function under Section 5.41 of the *Local Government Act 1995*, as detailed in Attachment 4.

CR CASTLE:

Can you provide examples of when this delegation would be used and when previous decisions have been presented to Council?

EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

We have not been able to locate any previous similar decisions of Council.

Currently Council's [Execution of Documents Policy](#) provides authorisation for Administration to execute the following documents:

3. Category 2 No common seal – Officers authorised by Council

Category 2 documents do not require the City's common seal to be affixed.

In accordance with s9.49(A) (4) of the Act, the Council authorises the Officers listed in the table below to sign documents on behalf of the City.

The following is a list of Category 2 documents:

Description	Authority to Execute
Documents required in the management of land as a landowner, including a development application, building permit application, easement or agreement in respect to City owned or managed land.	CEO; Executive Manager Corporate Strategy and Governance; and the responsible Executive Director
Documents required to enact a decision of Council, a Council Committee or the Development Assessment Panel (i.e. contractual documents resulting from a tender process, transfer of land forms, notification on title as required by a condition of approval, memorandum of understanding etc.).	CEO; responsible Executive Director; and responsible Manager.
Documents required to enact a decision made under delegated authority or as a condition of approval given under delegated authority (i.e. caveats, restrictive covenants and s 70A Notifications).	CEO; the responsible Executive Director; and the Officer exercising the delegated authority.
Where a condition of approval given under delegated authority has subsequently been met, documents that are required to remove, withdraw or extinguish the earlier document or registration (e.g. withdrawal of caveat or a document that removes a restrictive covenant)	CEO; the responsible Executive Director; and the Officer exercising the delegated authority.

This authorisation is limited to entering into documents required by a condition of approval and provides for the removal of burdens where this was a condition of approval under delegated authority. The authorisation does not extend to where a document is being removed and may have been a condition of Council decision.

Examples:

Standard subdivision condition Transport Noise:

A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction. (Western Australian Planning Commission)

Standard DA condition Amalgamation:

In accordance with the City's Policy No. 7.5.19 – Amalgamation Condition on Planning Approvals, prior to the lodgement of a Building Permit application for the proposed development, ('The lots') are to be amalgamated into a single lot on a Certificate of Title; or alternatively, the owner entering into a legal agreement with the City and secured by an absolute caveat lodged over the certificates of title to the Lots requiring the amalgamation to be completed within twelve months of the issue of a Building Permit for the proposed works;

Standard DA condition where lot is within Clause 26 area:

***Prior to the occupation or use of the development**, a restrictive covenant, to the benefit of the City pursuant to Section 129BA of the Transfer of Land Act 1893 is to be placed on the certificate of title of proposed lot X advising of the existence of a restriction on the use of the land. Notice of this restriction is to be included on the diagram or plan or plan of survey (deposited plan). The restrictive covenant is to state as follows:*

In accordance with Clause 26(1) of Local Planning Scheme No.2 the Owner acknowledges

that without limiting the foregoing, it may not:

- (i) demolish, damage or alter any part of the Existing Dwelling;
- (ii) carry out any works on or around the Existing Dwelling which are reasonably likely to demolish, damage or alter any part of the Existing Dwelling; or
- (iii) modify, renovate or improve the Existing Dwelling in a manner that is inconsistent with its original appearance, without the City's consent.
- (iv) Removal of the existing dwelling will revert the density of the land to R30 and all future development shall be in accordance with the development requirements of State Planning Policy 7.3 (or similar) as applicable to R30 coded development.

Administration is seeking delegation to approve certain documents related to the control and management of land within the City of Vincent where the CEO is satisfied that the relevant document would not result in any risk to the City such as financial or environmental. The authority to approve would only apply to modification, variation, amendment or removal of an existing encumbrance, right or burden condition already approved by Council under Delegated Authority or as required by a condition of a subdivision approval relating to the land within the control and management of the City.

In relation to the matters subject of this council report, should Council grant the delegation then the Caveat is an example of a document that Administration would have authority to remove. The Easement which is proposing a new burden to the City's land would still require Council approval.

CR WALLACE:

With reference to the definition of *Property* in S3.58 of the Local Government Act (LGA) – are caveats and easements considered an interest of the LG within the definition of *Property* and does this mean S3.58 would apply? Is it appropriate to delegate this function to the CEO?

EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Under the LGA, the following definitions have relevance:

“Property” is defined as including the whole or any part of the interest of a local government in property, but does not include money.

“Dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not.

Under the Local Government (Functions and General) Regulations 1996, Regulation 30(2), sets out that a disposition of land as an exempt disposition:

- (a) if the land is disposed of to an owner of adjoining land (in this paragraph called the **transferee**) and –
 - (i) its market value is less than \$5,000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

This delegation sought is to approve a modification, variation, amendment or removal of an existing encumbrance (excluding leases), right or burden condition already approved by Council. An existing encumbrance typically includes a caveat, easement, covenants and notifications.

An easement could be interpreted as a ‘disposition’ within the meaning of S3.58. The grant of easement, being a right to use another person’s land, for a particular purpose is “otherwise disposing” of an interest in local government property. By reference to Reg 30(2)(a), the grant of an easement would be an ‘exempt disposition’. There is no market value attached to an easement and the local government does not consider the burdened land to be of significant benefit to anyone other than the transferee.

In this delegation, the **modification, variation, amendment or removal of an existing encumbrance (excluding leases), right or burden condition already approved by Council** refers to (in context), withdrawal of caveat, surrender of easement or removal of a covenant or notification. In the circumstances, s3.58 does not apply as the City is not ‘otherwise disposing’ of an interest in local government property. It is therefore appropriate to delegate the function to approve to the CEO.

Attachment 4 of the report has been updated to exclude registered leases which is construed as an encumbrance which is already considered under Delegation 2.2.18 and is not the intent of this delegation.

At 7.08pm Manager Community Facilities left the meeting and did not return.

REPORT WITH NO DISCUSSION

6.2 RFT IE318/2024 PRUNING OF STREET TREES UNDER POWERLINES

Attachments: 1. Evaluation Worksheet - IE318-2024 Pruning of Street Trees - Confidential

RECOMMENDATION:

That Council

- 1. NOTES the outcome of the evaluation process for Tender IE318/2024 Pruning of Street Trees under Powerlines; and**
- 2. ACCEPTS the tender submission of Classic Tree Services for Tender IE318/2024 Pruning of Street Trees under Powerlines Portion A and Portion B.**

NO QUESTIONS

7.1 FINANCIAL STATEMENTS AS AT 31 JULY 2024

Attachments: 1. Financial Statements as at 31 June 2024

RECOMMENDATION:

That Council RECEIVES the Financial Statements for the month ended 31 July 2024 as shown in Attachment 1.

NO QUESTIONS

7.2 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 01 JULY 2024 TO 31 JULY 2024

- Attachments:
1. July 2024 Payments by EFT and Payroll
 2. July 2024 Payments by Direct Debit
 3. July 2024 Payments by Cheque

Recommendation:

That Council RECEIVES the list of accounts paid under delegated authority for the period 01 July 2024 to 31 July 2024 as detailed in Attachments 1, 2 and 3 as summarised below:

EFT payments, including payroll		\$7,172,838.81
Cheques	82778	\$34.00
Direct debits, including credit cards		\$155,573.42
Total payments for July 2024		\$7,328,446.23

NO QUESTIONS

7.3 INVESTMENT REPORT AS AT 31 JULY 2024

Attachments: 1. Investment Statistics as at 31 July 2024

RECOMMENDATION:

That Council NOTES the Investment Statistics for the month ended 31 July 2024 as detailed in Attachment 1.

NO QUESTIONS

8.2 INFORMATION BULLETIN

- Attachments:**
1. Minutes of the Catalina Regional Council - held on 15 August 2024
 2. Statistics for Development Services Applications as at the end of August 2024
 3. Register of Legal Action and Prosecutions Monthly - Confidential
 4. Register of Legal Action - Orders and Notices Quarterly - Confidential
 5. Register of State Administrative Tribunal (SAT) Appeals - Progress Report as at 2 September 2024
 6. Register of Applications Referred to the Metro Inner-North Joint Development Assessment Panel - Current
 7. Register of Applications Referred to the Design Review Panel - Current
 8. Register of Petitions - Progress Report - September 2024
 9. Register of Notices of Motion - Progress Report - September 2024
 10. Register of Reports to be Actioned - Progress Report - September 2024
 11. Council Workshop Items since 20 August 2024
 12. Council Briefing Notes - 13 August 2024

RECOMMENDATION:

That Council RECEIVES the Information Bulletin dated September 2024.

ADDITIONAL INFORMATION:

Administration has updated the State Administrative Tribunal Register to include the directions hearing date for the matter related to Nos. 41-43 and 45 Angove Street, North Perth. The directions hearing has been scheduled for 27 September 2024.

9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

10 REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

Nil

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

Nil

12 CLOSURE

There being no further business the meeting closed at 7.08pm.