5.2 NO. 235 (LOT: 4; D/P: 1189) BRISBANE STREET, PERTH - CHANGE OF USE FROM FAMILY DAY CARE TO CHILD CARE PREMISES - SECTION 31 RECONSIDERATION

Ward: South

Attachments:
1. Consultation and Location Plan
2. Development Plans
3. Application Justification - Response to Reasons for Refusal
4. Noise Management Plan
5. Acoustic Report
6. Parking Management Plan
7. Waste Management Plan
8. 23 July 2024 Council Minutes and Refused Plans
9. Summary of Submissions - Applicant Response
10. Summary of Submissions - Administration Response
11. Clause 67 Assessment
12. Determination Advice Notes

RECOMMENDATION:

That Council, in accordance with Section 31 of the *State Administrative Tribunal Act 2004*, SETS ASIDE its decision dated 23 July 2024 and SUBSTITUTES a new decision to, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2, APPROVE the application for Change of Use from Family Day Care to Child Care Premises at No. 235 (Lot: 4; D/P: 1189) Brisbane Street, Perth in accordance with the plans shown in Attachment 2 with the associated determination advice notes in Attachment 12, subject to the following conditions:

1. Development Approval

This approval is for a Change of Use from Family Day Care to Child Care Premises as shown on the plans dated 16 May 2024. No other development forms part of this approval.

2. Use of the Premises

2.1. This approval is for Child Care Premises as defined in the City of Vincent Local Planning Scheme No. 2. The use of the subject land for any other land use may require further approval from the City.

2.2. The Child Care Premises shall be limited to the following hours of operation:

- **Monday to Friday: 7:00am to 6:00pm**
- **Saturday, Sunday and Public Holidays: Closed.**

2.3. The Child Care Premises shall be limited to providing care for a maximum of seven children at any time.

2.4. The Child Care Premises shall have a maximum of two staff on site at any time.

3. Amended Plans (Sightlines)

3.1. Prior to first occupation or use of the development, revised plans shall be submitted to, and approved by, the City. The revised plans shall demonstrate walls, fences and other structures truncated or reduced to no higher than 0.75 metres within 1.5 metres of where walls, fences, or other structures adjoin a vehicle access point or where a driveway meets a public street, with the exception of:

- **One pier/pillar with a maximum width of 0.4 metres x 0.4 metres and a maximum height of 1.8 metres above the natural ground level with decorative capping permitted to 2.0 metres above the natural ground level;**
- **Fence slats or infill higher than 0.75 metres above natural ground level that provides a clear sight line; and**

- **If a gate is proposed across a vehicle access point where a driveway meets a public street, the gate must provide:**

  When closed: A minimum of 50 per cent unobstructed view.
  When open: A clear sightline;

unless otherwise approved by the City.

The revised plans shall not result in any greater variation to the requirements of the City's Policy No. 7.1.1 – Built Form.

3.2. The works proposed in the revised plans required by Condition 3.1 above, shall be undertaken prior to first occupation or use of the development, to the satisfaction of the City.

4. Landscaping

Trees within the external play area shall be maintained at the expense of the owners/operators to provide for a minimum of 30 percent of the external play area as canopy coverage at maturity, to the satisfaction of the City.

5. Bicycle Parking

A minimum of two bicycle parking bays shall be provided on site prior to the commencement of the Child Care Premises use. The design and construction of the bike bays shall be in accordance with Australian Standards AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking, to the satisfaction of the City.

6. Parking Management

The Parking Management Plan dated 30 May 2025, shall be implemented prior to the occupation or use of the development and the development shall operate in accordance with this plan at all times, to the satisfaction of the City and at the expense of the owners/occupiers, unless otherwise approved by the City.

7. Acoustic Report and Noise Management

7.1. The Child Care Premises shall operate in accordance with operational measures and recommendations outlined in the approved acoustic report (Gabriels Hearne Farrell Pty Ltd, dated 15 May 2025) at all times, to the satisfaction of the City.

7.2. The Child Care Premises shall at all times operate in accordance with the operational measures outlined in the approved Noise Management Plan dated 29 May 2024, to the satisfaction of the City.

8. Waste Management

The Waste Management Plan dated 30 May 2025, shall be implemented prior to the occupation or use of the development and the development shall operate in accordance with this plan at all times, to the satisfaction of the City and at the expense of the owners/occupiers, ~~and~~ unless otherwise approved by the City.

9. Signage

All signage shall be in strict accordance with the City of Vincent Local Planning Policy: Signs and Advertising, to the satisfaction of the City, unless further development approval is obtained.

EXECUTIVE SUMMARY:

The purpose of this report is to consider an application for a Change of Use from Family Day Care to Child Care Premises at No. 235 Brisbane Street, Perth (the subject site) at the invitation of the State Administrative Tribunal (SAT).

The subject site is located on the corner of Brisbane Street and Shule Lane. The subject site and adjoining properties are zoned Residential R50 under the City of Vincent Local Planning Scheme No. 2 (LPS2) and are within the Residential Built Form Area under the City's Local Planning Policy No. 7.1.1 – Built Form (Built Form Policy).

The site contains a two-storey dwelling and operated as a Family Day Care from October 2018 until late 2022. Under the City's Local Planning Policy: Planning Exemptions (Planning Exemptions Policy), development approval was not required for a Family Day Care.

The applicant seeks approval to change the land use from Family Day Care to Child Care Premises. This change is sought due to operational limitations under the *Education and Care Services National Regulations 2012*, including the requirement to engage a third-party Family Day Care Coordinator.

The Family Day Care previously operated with a maximum of seven children in care and two staff at any time. The proposed Child Care Premises would maintain the same capacity, with no increase in land use intensity.

At its Ordinary Meeting on 23 July 2024, Council refused the application, contrary to Administration's recommendation.

The proposed development was refused due to incompatibility with the area and likely to negatively impact the local amenity and character. This was for the following summarised reasons:

- Introducing a commercial land use in this location would affect residential amenity and result in non-residential development encroaching into a predominantly residential area.
- Potential noise impacts were not adequately addressed.
- Traffic and access arrangements would impact the surrounding road network.
- Parking and access would not meet the needs of its users.

The landowner applied to the SAT to review Council's decision. Following a mediation session on 25 February 2025, Council has been invited to reconsider its decision pursuant to Section 31 of the *State Administrative Tribunal Act 2004* (SAT Act), based on additional information from the applicant. The additional information includes:

- Written justification.
- Acoustic Report prepared by a qualified acoustic consultant.
- Parking Management Plan (PMP).
- Waste Management Plan (WMP).

The areas of discretion under the planning framework relate to:

- Suitability of the proposed land use.
- Shortfall in long-term bicycle and service vehicle parking.
- Inconsistency with the City's Child Care and Family Day Care Policy (Child Care Policy).

The amended proposal responds to Council's concerns for these reasons:

- Management plans demonstrate the use can be managed to be compatible with the area and would not adversely impact the surrounding residential amenity. This includes management of noise, traffic and safety issues.
- Acoustic Report demonstrates the development can comply with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations). Other noise management issues are addressed in the Noise Management Plan (NMP) provided with the previous proposal.
- The PMP and WMP provide measures to manage parking, access and servicing for the development that would not detrimentally impact the surrounding area.

It is recommended that Council set aside its previous refusal and substitute it with a new decision to approve the application, subject to conditions.

PROPOSAL:

The application is for a change of use from Family Day Care to Child Care Premises.

Operational Details

The applicant seeks approval for a maximum of seven children to be cared for on the subject site. The site previously operated as a Family Day Care, caring for up to seven children under the *Education and Care Services National Regulations 2012* and is exempt from requiring development approval under the City's Planning Exemptions Policy.

Details of the proposed operation of the Child Care Premises are summarised as follows:

- Operating hours from 7:00am to 6:00pm, Monday to Friday.
- Closed on weekends and public holidays.
- A maximum of seven children being care for at any given time.
- A maximum of two staff members on site at any given time.
- Two on-site car parking bays accessed from Brisbane Street. One parking bay to be used by staff and the other bay to be used for pick-up/drop-off.
- Pedestrian access from Brisbane Street.
- External play area is located to the rear of the dwelling.

No works to the existing building are proposed in this application.

The proposed development plans are included as **Attachment 2**.

Amended Proposal – Management Measures

The amended proposal includes additional information submitted in response to Council's refusal. The applicant submitted a Written Justification – Response to Reasons for Refusal, NMP, Acoustic Report, PMP and WMP, included as **Attachments 3** to **7**, respectively.

The NMP, Acoustic Report, PMP and WMP include measures to manage the impacts of the use. These are summarised as follows:

Report	Management Measures
NMP	• Outdoor play between 9:00am – 5:00pm, for a maximum of two one-hour sessions per day, with soft play surfaces and low-noise equipment to minimise external noise. Noisy children are to be redirected indoors. • Parents are to be provided the NMP on enrolment and must follow quiet arrival/departure practices including no slamming doors, shouting, or lingering. • Staff are to ensure constant supervision, promote calm behaviour, and redirect loud play to quieter activities or spaces. • A designated contact would manage complaints, with all incidents recorded and reviewed to inform ongoing noise control improvements.
Acoustic Report	• Crying/distressed children would be taken inside immediately. • When amplified music is played indoors, the external doors and windows are to be kept shut. • For outdoor play, children are to be discouraged from activities that result in loud noise. • Staggering play times where possible to minimise group noise outdoors. • Preference for soft-wheeled toys in favour of hard surface play equipment.

Report	• **Management Measures**
PMP	• Staggered drop-off/pick-up times with scheduled arrivals every 15 minutes to reduce congestion. • Parents to receive induction information relating to drop-off/pick-up arrangements, monitoring children in the parking area and site rules. • Dedicated parking for staff and drop off/pick up to reduce street parking reliance. • Install signage for safe vehicle movements for the parking area, speed limits and parent awareness for reversing vehicles. • Encourage walking, cycling and public transport use.
WMP	• Use the City's residential waste collection service for small/micro businesses. • Bin storage on-site with collection occurring at the verge.

Applicant Operational Information

As part of the previous assessment, the applicant advised they seek to change the use to Child Care Premises due to the costs associated with running a Family Day Care. Family Day Care requires engaging an external Coordinator. The applicant has advised that operating a Child Care Premises would remove that requirement and reduce their operating costs, and would provide greater autonomy.

DELEGATION:

This application is being referred to Council for determination in accordance with the City's Register of Delegations, Authorisations and Appointments.

This is because the delegation to Administration to determine applications does not extend to requests from the SAT for reconsideration of a Council decision under Section 31 of the SAT Act.

The delegation also does not extend to applications that receive more than five objections during community consultation.

The previous proposal received 18 objections during community consultation. 13 objections were received during the community consultation period for the amended proposal, following the SAT's invitation to reconsider the application.

BACKGROUND:

Landowner:	M T Cao
Applicant:	M T Cao
Client:	M T Cao
Date of Application:	30 January 2024
Zoning:	MRS: Urban LPS2: Zone: Residential R Code: R50
Built Form Area:	Residential
Existing Land Use:	Family Day Care
Proposed Use Class:	Child Care Premises
Lot Area:	362 square metres
Right of Way (ROW):	Shule Lane, 3.4 metres wide, privately owned, paved and drained.
Heritage List:	No

Site Context and Zoning

The subject site is bound by Brisbane Street to the north-east, Shule Lane to the north-west and south-west, and a two-storey single house to the southeast. A Location Plan is included in **Attachment 1**.

The subject site and adjoining and adjacent properties are zoned Residential R50 under LPS2 and are within the Residential Built Form Area under the City's Built Form Policy, with a building height standard of two storeys.

Immediate surrounding development is characterised by single and grouped dwellings. Properties fronting Brisbane Street between Lake and Palmerston Streets, and to the west of the site facing Palmerston Street, comprise one and two-storey single houses and grouped dwellings. Robertson Park, a large multi-use recreational reserve, is located 65 metres west of the site.

More broadly, properties along Brisbane Street and east of Lake Street are zoned Local Centre and Mixed Use R80 under LPS2 and within the Mixed Use Built Form Area under the Built Form Policy. These sites contain mixed use development, including residential dwellings, restaurants, shops and taverns.

Existing Building

The subject site contains a two-storey single house presenting to Brisbane Street. It is set back 4.2 metres from Brisbane Street and has a nil setback to Shule Lane. Two tandem car parking spaces are on-site, accessed from Brisbane Street.

The proposal includes 75.5 square metres of indoor play space and 97.2 square metres of external play space at the rear of the site. The external play space includes landscaping with six trees.

Operations and Site History

The subject site operated as a Family Day Care from October 2018 to late 2022.

Under the *Education and Care Services National Law (WA) Act 2012,* Family Day Care is limited to seven children. The applicant advised that they previously operated at that capacity.

The use was exempt from development approval under the City's local planning policies, including the City's Planning Exemptions Policy. The use complied with the relevant exemptions and could recommence under the same exemptions.

The City has no record of complaints from surrounding residents during the Family Day Care operation.

Refused Proposal

At its Ordinary Meeting on 23 July 2024, Council refused the application to change the use from Family Day Care to Child Care Premises, contrary to Administration's recommendation, for the following reasons:

1. *Pursuant to Clauses 67(m) and (n) in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the objectives of the Residential Zone of the City of Vincent's Local Planning Scheme No. 2, the proposed development would be incompatible with its setting and would have adverse impacts on the amenity and character of locality as:*

    a) *The introduction of a commercial land use would have an adverse impact on the residential amenity of the locality due to the encroachment of incompatible non-residential development into an area that is residential in nature. This would also result in an adverse impact on the existing and likely future character of the locality and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;*

    b) *The Child Care Premises land use would result in noise generating activities that are located adjacent to residential dwellings and areas of these properties that are sensitive to noise including private outdoor living areas. This would result in adverse amenity impacts and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy. The proposed development also does not adequately demonstrate that the extent of noise generated from the development would not unreasonably impact the amenity of the surrounding residential properties, inconsistent with the objectives of the City's Policy No. 7.5.21 – Sound Attenuation;*

    c) *Proposed access arrangements and likely traffic generated by the proposed development would have a detrimental impact on the flow of traffic movements and the function of the surrounding road network. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;*

    d) *The proposed development does not provide for adequate parking arrangements and management measures to demonstrate that parking and access would be suitable to meet the needs of its users. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy and Policy No. 7.7.1 – Non-Residential Parking Requirements Policy.*

Attachment 8 includes a copy of the Council Meeting minutes and refused plans.

State Administrative Tribunal Appeal & Process

The SAT is an independent body that reviews government decisions and determines disputes. Applicants may apply to the SAT for a review of planning decisions.

A timeline of the SAT appeal process for the application is as follows:

Date	Action
21 August 2024	Landowner applied for a review of the previous decision with the SAT.
4 October 2024	Directions hearing held. Mediation session scheduled for 7 November 2024. Further directions hearing scheduled for 11 October 2024 to consider third-party participation by community members at the mediation session.
11 October 2024	Directions hearing held. The SAT approved the third-party request to participate in the mediation session.
7 November 2024	Mediation session held. The purpose of mediation is to resolve a dispute and explore constructive solutions. City's officers, two Councillors and community members attended. A further directions hearing was scheduled for 22 November 2024.
22 November 2024	Directions hearing vacated at the applicant's request and rescheduled for 17 January 2025.
17 January 2025	Directions hearing held. A further mediation session was scheduled for 25 February 2025.
25 February 2025	Mediation session held with City's officers in attendance. The SAT invited the City to reconsider its decision pursuant to Section 31 of the SAT Act. This followed the applicant's agreement to submit further information to address Council's refusal reasons.

In reconsidering its decision, Council may:

- Affirm its decision; or
- Aary its decision; or
- Set aside its decision and substitute its new decision.

If Council approves the proposed development, the applicant may withdraw the SAT application, provided they are satisfied with the conditions of approval.

If Council reaffirms its refusal, then a directions hearing that is scheduled for 1 August 2025 may result in the matter proceeding to a SAT final hearing. This would result in SAT determining the application in the absence of a mediated outcome.

DETAILS:

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of LPS2, the Built Form Policy, Child Care Policy, Policy 7.5.21 – Sound Attenuation (Sound Attenuation Policy) and Local Planning Policy: Non-Residential Car Parking (Non-Residential Car Parking Policy). In each instance where discretion is sought from Council, these planning elements are discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply/ Acceptable Outcomes (or equivalent)	Requires the Discretion of Council	
		Previous Proposal	Amended Proposal
Land Use		✓	
Vehicle Access		✓	
Sound Attenuation Policy	✓		
Child Care and Family Day Care Policy		✓	
Non-Residential Parking Policy		✓	

Detailed Assessment

Planning elements that require the discretion of Council are as follows:

Land Use		
Use Class Permissibility	**Previous Proposal**	**Amended Proposal**
LPS2 – Zoning Table 'P' permitted use	Child Care Premises – 'A' Use	No change.
Child Care and Family Day Care Policy		
Policy Requirement	**Previous Proposal**	**Amended Proposal**
Clause 3.2 - Suitable Locations in Residential Zones Child Care Premises in the Residential zone adjacent to other non-residential land uses.	The proposal is within the Residential zone and is not adjacent to non-residential land uses.	No change.
Clause 3.3 - External Playing Space External play spaces are located away from adjoining noise sensitive land uses.	The external play space is adjacent to the outdoor living area of No. 231 Brisbane Street.	No change.
Non-Residential Parking Policy		
Policy Requirement	**Previous Proposal**	**Amended Proposal**
One service bay to be provided on-site.	No service bay provided.	No change.
One long-term bicycle bay provided on-site.	Nil long-term bicycle bays provided.	No change.

The planning elements are addressed in the Comments section.

Local Planning Scheme No. 2

In considering the appropriateness of the use, Council is to have due regard to the objectives of the Residential zone as follows:

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community;*
- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;*
- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development;*
- *To promote and encourage design that incorporates sustainability principles, including but not limited to solar passive design, energy efficiency, water conservation, waste management and recycling;*
- *To enhance the amenity and character of the residential neighbourhood by encouraging the retention of existing housing stock and ensuring new development is compatible within these established areas;*
- *To manage residential development in a way that recognises the needs of innovative design and contemporary lifestyles; and*
- *To ensure the provision of a wide range of different types of residential accommodation, including affordable, social and special needs, to meet the diverse needs of the community.*

The Residential zone objectives are one consideration to be given due regard in the consideration of this application under the *Planning and Development (Local Planning Scheme) Regulations 2015* (Planning Regulations).

Planning Regulations

In accordance with Clause 67(2) of the Deemed Provisions of the Planning Regulations, Council must give due regard to a range of matters relevant to the application.

Administration's response to each matter requiring consideration is listed in the table contained in **Attachment 11**.

CONSULTATION/ADVERTISING:

Previous Application

The original application that was ultimately refused by Council was advertised for 14 days from 14 to 27 March 2024. At the conclusion of this advertising period, the City received 18 submissions. All submissions objected to the proposal.

Amended Proposal

Following SAT mediation, additional information was received on 15 and 30 May 2025. This information is included as **Attachments 3** to **7**.

The amended proposal and additional information was advertised as per the City's Community and Stakeholder Engagement Policy (Consultation Policy) for 14 days from 3 to 16 June 2025.

The method of consultation included a notice on the City's website and 13 letters being sent to owners and occupiers of adjoining and adjacent properties. An email notification was also sent to previous submitters. Properties that have been consulted during advertising are shown in **Attachment 1**.

The City received 13 submissions, all objecting to the proposal.

Key concerns raised are summarised as follows:

- Impact on the character and amenity of the area, including noise and traffic.
- Inconsistency with the planning framework, including the Child Care Policy.
- Works required to comply with the National Construction Code (NCC).
- Limited ability for the City to monitor and control the use.

See **Attachment 9** for a summary of submissions received and the applicant's response, and **Attachment 10** for Administration's response.

Design Review Panel (DRP):

Referred to DRP: No

The proposal was not referred to the City's DRP because does not include a works component. DRP provides advice on design and site planning, which are unchanged for this proposal.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Local Planning Scheme No. 2;
- Policy No. 7.1.1 – Built Form;
- Community and Stakeholder Engagement Policy;
- Policy No. 7.5.21 – Sound Attenuation;
- Local Planning Policy: Non-Residential Parking; and
- Local Planning Policy: Child Care and Family Day Care.

Planning and Development Act 2005

In accordance with Schedule 2, Clause 76(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, and Part 14 of the *Planning and Development Act 2005*, the applicant has applied to the SAT for a review of Council's decision to refuse the development application at its 23 July 2024 meeting.

Education and Care Services Legislation

The applicant is seeking this change of use approval for greater operational flexibility in how they manage their business, including removing the cost of engaging a Family Day Care Coordinator.

The information provided below is to contextualise the proposal but is not a matter to be considered under Clause 67 of the Deemed Provisions in determining the acceptability of this application.

Services that provide early childhood education and care in Western Australia are regulated under the *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012*.

Family Day Care & Child Care Premises

Under this legislation a Family Day Care Service is a care service that is provided across more than one venue or residence. The subject site operated as a Family Day Care Residence as part of a Family Day Care Service.

A Family Day Care Service is required to engage a Family Day Care Coordinator to oversee and support the operations of a Family Day Care Service. One Coordinator is required per 25 Family Day Care Educators, with a role to monitor and support the educators. This requirement does not exist for centre-based Child Care services.

Under the legislation a Child Care Premises relates to an Education and Care Service being provided at an Education and Care Service Premises.

A Child Care Premises is not subject to the same requirements to engage a Family Day Care Coordinator as a Family Day Care Service.

This means that the proposed development would be able to operate with one staff member on site without the requirement for a Family Day Care Coordinator to be present.

Play Area Requirements

The legislation has requirements for internal and external space for Child Care premises. These standards do not apply to Family Day Care venues. The subject site provides for 75.5 square metres of indoor play space and 97.2 square metres of outdoor play space, and satisfies these standards.

Staff Requirements

The premises can operate with one staff member on site to care for children over 36 months (3 years) of age, in accordance with the educator-to-child ratios for Child Care Premises under the legislation. Two staff members would be needed on site if caring for younger children.

NCC

The NCC classifies buildings based on their purpose and intended use. This classification determines the specific building requirements that must be met.

This application would change the use of the building from a residential use (Single House/Family Day Care) to a commercial use (Child Care Premises). This means a change in classification under the NCC would be required, and the building would need to meet the NCC standards for Class 9B buildings (applicable to Child Care Centres).

The requirements under the NCC would be Part i16 of Volume 1. This includes provisions relating to design and construction, health and amenity, perimeter fencing and barriers, fire safety, egress, and disability access.

These matters fall under separate legislation to the *Planning and Development Act 2005*, and are not a matter to be considered for this application under Clause 67 of the Deemed Provisions in the Planning Regulations.

RISK MANAGEMENT IMPLICATIONS:

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

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Community Plan 2022-2032:

Innovative and Accountable

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

SUSTAINABILITY IMPLICATIONS:

This application does not contribute to any environmental sustainability outcomes. There is limited ability for the development to influence the environmental impact of the entire building on the site through this application as it relates to a change of use of an existing building with no external works component.

PUBLIC HEALTH IMPLICATIONS:

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

FINANCIAL/BUDGET IMPLICATIONS:

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

COMMENTS:

Summary Assessment

In assessing the proposal and the additional information against the planning framework, the application is recommended for approval. The following key comments are relevant:

- The additional information provided by the applicant demonstrates that the proposed use can be appropriately managed to be compatible with the area and would not adversely impact surrounding residential properties.
- The commercial use is appropriate due to the low-scale nature and intensity of the proposed operations.
- The development would comply with the Noise Regulations, subject to noise management measures in the Acoustic Report and NMP. A Family Day Care operated from the site for four years, with the same number of children to be cared for and at the same intensity, without acoustic control measures in place, and no complaints were received by the City.
- A PMP has been provided outlining how parking and access would not impact the surrounding area.

A detailed assessment of the amended proposal against the previous refusal reasons is set out below.

Consideration of Additional Information Against Council's Reasons for Refusal

The comments below address how the applicant's additional information responds to Council's refusal reasons.

Reason 1(a) – Introduction of Commercial Land Use

Reason 1(a) relates to the impact of introducing a commercial land use on residential amenity. This refers to the encroachment of non-residential development into a residential area, which would be inconsistent with the objectives of the Child Care and Family Day Care Policy.

Applicant Justification

The applicant's justification (**Attachment 3**) is summarised below:

- The development maintains the existing residential character of the area with no external modifications to the building proposed. This ensures compatibility with surrounding residential dwellings and allows for the building to revert to a residential use in the future.
- The proposed Child Care Premises is of the same low scale and intensity as the previous Family Day Care that operated without complaint since October 2018. This demonstrates it can function without adversely impacting on the amenity of the area.
- Noise and privacy impacts are managed through a Noise Management Plan, operational restrictions, and existing boundary treatments.
- The proposal aligns with the City's Child Care Policy and Planning Bulletin 72/2009 – Child Care Centres, delivering community, social and economic benefits, while complementing other existing non-residential uses in the area.

Community Consultation

Concerns raised during community consultation included:

- The commercial use would be inconsistent with the residential character and amenity of the area, and would represent the incremental creep of commercial uses into the residential area.
- The site's location does not align with the Child Care Policy in respect to its proximity to other non-residential land uses.
- This portion of Brisbane Street does not currently contain commercial activity.
- Approval of the application would limit the City's ability to monitor and control the use.

Administration Comments

The amended proposal addresses Reason 1(a). It would be consistent with the objectives of the Residential zone under LPS2 and Clause 67(2) of the Planning Regulations, including the objectives of the Child Care Policy for the following reasons:

- Management of the Use: The applicant has submitted information demonstrating the use can be appropriately managed to ensure compatibility with the area. Administration's recommendation includes conditions of approval that would ensure operation in accordance with these reports and plans. This provides certainty on how the use would function without adversely impacting the surrounding residential area.

  The management measures in these reports (see Proposal section of this report) would reduce the noise generated, mitigate traffic impacts during drop-off/pick-up, and ensure safe operations. Key measures include limiting outdoor play to two one-hour sessions per day, schedule arrivals to stagger drop-offs and pick-ups, and providing induction information to parents.

  This offers improved amenity outcomes and controls compared to a Family Day Care, which lacks formal approval or management obligations – with the business operating at the same intensity and scale.

- Amenity and Character of the Area: The proposed commercial use in the Residential zone at the subject site is appropriate due to its low-scale and intensity. These characteristics would ensure compatibility with the existing area. Impacts would be minimised by limited child numbers to seven, daytime operating hours, and outdoor play restricted to 9:00am – 5:00pm for a maximum of two hours per day. The subject site would also continue to present as a Single House and contribute positively to the residential streetscape.

- Waste Management Plan: The applicant's WMP (see **Attachment 7**) confirms use of the City's residential waste collection service for small/micro businesses. The City's Waste and Recycling Team has confirmed this is suitable for the proposal's waste generation.

- Use of Outdoor Areas: The outdoor play area's location near No. 231 Brisbane Street's rear outdoor living area is acceptable due to effective management measures. This includes restricted play times and management of noisy children to mitigate impacts to neighbouring outdoor space.

- Sufficient Privacy to Adjoining Properties: The proposal does not result in overlooking of major openings or outdoor living areas of adjoining properties. This is because all child care activities are on the ground floor, and existing boundary fences provide adequate privacy separation.

Reason 1(b) – Noise Impacts

Reason 1(b) relates to the amenity impact of noise generating activities adjacent to residential dwellings. The reason refers to these amenity impacts being inconsistent with the objectives of the Child and Family Day Care Policy. It also refers to the previous proposal not adequately demonstrating that noise generation would not unreasonably impact on the amenity of surrounding properties, and would be inconsistent with the Sound Attenuation Policy.

Applicant Justification

The applicant's justification (**Attachment 3)** is summarised as follows:

- An Acoustic Report prepared by Gabriels Hearne Farrell confirms the development is capable of achieving compliance with the Noise Regulations, subject to key mitigation measures.
- As outlined in the NMP, outdoor play will be supervised by staff to manage noise. Children will rotate in small groups for outdoor play activities to minimise cumulative noise peaks. A noise complaints procedure will be implemented and communicated to surrounding residents to ensure concerns are promptly responded to.
- During Family Day Care operations, no complaints were received. regarding noise impacts from the community. Given its scale and management practices, the proposal aligns with the intent and objectives of the City's Child Care Policy and Sound Attenuation Policy.

Community Consultation

Concerns raised include:

- The proximity of outdoor play to the outdoor living areas of adjoining properties would reduce amenity.
- Unlike a Family Day Care, a Child Care Centre of this scale would result in continuous, disruptive noise throughout the day.

Administration Comments

The amended proposal addresses Reason 1(b), and would be consistent with the objectives of the Child Care Policy and the objectives of the Sound Attenuation Policy for the following reasons:

- Acoustic Report: The applicant submitted an Acoustic Report (**Attachment 5**) confirming the development can comply with the Noise Regulations. It demonstrates noise impacts will not unreasonably affect nearby amenity due to mitigation measures in the Acoustic Report and NMP.

  The City's Health Services Team has reviewed the Report and confirmed it is satisfactory, subject to implementation of the recommended measures.

Management measures (see Proposal section of this report) include staggered outdoor play, removing noisy children from outdoor play areas, and closing windows and doors when amplified music is played indoors.

No building works are required for compliance with the Noise Regulations.

Administration recommends a condition of approval requiring the use to operate in accordance with the Acoustic Report and NMP. The development would also remain subject to compliance with the Noise Regulations at all times.

- Consideration of Adjoining Properties: The Acoustic Report provides specific consideration of the outdoor living area at No. 231 Brisbane Street – the property most likely to be affected. The Acoustic Report confirms the proposal can achieve compliance, ensuring it would not adversely impact this or other surrounding properties.

- Management Measures: The NMP includes measures for outdoor play and car parking noise management. These measures, along with those outlined in the Proposal section of this report, would improve amenity outcomes compared to exempt Family Day Care. This is due to additional controls not required for exempt Family Day Care.

Reasons 1(c) & 1(d) – Traffic & Access Arrangements and Parking

Reason 1(c) relates to the impact of access and traffic on the function of the surrounding road network. This refers to being inconsistent with the objectives of the Child and Family Day Care Policy.

Reason 1(d) relates to whether parking and access arrangements meet the needs of its users. It refers to parking and management measures being inconsistent with the objectives of the Child and Family Day Care Policy and the Non-Residential Parking Policy.

Applicant Justification

The applicant's justification (Attachment 3) is summarised as follows:

- The proposal accommodates a maximum of seven children, generating minimal traffic movements. This would ensure it does not adversely impact the function or safety of the surrounding road network.
- The site is close to public transport and the Perth Cycle Network which facilitates alternative travel modes and reducing reliance on private vehicles.
- Traffic impacts are further reduced by staggered drop-off and pick-up times, on-site parking, and promotion of active transport through bicycle parking.
- The proposal complies with the City's Non-Residential Parking Policy by providing one staff bay, one drop-off/pick-up bay, and two short-term bicycle bays. No service bay is required due to the low intensity of the use.
- Management measures including signage, speed limits, parent onboarding, and structured drop-off/pick-up procedures, would ensure safe and efficient access, consistent with the objectives of the City's Child Care Policy and Non-Residential Parking Policy.

Community Consultation

Concerns were raised include:

- Traffic from the development would impact local amenity.
- This portion of Brisbane Street already experiences high traffic volumes, which would be worsened by the development.
- Increased traffic would affect vehicle and pedestrian safety, particularly for users of the right-of-way to the west of the site.

Administration Comments

The amended proposal addresses Reasons 1(c) & 1(d), and would be consistent with the objectives of the Child Care Policy and the objectives of the Non-Residential Parking Policy for the following reasons:

- Parking Management Plan: A PMP (see **Attachment 6**) outlines management strategies to ensure parking and access do not adversely impact the surrounding area. Key measures from the PMP are in the Proposal section of this report.

  The PMP demonstrates traffic and parking impacts can be appropriately managed. Staggered drop-offs/pick-ups reduce traffic impacts, maintaining traffic flow on Brisbane Street and meeting parking needs.

  Administration's recommendation includes a condition of approval requiring the use to operate in accordance with the operational measures in the PMP.

- Traffic Generation: The proposal would generate a maximum of eight vehicle trips during peak periods in the morning and evening, based on seven children and one staff member. This traffic generation is not expected to adversely affect traffic on Brisbane Street or surrounding areas. The broader context of the area includes nearby commercial uses that already contribute to vehicle movements.

- Sightlines: Though no physical works are proposed, the change in use of existing car bays triggers assessment of sightlines under the Built Form Policy.

  Existing bays lack compliant sightline truncations.

  Administration recommends a condition of approval requiring modification of the street wall to remove all wall portions above 0.75 metres in height within a 1.5 metre by 1.5 metre truncation area on either side of the vehicle access point. This is to ensure safe vehicle movements in and out of the parking bays, especially the drop-off and pickup bay.

- No Service Bay: The City does not require a service bay to be provided for a Family Day Care. This is because management of service delivery can be accommodated through the car parking bays provided The applicant advises the proposed use also does not require service vehicle access due to its scale. Materials would be brought by the operator using the staff bay.

- Provision of Bicycle Parking: The proposal requires one short-term and one long-term bicycle bay, with two short-term bicycle bays proposed. Administration recommends a condition of approval requiring two short-term bicycle bays to be installed prior to operation. These would be accessible to visitors, out of view from the footpath, and provides sufficient security.

CITY OF VINCENT
LOCAL PLANNING SCHEME NO. 2
SCHEME MAP 1 - LEEDERVILLE

LEGEND

METROPOLITAN REGION SCHEME RESERVES

Note: The Western Australian Planning Commission care of the Department of Planning should be consulted for full information on the actual land requirements for all Metropolitan Region Scheme Reserves.

- PARKS AND RECREATION
- R — Restricted Pubic Access
- PRIMARY REGIONAL ROADS RESERVATION
- OTHER REGIONAL ROADS RESERVATION
- RAILWAYS
- PUBLIC PURPOSES — Particular use denoted as follows:
  - H — Hospital
  - HS — High School
  - TS — Technical School
  - CP — Car Park
  - U — University
  - CG — Commonwealth Government
  - SU — Special Use
  - WSD — Water Authority of Western Australia
  - P — Prison

CITY OF VINCENT LOCAL SCHEME RESERVES

- PUBLIC OPEN SPACE
- R — Restricted
- PUBLIC PURPOSES — Particular use denoted as follows:
  - PS — Primary School
  - CP — Car Park
  - CU — Civic Uses
  - HS — High School
  - I — Institute for the Deaf
  - W — Water Supply Sewerage and Drainage
  - TS — Technical School

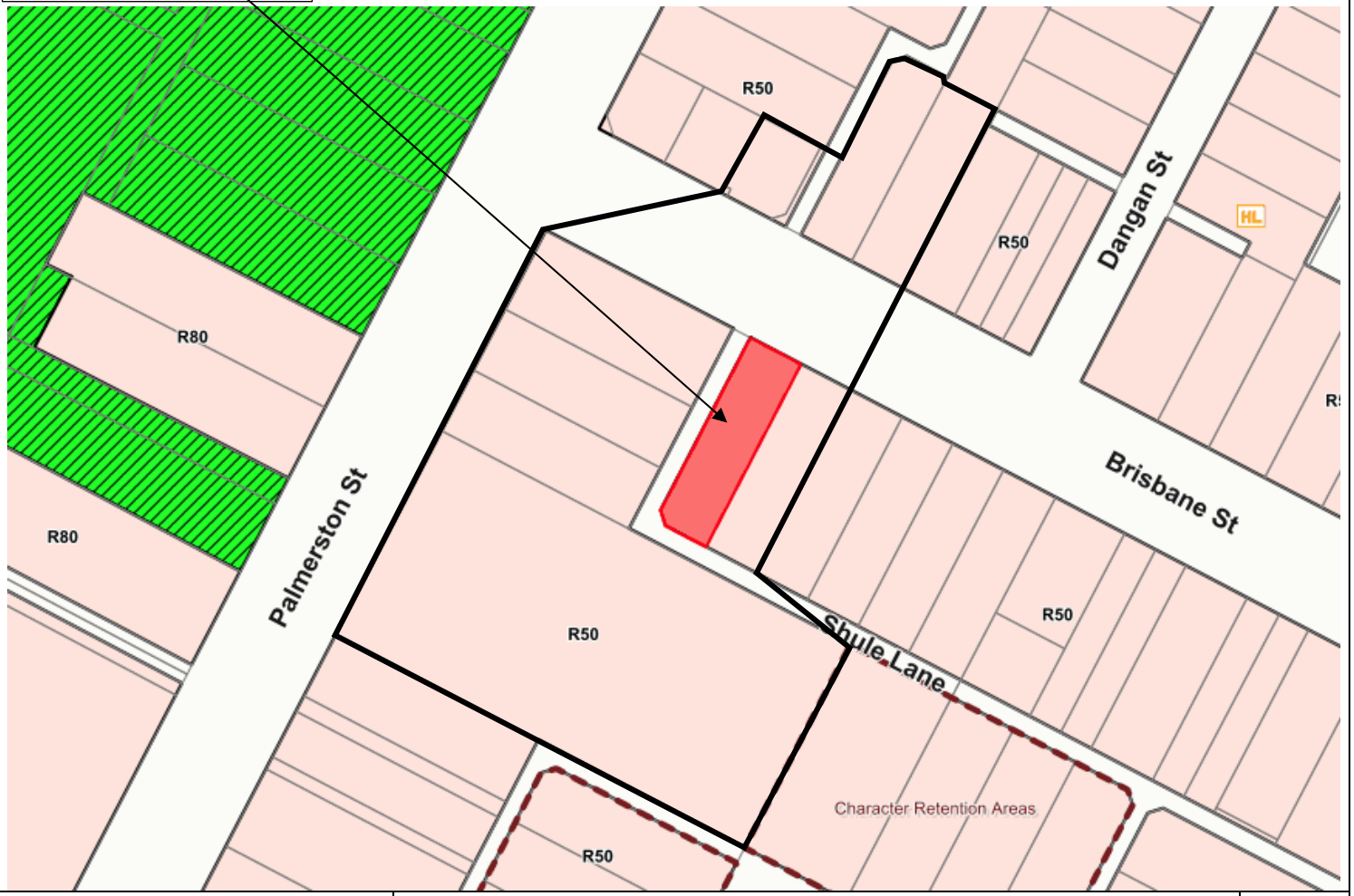
CITY OF VINCENT SCHEME ZONES

- RESIDENTIAL
- MIXED USE
- COMMERCIAL
- LOCAL CENTRE
- DISTRICT CENTRE
- REGIONAL CENTRE
- SPECIAL USE — Particular use denoted as follows:
  - CP — Car Park
  - CU — Community Use
  - FC — Function Centre
  - HC — Hall and Non Residential Club
  - H — Hotel
  - PW — Place of Worship
  - S — Service Station
- A — ADDITIONAL USE

ADDITIONAL INFORMATION & RESIDENTIAL PLANNING CODES

- CODE AREA BOUNDARY
- SCHEME AREA BOUNDARY
- R20 — DENSITY CODE

SUBJECT SITE



CITY OF VINCENT

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Location Map

No. 235 Brisbane Street, Perth

Extent of Consultation

N

CITY OF VINCENT

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No. 235 Brisbane Street, Perth

N

Summary of Submissions:

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

Comments Received in Objection:	Administration Comment:
Land Use	
• The introduction of the commercial use would be inconsistent with the amenity of the area. The approval of the use would represent incremental creep of commercial uses into the existing residential area.	• A Child Care Premises is a an 'A' use within the 'Residential Zone' under the City of Vincent's Local Planning Scheme, meaning that it can be considered. The subject and adjoining sites would continue to be zoned Residential, and any development applications for commercial uses would be considered against the objectives of the Residential zone. The area includes other low-scale commercial uses within the Residential zone. These uses include an Office use (Counselling) at No. 134 Palmerston Street and a Shop use (Supermarket) at No. 153-155 Palmerston Street. The surrounding context also includes a number of larger-scale more intense commercial uses along Brisbane Street in the Mixed Use zone which are located within 150 metres of the subject site. The proposed development would be consistent with this existing context due to the low-scale nature and intensity.
• The portion of Brisbane Street in which the subject site is located (between Lake Street and Palmerston Street) is the only portion entirely zoned Residential under LPS2. This contributes the land use diversity along Brisbane Street by providing an area exclusively for residential land uses which does not currently contain commercial activity.	
• The proposal does not align with State Planning Policy 7.0 – Design of the Built Environment, the objectives of the City of Vincent Local Planning Scheme No. 2 (LPS2) and the community aspirations in the Strategic Community Plan 2018-2028. These policies seek to preserve neighbourhood character, walkability and residential amenity which would be compromised by the proposal.	• The application seeks approval for a change of use only and does not propose any works. Therefore, State Planning Policy 7.0 is not a relevant planning consideration as no built form is proposed as development. Please refer to comments above regarding the acceptability of the use against the City's LPS2, including comments regarding the character and amenity of the area. The Strategic Community Plan 2018-2028, which has been replaced by the Strategic Community Plan 2022-2032, does not form part of the applicable planning framework for the proposed development. This is because the plan is not a form of planning legislation under the *Planning and Development (Local Planning Scheme) Regulations 2015*. The Strategic Community Plan 2022-2032 operates as a guiding document to inform the City in developing other strategic organisational documents.

Summary of Submissions:

Comments Received in Objection:	Administration Comment:
• The proposal does not meet the objectives of the City's Local Planning Policy: Child Care and Family Day Care (Child Care Policy). Specifically, Clause 3.2 which says that Child Care Centres in the Residential zone shall be considered where it is adjacent to other non-residential land uses.	• Where a proposal does not meet the standards laid out in a policy, it is assessed against the objectives of the policy. In considering the low intensity of the proposal, which is commensurate with that of a Family Day Care, the use meets the objectives of the Child Care Policy because: o Due to the operational measures and low intensity, it would not adversely affect the amenity of the adjoining properties. o It would not adversely affect the availability of on street car parking because sufficient car parking is available on site.
• The change of the use will no longer require the owner/operator to live at the premises reducing consideration of the impacts of the development.	• The management plans and supporting information which have been provided by the applicant give certainty to how the Child Care Premises use will operate to ensure that there are no adverse impacts on the surrounding residential area. The management measures included in these plans would ensure that development would provide an improved amenity outcome compared to a Family Day Care business which would not be subject to the same operational requirements.
<u>Character of the Area</u> The introduction of a commercial childcare facility at the subject site would impact character of the area and the existing sense of community.	The building would continue to present as a single house to Brisbane Street which would assist in maintaining the character of the area.
<u>Future Applications/Expansion of the Child Care Centre</u> If approved, the child care could expand the number of children present at the site and the building on the site could be redeveloped under different State and Federal legislations that would permit more children at the site. These additional approving authorities would circumnavigate the City of Vincent approvals.	Administration's recommendation relates to a change of the use of the existing building on the subject site and includes a condition that limits the number of children in care at any time to seven. This is consistent with the maximum number of children permitted within a Family Day Care. The *Planning and Development Act 2005* requires that developments comply with conditions of approval. Separate legislations relating to Child Care Premises, for example, the *Education and Care Services National Law (WA) Act 2012* or the *Education and Care Services National Regulations 2012* do not override approvals or conditions imposed under the *Planning and Development Act 2005.* If the operators wanted to redevelop the site, increase the number of children on the site or undertake works to increase the size of the premises, further development approval would need to obtained.

Summary of Submissions:

Comments Received in Objection:	Administration Comment:
Traffic • The traffic generated by the proposed development would impact on the safety and amenity of the area. • The portion of Brisbane Street in which the subject site is located experiences existing high levels of vehicle traffic which would be exacerbated by the proposed development. • The increase in traffic would impact on vehicle and pedestrian safety, particularly for properties utilising the right-of-way to the west of the subject site.	• The proposal would not result in any increase in traffic above the amount generated by a Family Day Care which is exempt from the requirement to obtain development approval. The use would be expected to generate a maximum of nine movements in the morning and evening as one to two staff members arrive on site and up to seven children are dropped off. In accordance with the City's Child Care Policy a Traffic Impact Statement is not required for Child Care Premises where fewer than 10 children are in care. This is reflective of the reduced traffic movements associated with smaller child care centres, such as this proposal.
Parking • The proposed development would impact the availability of on-street car parking.	• The car parking standard for the development would be two bays under the City's Non-Residential Parking Policy. Two car bays are proposed to be provided on the subject site and as such the application does not provide a shortfall in on site car parking and would not rely on on-street car parking to meet the needs of the development. The applicant has submitted a Parking Management Plan which details how the parking for the development will be managed to ensure that it does not impact on the street and the surrounding residential area.
• No bicycle parking is proposed as part of the revised application.	• Administration's recommendation includes a condition of approval that two bicycle parking bays are provided on site prior to occupation. This is to assist in supporting a shift to active transport, consistent with the objectives of the Non-Residential Parking Policy.
Noise • The proximity of the outdoor play area to the outdoor living areas of adjoining properties which would result in a loss of amenity for these properties. • Unlike a Family Day Care, a Child Care Centre of this scale would result in continuous, disruptive noise throughout the day.	• The applicant has submitted an Acoustic Report and a Noise Management Plan with the application. The Acoustic Report assesses the capability for the development to comply with the *Environmental Protection (Noise) Regulations 1997* and confirms that noise levels generated by the development are capable of achieving compliance with these regulations.

Summary of Submissions:

Comments Received in Objection:	Administration Comment:
• The Noise Management Plan would not sufficiently mitigate noise impacts from the proposed development.	The Noise Management Plan includes operational measures on how noise generated by the use would be managed. These measures would assist in mitigating the generation of noise on site and reducing any impacts on the adjoining properties. The information provided adequately demonstrates that extent of noise generated by the proposed development would not unreasonably impact on the amenity of surrounding residential properties. This is because the management measures included in the Acoustic Report and the Noise Management Plan are appropriate in managing the impact of noise generating activities to address any potential amenity issues that may arise from the development.
<u>National Construction Code (NCC)</u> • The proposal would require significant external modifications to comply with the Building Code of Australia (known as the NCC). This includes the widening of doorways, installation of entrance ramps and modification to the front gate. • The modifications required to the building to comply with the NCC requirements may result in a reduction in the number of car bays, impacting on the acceptability of the proposal.	• The NCC classifies buildings based on their purpose and intended use. This classification determines the specific building requirements that must be met for different buildings. As the application proposes to change the use of the building from a previously residential use (Family Day Care) to a commercial use (Child Care Premises), a change of classification under the NCC would be required. This change necessitates compliance with the relevant requirements for the new classification, which may include fire safety, egress, and access for people with disabilities and may involve further works being required to be undertaken to the building. Consideration of any further works required under the NCC are not a matter to be considered under Clause 67 of the Deemed Provisions in determining the acceptability of this application. This is because the works would be required under separate legislation to the *Planning and Development Act 2005*.
<u>Privacy</u> The existing dividing fences are below the height standards which compromises neighbour privacy.	The proposal does not result in overlooking of major openings or outdoor living areas of the adjoining properties. This is because all child care components of the Child Care Premises are located on the ground floor, with existing dividing fences around the perimeter of the subject site provide privacy protection between ground floor spaces.

Summary of Submissions:

Comments Received in Objection:	Administration Comment:
Suitability of Site Child Care Centres have different requirements to a Family Day Care Centre. Family Day Care Centres primarily operate out of people's homes and do not generate the same amount of traffic and noise as a Child Care Centre.	The proposal does not change the size and scale of a Family Day Care which could operate at the site under the exemptions of the planning framework. Please refer to comments above regarding Land Use, Car Parking, Traffic and Noise. The proposal seeks to use the existing residence on site, which would assist in retaining the existing residential character of the area.
Streetscape The existing building on the property is run down and does not present well to Brisbane Street.	The application seeks approval for a change of use only and does not propose any works. The condition of the building would be consistent with the existing streetscape and the proposal would not impact on the overall presentation of the building to the street.
Signage Proposed commercial and directional signage would be visually intrusive and inappropriate for a residential setting.	No signage is included on the development plans. A recommended condition of approval is that future signage comply with the City's Local Planning Policy: Signs and Advertising (Signs and Advertising Policy). This would include any directional signage. Where a proposed future sign departs from the Policy, a development application would be required. The Signs and Advertising Policy allows a maximum of two signs per tenancy in the Residential Zone.

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

Clause 67 – Matters to be Considered Assessment

Clause 67 – Matters to be Considered	
Matter	**Administration Comment**
(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area.	Child Care Premises is an 'A' use within the Residential zone under LPS2 and can be considered at the discretion of the Local Government, following community consultation. An assessment of the acceptability of the Land Use against Council's reasons for refusal is provided in the Comments section below.
(b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving.	The suitability of the development has been assessed having regard to the relevant scheme requirements, the City's local planning framework, and the impact of the development on the area, consistent with the principles of orderly and proper planning. There are no draft planning instruments relevant to this application.
(c) any approved State planning policy.	There are no relevant State Planning Policies that apply to this proposal.
(g) Any local planning policy for the Scheme area.	An assessment against the City's relevant local planning policies, including the Child Care Policy, Built Form Policy, the Sound Attenuation Policy and the Non-Residential Development Policy, is considered against Council's reasons for refusal further in Administration's comments below.
(k) the built heritage conservation of any place that is of cultural significance.	The subject site and the adjoining sites are not heritage listed.
(m) The compatibility of the development with its setting including – (i) The compatibility of the development with the desired future character of its setting. (ii) The relationship of the development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.	The proposed development would be compatible with its setting. The proposal does not include any works and the subject site would continue to present as a Single House to Brisbane Street. The compatibility of the land use is considered against Council's reasons for refusal in the Comments section below.
(n) The amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development.	The subject site previously operated as a Family Day Care between October 2018 and late 2022. The City did not received any complaints about the operations in that time. The proposed Child Care Premises would be of the same scale and intensity as the previous Family Day Care or other Family Day Care businesses, capable of operating at the subject site without the need to obtain development approval. Management measures are proposed to ensure the Child Care Centre would continue to operate at an acceptable scale, reducing amenity impacts to surrounding residential properties. The applicant has provided a NMP, PMP, WMP, and an Acoustic Report, included as **Attachments 4** to **7**, which demonstrates that the amenity of the locality would not be impacted. This is considered further against Council's reasons for refusal in the Comments section below.
(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether	The external play area to the rear of the site is landscaped with a variety of trees and plantings.

Clause 67 – Matters to be Considered	
Matter	**Administration Comment**
any trees or other vegetation on the land should be preserved.	The landscaping provided includes six trees. At maturity, these trees would provide 50.5 square metres of canopy cover. This represents 52.0 percent of the external play area, or 14.0 percent of the total site area. This provision of canopy coverage satisfies the landscaping requirements for Centre-Based Child Care Service in the City's Child Care Policy.
(s) the adequacy of — (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles	Two car parking bays are provided on-site, accommodating for one staff parking bay and one customer bay to be used for pick-up/drop-off. The proposal satisfies the car parking standard identified in the City's Non-Residential Parking Policy in relation to the number of bays for Child Care Premises. A PMP has been provided which outlines appropriate parking management strategies to ensures the operation of these bays will meet the needs of the development. A condition of approval is included in Administration's recommendation to ensure appropriate and safe sightlines are provided for the development. A condition of approval is included in Administration's recommendation that two short-term bicycle bays are to be provided on site. These bays are provided in a secure location, situated behind existing front fencing. A Traffic Impact Statement is not required for this proposal in accordance with the City's Non-Residential Development Policy. This is because less than 10 children are proposed at any one time. Given only seven children are proposed, traffic movements to and from the premises will be low and would not adversely impact the traffic flow or safety.
(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.	
(u) the availability and adequacy for the development of the following — (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (v) access by older people and people with disability.	The subject site is located 300 metres east of Fitzgerald Street, 415 metres west of William Street and 700 metres west of Beaufort Street, all of which accommodate several bus routes. The applicant has provided a WMP, included as **Attachment 7** which outlines appropriate waste management strategies. The surrounding road network follows a grid style which is favourable to pedestrians. Palmerston Street forms part of the Perth Cycle network, providing access to the broader network. A condition of approval is included in Administration's recommendation for two short-term bicycle bays to be provided on site. This is discussed further in Comments section below.
(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;	The proposal will continue to offer care and education services to children which would be a benefit to families in the area.
(w) the history of the site where the development is to be located;	As outlined above, the subject site previously operated as a Family Day Care from October 2018 until late 2022. The proposed hours of operation and number of children at the site, is the same scale and intensity as a Family Day Care. The proposal provides appropriate management practices to ensure that the development operates at an acceptable scale relative to the context. Conditions of approval are included in Administration's recommendation for the implementation of these management measures.
(y) Any submissions received on the application.	The City received 18 submissions during community consultation for the previous proposal, all of which objected to the proposed development.

Clause 67 – Matters to be Considered	
Matter	**Administration Comment**
	During community consultation for the amended proposal, the City received 11 submissions, all of which objected to the proposed development. A summary of the submissions received including Administrations response to each comment is included as **Attachment 10**.

Determination Advice Notes:

1. **This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.**

2. **If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**

3. **Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.**

4. **This is approval is not an authority to ignore any constraint to development on the land, which may exist through statute, regulation, contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City's attention.**

5. **The applicant is advised that operational management measures in the Noise Management Plan (NMP) include:**

    - **Limitation of outdoor play:**
        - **Not permitted before 9:00am.**
        - **For a maximum of two hours per day.**
        - **Limits on the types of activities that take place.**
    - **Provision of contact details for the operator to neighbours.**
    - **Notification of and communication with parents/guardians regarding the NMP.**

6. **Should the Child Care Premises provide food services, a documented and audited Food Safety Program (FSP), is required under Standard 3.3.1 (Food Safety Programs for Food Service to Vulnerable Persons) of the Australia New Zealand Food Standards Code.**

    Refer to https://www.health.wa.gov.au/articles/n_r/regulatory-food-safety-auditing-for-food-businesses for more information.

7. **Any food business must comply with the *Food Act 2008*, *Food Regulations 2009* and the Australia New Zealand Food Standards Code. The applicant must register with the City's Health Services prior to operation of the food business. Please contact Health Services on 9273 6000 to discuss the requirements further with an Environmental Health Officer.**

8. **Any noise created at the premises must ensure compliance with the provisions within the *Environmental Protection (Noise) Regulations 1997*.**

9. **For the proposal to be eligible for the microbusiness waste agreement, the proposal must adhere to the following bin standards:**

    - **1x 140 litre general waste bin, collected fortnightly.**
    - **1x 240 litre recycling bin, collected fortnightly.**
    - **1x 240 litre FOGO bin, collected weekly.**

    If the proposal exceeds this bin standards, a private contractor for waste removal must be engaged.

Determination Advice Notes:

10. The change of use from Family Day Care to a Child Care Premises will require an Occupancy Permit to be obtained under the *Building Act 2011*. The existing building has been approved as a Class 1a residential dwelling. By changing its use to a Child Care Premises, it is changing the building classification to a Class 9b building under the National Construction Code.

10.1. The change of building classification will need to demonstrate compliance with the NCC performance requirements for a Class 9b building (Early Childhood Centre). The applicant/landowner will need to engage a private building surveyor to certify the change of class. The private building surveyor will need to submit a building assessment application to the Department of Fire and Emergency Services (DFES) for their review and approval as part of the certification process.

10.2. To find a building surveyor, there is a Building Surveyor Register on the Department of Energy, Mines, Industry Regulation & Safety website: https://www.commerce.wa.gov.au/building-and-energy/find-registered-building-surveyor

For queries relating to the Occupancy Permit process, please contact the Building Services Team on 9273 6000 or mail@vincent.wa.gov.au.

11. Signage associated with the proposal shall be provided in strict accordance with signage standards of the City's Local Planning Policy: Signs and Advertising. The applicant is encouraged to liaise with the City's Development and Design team to ensure that signs proposed through the Noise Management Plan are designed to be consistent with signage standards.

12. In regards to Condition 3.1, a clear sightline means:

- **Continuous horizontal or vertical gaps that constitute a minimum of 50% of the total surface area;**
- **A minimum gap size of 40mm;**
- **If slats are orientated to be deeper than they are wide, the distance between the slats must be no less than two-times the depth of the slat; and/or**
- **Clear non-reflective glass.**

Brisbane St Childcare Centre

235 Brisbane Street, 6000 Perth, WA, Australia
TOTAL AREA: 463.76 m² • **LIVING AREA:** 183.80 m² • **FLOORS:** 2 • **ROOMS:** 19

▼ Ground Floor

TOTAL AREA: 463.76 m² • **LIVING AREA:** 183.80 m² • **ROOMS:** 19

CITY OF VINCENT
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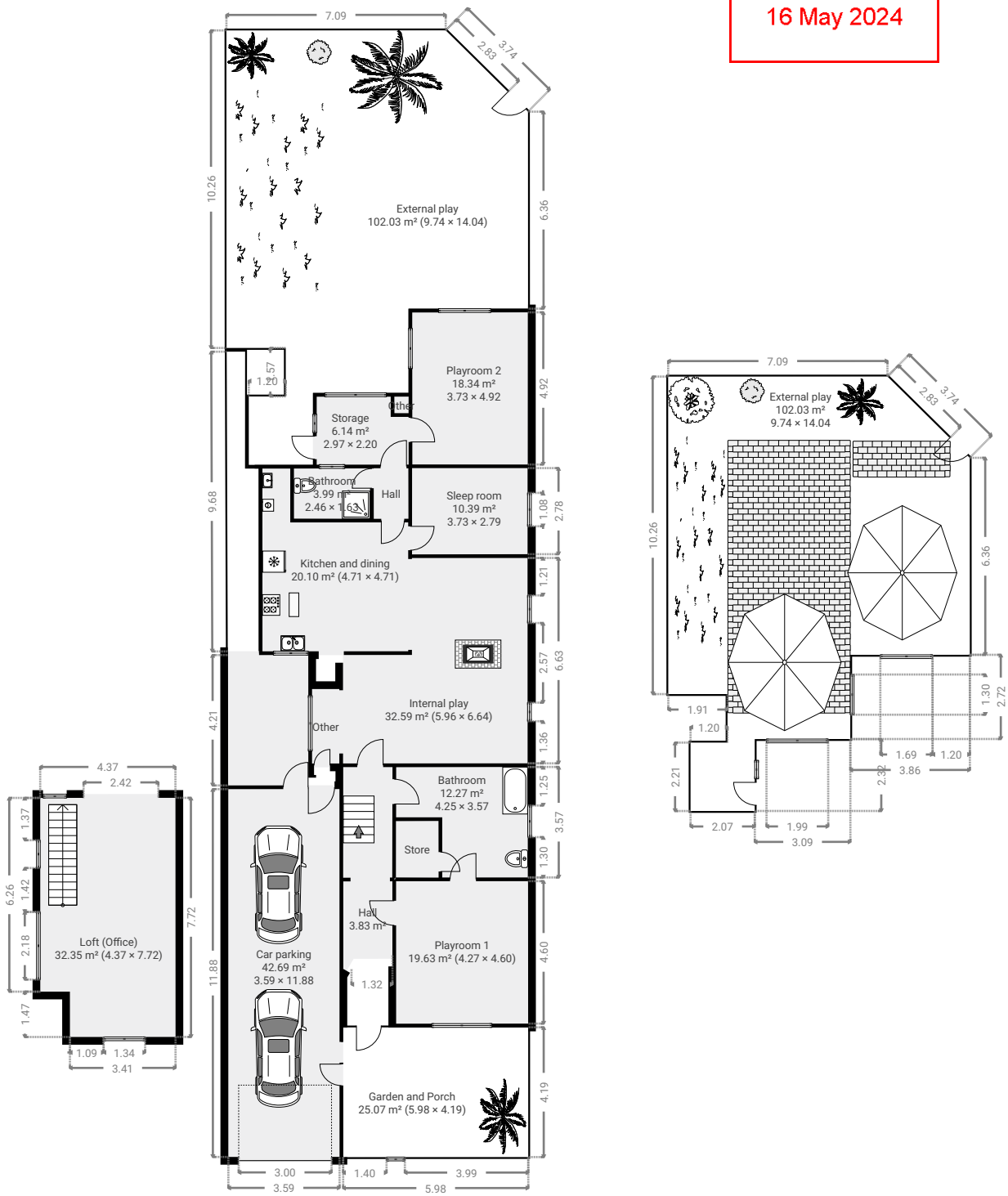
16 May 2024



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Application for Development Approval: Small-Scale Centre-Based Child Care Premises

This submission responds to the reasons outlined in the City of Vincent's proposed refusal of the application. We respectfully submit that the proposal is consistent with the City's planning framework and objectives and should therefore be supported. Please find below additional information addressing each of the reasons for refusal.

Pursuant to Clauses 67(m) and (n) in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the objectives of the Residential Zone of the City of Vincent's Local Planning Scheme No. 2, the proposed development would be incompatible with its setting and would have adverse impacts on the amenity and character of locality as:

a) The introduction of a commercial land use would have an adverse impact on the residential amenity of the locality due to the encroachment of incompatible non-residential development into an area that is residential in nature. This would also result in an adverse impact on the existing and likely future character of the locality and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;

- The proposed development does not involve any significant external modifications, and the site will maintain its appearance as a single dwelling on Brisbane Street, aligning with the existing character of the area, which is primarily composed of one and two-storey homes.
- The subject site would continue to present as a residential house and would continue to positively contribute to the residential character of the neighbourhood. Should the Child Care Premises cease operation, the site can easily be re-purposed for use as a dwelling.
- The premises has been operating as a Family Day Care since October 2018 without any complaints or concerns regarding amenity or impact to surrounding residents. This operation history demonstrates that a Child Care facility of a similar scale can function without negatively impacting the amenity of the area.
- The proposed Child Care Premises would be of the same scale and intensity as the existing Family Day Care, which is exempt from requiring development approval.
- The proposal seeks to maintain existing management practices, ensuring operations continue at an acceptable scale relative to the context.
- A Noise Management Plan has been developed to minimise any potential noise impacts on neighbouring properties.
- Due to the low number of children proposed and the operational measures in place, such as limited outdoor play and a maximum of two hours of outdoor activity per day, the impact on adjoining properties would be minimal.
- Day-time operating hours are proposed, with no evening or night activities, ensuring compatibility with the existing residential character.

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- The City of Vincent's planning team has acknowledged that the proposal is compatible with adjoining uses and would operate at a low scale, with a Family Day Care.
- The proposal provides sufficient noise mitigation strategies through the NMP, and provides adequate on-site parking, thereby minimising traffic and parking impacts.
- The proposal will continue to offer valuable care and education services to children, benefiting families in the area.
- The proposed non-residential use is compatible with and complementary to the residential environment, in accordance with the objectives outlined in the City's Child Care and Family Day Care Policy.
- Privacy concerns have been addressed:
    - Child Care activities are confined to the ground floor.
    - Existing dividing fences maintain privacy between the site and neighbouring properties.
    - No overlooking impacts occur from the first-floor windows, as neighbouring properties do not have openings to habitable rooms facing the site.
- During the public consultation period, 13 of the 18 submitters supported the continued use of the premises for a small-scale child care service for up to seven children.
- During the public consultation period, 13 out of 18 submitters expressed support for the continued operation of a small-scale child care service for up to seven children, indicating strong community backing for the proposal.
- In response to community feedback, the applicant has reduced the number of children from eight to seven to ensure the proposal aligns even more closely with neighbourhood expectations.
- The proposed Child Care premises would complement local other non-residential land uses. The family day care service has been operating for five years providing essential services to the local community without any reported adverse impacts. Therefore, we believe the proposal would meet the City's Policy Objective.
- There are several other businesses within a short walking distance that are within residential areas that have been approved for non-residential land use including: Ton Sian Groceries, 7 Grams Restaurant, Mission Australia, The Witch's Hat, Abbey Madison Photography, Eternal IT, Call Blocked Drain Services, Perth Art Group, and Palmerston Association. We believe a small childcare centre located a few minutes' walk to Robertson Park would complement other non-residential land uses in the area.
- Several Child Care premises located in residential areas that have been approved, setting a precedence for consideration of approval within residential areas. Examples include:
  o Indigo Montessori 174 Grosvenor Road, North Perth
  o Busy Bees at Mt Lawley South, 66 Forrest Street, Mount Lawley
  o Milestones Early Learning Yokine, 136 Swan Street, Yokine
  o Akidamy School of Early Learning, 105 Summers Street, Perth
  o Busy Bees at Yokine, 43 Blythe Avenue, Yokine
  o Leaps & Bounds Preschool Highgate, 386 Lord Street, Highgate

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- The proposed Child Care service offers significant community, social, and economic benefits by providing much-needed local child care services within a residential setting. The proposal directly supports local families by increasing access to early childhood education and care close to home, promoting workforce participation, particularly for parents and carers, and strengthening community connections.
- In line with Planning Bulletin 72/2009 – Child Care Centres, the location of the service is appropriate, being accessible to the surrounding residential catchment without requiring significant vehicle movements or new infrastructure. The continued use of the existing dwelling ensures that the residential character and amenity of the area is preserved.
- The applicant agrees to a condition of approval limiting the maximum number of children to seven (7) at any one time, consistent with the feedback received from community consultation. This limit ensures that the scale of the operation remains low, minimises impacts on adjoining properties, and maintains compatibility with the residential setting, while still delivering valuable social and economic benefits to the local area.

b) The Child Care Premises land use would result in noise generating activities that are located adjacent to residential dwellings and areas of these properties that are sensitive to noise including private outdoor living areas. This would result in adverse amenity impacts and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy. The proposed development also does not adequately demonstrate that the extent of noise generated from the development would not unreasonably impact the amenity of the surrounding residential properties, inconsistent with the objectives of the City's Policy No. 7.5.21 – Sound Attenuation;

- The proposed Child Care Premises has been assessed against the objectives of the City's Child Care and Family Day Care Policy No. 7.5.21 – Sound Attenuation.
- An independent Environmental Noise Report prepared by Gabriels Hearne Farrell, a member of the Association of Australasian Acoustical Consultants (AAAC), confirms that, based on the proposed operations and management of particularly noisy activities, compliance with the Environmental Protection (Noise) Regulations 1997 during daytime hours is achievable. The full report is provided.
- The City's Health Services has also reviewed the proposal and advised that, due to the low scale and intensity of the development and the operational management measures proposed, the likely noise generated could be appropriately managed to avoid unreasonable impact on surrounding residential amenity.
- The City's Health Team confirmed that an Acoustic Report was not required in this case, and that noise could be managed through a Noise Management Plan (NMP).
- The proposed operations include the following key noise mitigation measures:
    - Restricted business hours and operations split into two 1-hour outdoor play sessions only.
    - No interaction with the boundary fences during outdoor play
    - Use of soft finishes and surfaces in outdoor play areas.

    - No hard-wheeled toys or percussive toys permitted outdoors
    - Signage displayed to promote quiet play and community awareness
    - Education of guardians and parents around noise minimisation strategies through the NMP.
- To further mitigate potential noise impacts on surrounding residential properties, additional soft landscaping such as shrubbery and hedges will be installed along boundary lines to act as a natural noise buffer. As part of the Noise Management Plan, outdoor play activities will be actively supervised by staff to monitor and manage noise levels in real-time. Children will participate in outdoor activities in small rotating groups to minimise cumulative noise peaks and ensure that noise remains at an acceptable level. An active noise complaints procedure will be implemented and communicated to neighbouring residents, providing a clear process to promptly respond to and resolve any concerns raised.
- It is important to note that noise from children playing is not regulated under the Environmental Protection (Noise) Regulations 1997. However, the applicant has voluntarily committed to implementing the NMP to manage any potential amenity impacts proactively.
- Additionally, the operation has been conducted as a Family Day Care since October 2018 with no complaints regarding noise impacts from the community. Given the limited number of children (maximum seven at any one time), the low-scale nature of operations, and the comprehensive noise management practices proposed, the development satisfies the intent and objectives of both the City's Child Care Policy and Sound Attenuation Policy.

c) Proposed access arrangements and likely traffic generated by the proposed development would have a detrimental impact on the flow of traffic movements and the function of the surrounding road network. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;

- The proposed Child Care premises accommodates a maximum of seven children at any one time, well below the threshold for requiring a Traffic Impact Statement (TIS) according to the City of Vincent's Non-Residential Development Policy. Given the scale of the development, traffic generation is expected to be minimal, with low vehicle trips to and from the site, ensuring traffic movements remain minimal and do not adversely impact the function or safety of the surrounding road network.
- This approach aligns with the Western Australian Planning Commission's (WAPC) Transport Impact Assessment Guidelines, which stipulate that low-scale developments such as small child care facilities, typically do not necessitate a detailed traffic assessment due to their minimal traffic generation.
- The subject site is strategically located approximately 300 metres east of Fitzgerald Street, 415 metres west of William Street, and 700 metres west of Beaufort Street, all of which are services by multiple bus routes. This proximity to public transport options facilitates alternative modes of travel for staff and parents, potentially reducing reliance on private vehicles.
- The surrounding road network follows a grid pattern, enhancing pedestrian connectively and dispersing vehicle traffic effectively. Palmerston Street, in

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particular, is part of the Perth Cycle Network, providing safe and direct cycling routes to the area.

- Several centre-based child care services have been approved within the City's residential areas, demonstrating that such developments can be integrated without significant traffic concerns. Note the number of children at these locations far exceeds this proposal for seven children:
    - Indigo Montessori 174 Grosvenor Road, North Perth – licensed for 60 children
    - Busy Bees at Mt Lawley South, 66 Forrest Street, Mount Lawley – licensed for 37 children
    - Milestones Early Learning Yokine, 136 Swan Street, Yokine – licensed for 55 children
    - Akidamy School of Early Learning, 105 Summers Street, Perth – licensed for 90 children
    - Busy Bees at Yokine, 43 Blythe Avenue, Yokine – licensed for 41 children
    - Leaps & Bounds Preschool Highgate, 386 Lord Street, Highgate – licensed for 48 children.
- To further mitigate any potential traffic concerns, the proposal includes the following measures:
    - Staggered Drop-off and Pick-up Times: To manage traffic efficiently, staggered drop-off and pick-up times will be implemented, with scheduled arrivals spaced every 15 minutes. This approach will ensure that only one family arrives at a time, avoiding congestion and allowing the parent car bay to be used efficiently without queuing on the street. Families will be allocated specific time slots for both morning drop-off and afternoon pick-up, and adherence to these times will be actively managed through parent communication and enrolment agreements.
    - Dedicated On-site Parking: Providing sufficient on-site parking spaces to accommodate staff and parents, reducing the need for street parking.
    - Promotion of Active Transport: Encouraging walking and cycling among staff and parents through the provision of secure bicycle parking facilities.
- These measures, combined with the low number of children and the site's advantageous location, ensure that the proposal will ensure public safety while not adversely impact the flow of traffic movements or the function of the surrounding road network, thereby aligning with the objectives of the City's Child Care and Family Day Care Policy.

d) The proposed development does not provide for adequate parking arrangements and management measures to demonstrate that parking and access would be suitable to meet the needs of its users. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy and Policy No. 7.7.1 Non-Residential Parking Requirements Policy.

- The proposed Child Care premises fully complies with the City's Non-Residential Development Parking Requirements Policy. In accordance with the Policy, the standard requirement for a development of this nature is the

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provision of two (2) on-site parking bays. The proposal meets this standard by providing:
    - One (1) staff parking bay; and
    - One (1) customer parking bay for pick-up and drop-off purposes.
- The proposed on-site parking ensures that both staff and visiting guardians have designated spaces, minimising reliance on street parking and supporting the safe, convenient access expected for a small-scale child care operation.
- In addition to vehicle parking, the proposal two (2) short-term bicycle parking bays, securely located behind the existing front fencing as prescribed by the City's Policy. This encourages and accommodates alternative, sustainable modes of transport for staff and guardians consistent with the objectives of the City's planning framework.
- Further, the City's Policy confirms that a service bay is not required for Family Day Care or small-scale Child Care premises due to the low-intensity nature of the use. As no service vehicles are required for day-to-day operations, there will be no impact on on-street parking availability and no increase in service-related traffic to the site.
- To enhance parking and access management further, the following measures are proposed:
    - Drop-off/pick-up protocols: A management plan will be developed and communicated to all guardians, encouraging efficient drop off and pick up practices to minimise any potential congestion.
    - Staggered pick up/drop-off times: encouraging staggered child attendance as described above to avoid clustering of vehicles at any one time.
- To ensure parking function and pedestrian safety, the following will be implemented:
    - Warning signage will be installed to alert both drivers exiting the bay and pedestrians approaching the driveway.
    - Staggered drop-off and pick-up times as described above. This will ensure that only one parent vehicle is accessing the bay at a time, minimising vehicle-pedestrian interactions.
    - A strict 5km/h reversing speed limit will be required when exiting the bay to allow maximum reaction time for any unforeseen pedestrian movement.
    - Parent onboarding packs will include clear instructions on parking procedures, safe reversing practices, and the requirement to yield to pedestrians at all times.
- Given the proposal's compliance with the City's car parking requirements, the provision of additional bicycle facilities, and the low intensity of the proposed use, the development adequately provides for parking and access to meet the needs of its users, consistent with the City's Child Care and Family Day Care Policy and Non-Residential Parking Requirements Policy.

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Noise Management Plan

235 Brisbane Street Perth WA 6000

Document control

Version	Description	Checked	Date approved
1.1	Draft	AH	28.05.24

Version: 1.1
Reviewed: May 2024

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Introduction

The Noise Management Plan (NMP) aims to protect the acoustic privacy of nearby residents in their homes and private open spaces. The service is committed to preventing the generation of unacceptable noise levels that may impact upon the amenity of neighbours. This NMP aligns with the principles set out in the Environmental Protection (Noise) Regulations 1997 and the City of Vincent's noise management guidelines.

Operation details

Hours of operation:

- The centre will operate between the hours of 7.00am to 6.00pm Monday to Friday.
- The centre will be closed on Saturday, Sunday and on public holidays.

Number of children on site:

- The centre will accommodate a maximum of seven (7) children at any one time.

General noise management principles

The centre manager will ensure that children are adequately supervised at all times, and will respond to any child that is distressed or in need of assistance or support.

Any activity that may potentially create noise breakout from the premises will be kept to a minimum. Doors and windows will be kept closed during indoor activities that emit noise.

The behaviour and 'style of play' of children will be monitored to prevent particularly loud activity e.g., loud banging/crashing of objects, 'group' shouts/yelling.

Stereo and audio systems will be used on low volume settings to avoid the potential for noise breakout from the premises. Any music played within indoors would be 'light' music with no significant bass content and played at a relatively low volume level.

The NMP will be provided to all parents upon enrolment of their child. The NMP will be regularly reviewed at intervals not exceeding 12 months and more frequently as required. Any changes will be communicated to all relevant parties in writing.

Parents

Upon enrolment, parents will be informed of the NMP and the importance of minimising noise that could potentially affect neighbouring properties.

Parents will be advised:

- Of the importance of the NMP and acknowledge their acceptance of the plan;
- When arriving to and departing from the centre, to be considerate of the neighbouring properties by keeping noise levels to a minimum.

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Parents will be informed that the aim of the NMP is to implement strategies to reduce potential noise breakout from the centre.

The NMP requires co-operation of all parents. Parents will be advised to avoid:

- Slamming car doors, centre doors or gates
- Calling out loudly when delivering or collecting children; and
- Loud discussions outside with educators or other parents

Parents will be asked to share this information to anyone (i.e., grandparents) who may be dropping off or collecting children from the centre.

Outdoor play

- Children will not be permitted to play outside before 9am.
- Outdoor play will be restricted to two one-hour sessions per day
- A separate daily program for both the warmer and cooler months will be established in order to regulate the total time spent outdoors and indoors
- Any child interacting with the boundary fence, such as throwing balls or hitting fences will be redirected to another play area to participate in an alternative activity.
- Children who are crying outdoors will be comforted by staff. If the child continues to cry, they will be taken inside. A quiet space is available indoors for calming upset children.
- Soft finishes will be used to minimise the external impact of noise (e.g., grass, sand pits, rubber mats) over timber or plastic.
- Preference will be given to the use of soft balls and rubber wheeled toys. There will be no use of percussive, hard wheeled and other potentially noisy toys in the outdoor play area.
- Potentially noisy activities such as music and singing will be conducted indoors with doors and windows closed to ensure that noise is not audible to neighbouring properties.

Monitoring and management

The contact details of the owner/centre manager will be provided to neighbours. This provides residents with a point of contact, should an issue relating noise arise. If complaints are received, the centre manager will take immediate action to rectify the complaint and will follow the complaints procedure.

All staff and parents will be made aware of the requirement to comply with this NMP. Parents of children attending the centre will be provided with information outlined in the NMP (which is reviewed and revised regularly in compliance with service audits).

Staff responsibilities

The centre will continue to be run by an owner-operator. If additional staff are employed, they will be informed of the NMP and this will become part of their induction.

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Staff will be advised:

- About the requirements of the NMP during their induction
- To supervise children at all times
- To provide stimulating and engaging play-based activities that align with the principles of the NMP
- To talk to children and try to resolve conflicts rather than shouting across play areas.
- If children are yelling or screaming, to redirect the child to a quieter play area.
- That for babies who are crying, staff should try to comfort the baby. However, if the baby continues to cry, they are to be taken to a quiet area inside.

Car parking and traffic management

The aim of this section of the NMP is to ensure that access to and from the centre parking areas occurs in an appropriate manner to minimise noise emission, and to ensure that appropriate arrangements are in place to coordinate vehicle parking for parents and/or carers. Pick-up and drop-off times will be provided to both accommodate and encourage the staggering of vehicle movements during peak periods.

Drop off and pick up

Staff will advise parents and carers that drop-off and pick-up of children is to occur within the drop-off designated parking bays, when possible, to reduce any potential noise breakout.

To assist in maintaining low noise levels, signs will be erected, advising the following:

- Parents not to call out loudly during drop off and pick up.
- Staff and parents to converse at a low volume at all times when outdoors.
- Gates and car doors must not be slammed.
- Staff and parents converse at normal speech levels and not to shout across the car parking area.

Parents and carers are required to accompany their child when entering the centre from the car parking area and will be advised of the NMP as part of the enrolment process.

Parents will be discouraged from entering into prolonged conversations with other parents in the car parking area as this is deemed to be unsafe. This information will be contained in information packs provided on enrolment and maintained on-site by the centre manager.

Contact details and complaints procedure

Where possible, neighbours are encouraged to report any noise concerns to the centre manager directly. Any complaints relating to noise can be directed to Abby by calling 0430 515 506.

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If the centre manager is not available, a message can be left and this will be followed up as soon as practicable (within 24 hours).

Any noise complaints received will be recorded in the complaints record keeping book, which will include the following information:

- The date and time of the complaint;
- The details of the person(s) making the complaint;
- Suspected/actual source of the noise (parking area, children playing outdoors); and
- The proposed resolution provided to the resident(s) and suitable outcome.

The complaints record keeping book supports appropriate record keeping, trend analysis and facilitates any necessary changes or modifications to current noise management procedures.

Future changes and modifications

This NMP will be reviewed at the minimum, yearly by the centre manager. More frequent review can be implemented if required based on feedback and regulatory requirements.

Below is an example of a sign to be placed in the car park and outdoor play area.

Dear Parents and Staff

Please remember our Noise Management Plan
Please close car doors, centre doors and gates gently.
Please walk over to your children rather than calling out loudly.
Please converse with staff, other parents and your children quietly.
We appreciate your cooperation.

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GABRIELS HEARNE FARRELL

ENVIRONMENTAL NOISE DEVELOPMENT APPROVAL

235 BRISBANE STREET, PERTH
PROPOSED CHILDCARE CENTRE

Rev A - 30th April 2025

For

MICHAEL CAO

235 Brisbane Street
PERTH WA 6000

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UNIT 3 / 2 HARDY STREET, SOUTH PERTH 6151 **TEL: 9474 5966** **EMAIL:** reception@gabriels.net.au
GABRIELS HEARNE FARRELL PTY LTD ACN 608 956 734 ATF THE GHF UNIT TRUST

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Report Version	Author	Notes	Date
Initial Report	Michael Ferguson		4th April 2025
Rev A	Michael Ferguson	minor client updates	30th April 2025

Gabriels Hearne Farrell Pty Ltd is a Member Firm of the Association of Australasian Acoustical Consultants. The report author is a full Member of the Australian Acoustical Society.

Disclaimer – The information contained within this report is solely for the use of the client identified on the cover page.

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1. INTRODUCTION

Gabriels Hearne Farrell Pty Ltd was commissioned to undertake an acoustic assessment of the proposed childcare facility, located 235 Brisbane Street, Perth. This report considers the following noise sources in regards to environmental noise emissions to neighbouring noise sensitive premises:

- Children within the external play areas.
- Noise emissions from mechanical plant (typical condensing units).
- Noise emissions from the carpark facilities.

The purpose of the assessment was to ensure that the proposed development has the capabilities of complying with the Environmental Protection (Noise) Regulations 1997.

1.1 Qualifications of Consultant

The author of this report, Michael Ferguson, has been working for Gabriels Hearne Farrell Pty Ltd (formerly Gabriels Environmental Design Pty Ltd) since the beginning of 2010. He became a full member of the Australian Acoustical Society on the 22nd March, 2014. GHF is also a Member Firm of the Association of Australasian Acoustical Consultants.

2. PROJECT BACKGROUND

The proposed child care centre is located within minor suburban roads, with surrounding single storey residences, and a double storey residence to the East. The proposed childcare facility is a single storey residential house, with an existing family day care facility approved to operate from the premises.

We have been advised by the client that the proposed facility is to remain "as is", with the proposed operations parameters remaining as a maximum of seven children, of various ages between 0 and 3+ years. The proposed operating hours is to be altered from 8am to 5:30pm, to 7am to 6pm. It must also be noted that the outdoor play area operating hours is to remain unchanged from the existing times of 9am to 5pm.

There is a single car bay used by parent drop-off, located underneath a semi-enclosed carport adjacent to the house, available for drop-off between the hours of 7am and 6pm, Monday to Friday. The childcare facility is not proposed to be operations on Sundays or Public Holidays.

3. NOISE LEVEL CRITERIA

In Western Australia, noise transmission from one property to another is governed by the Environmental Protection (Noise) Regulations 1997. These regulations establish Assigned Levels which are the noise levels that cannot be exceeded at surrounding noise sensitive premises.

3.1 Assigned Levels for Properties Surrounding the Child Care Centre

The Assigned Levels for the existing and future residences around the child care centre are provided in Table 01 on the following page. The Assigned Levels are based on an influencing factor of +2 dB, given that within a 450m radius there is a major road and negligible commercial properties.

Type of premises receiving noise	Time of day	Assigned Noise Level (dB)		
		L_{A10}	L_{A1}	$L_{A\,max}$
Noise sensitive premises; highly sensitive area (i.e. within 15m of a residential building)	0700 to 1900 hours Monday to Saturday	47	57	67
	0900 to 1900 hours Sunday and public holidays	42	52	67
	1900 to 2200 hours all days	42	52	57
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays.	37	47	57

Table 01 - Assigned Noise Levels for the Worst Case Noise Sensitive Receiver Position

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The sound level parameters used for the various environmental noise criteria are described below. These are based upon an assessment period of 15 minutes up to 4 hours:

L_{A10} is the 'A' weighted noise level which is not to be exceeded for more than 10% of the time, e.g. for more than 10 minutes in 100 minutes. This is the parameter relevant to most HVAC equipment, and emissions from other longer term noise sources that run for extended duration (such as children playing, mechanical units, etc.).

L_{A1} is the 'A' weighted noise level which is not to be exceeded for more than 1% of the time, e.g. for more than 1 minute in 100 minutes, or up to 24 minutes in 4 hours. This is the parameter relevant to noise sources that only occur occasionally, for short durations (e.g. vehicle movements)

L_{Amax} is the 'A' weighted noise level which is not to be exceeded at any time and is largely reserved for impulsive noise sources (e.g. car door closes).

Note due to the small number of children proposed for this childcare facility it is plausible that noise from children is assessed against the L_{A1} criteria.

3.2 Noise Character

Regulation 7 requires that the noise emission must be free of annoying characteristics, namely tonality (e.g. whining, droning), modulation (like a siren), and impulsiveness (e.g. thumping). Where noise emissions do exhibit the above noise characteristics, an adjustment is made to the measured/calculated noise level:

Tonality	5dB is added to the measured level
Modulation	5dB is added to the measured level
Impulsiveness	10dB is added to the measured level

In our experience of child care facilities, the following penalties for noise character apply:

Children playing	No penalty. It is generally accepted within the industry that tonality is not measurable in relation to outdoor play areas due to the other ambient noise that is present during the day time (e.g. distant traffic).
Mechanical Plant	+5 dB penalty, due to tonality
Car driving	No tonality penalty, given that the noise occurs for less than 10% of the time.
Car door slamming	+10 dB penalty, due to impulsiveness

The above adjustments only apply where the noise character is audible and measurable at both the noise source and noise receiver.

4. NOISE MODELLING PROCEDURE & RESULTS

4.1 Child Care Activities - External Children

Due to the relatively basic nature of the proposed alterations to the development (i.e. small number of children, unchanged from the existing family day care centre), we have been advised by the City of Vincent that a simplified assessment will be accepted.

Based on this advice, we have undertaken a simple noise assessment of proposed children playing within the rear yard of the property, with the most affect receiver positions being the adjacent two storey balcony at 231 Brisbane Street. This assessment utilises a desktop point-to-point calculation m methodology, using an estimated noise level of 7 children being approximately 80 dB(A) sound power level.

Based on this assessment, compliance with the relevant Assigned Noise Levels is considered likely, subject to the following assumptions:

- Outdoor activities will be limited to daytime hours only.
- Any louder activities will be evaluated against the L_{A1} criterion, given their anticipated infrequency.
- Instances involving particularly noisy or distressed children will be managed by relocating them indoors, with windows and doors kept closed to minimise noise transmission to neighbours.

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4.2 Mechanical Noise

We have been advised by the client there are no new mechanical equipment proposed for the child care facility. Existing mechanical units are not expected to be any louder or more frequency than any typical residential property.

If any new mechanical air-conditioning units or exhaust fans are installed at a later date then as per the Environmental Protection Act, it is the responsibility of the mechanical contractor to ensure compliance with the Assigned Noise Levels is achieved.

4.3 Vehicle Noise

The proposed facility has a semi-enclosed car bay allocated within the carport adjacent the existing house, allocated for children drop-off and pick-ups. We have also been advised this car bay is not to be used prior to 7am.

Given the above, and the expected limited use of the car bay, compliance with noise emissions from vehicle movements and car door closes is likely to be achieved.

5. GENERAL NOISE MANAGEMENT STRATEGIES

It is recommended that the proponent implement the following noise management practices to further mitigate noise emissions to the surrounding residences:

- Crying / distressed children to be taken inside immediately.
- When amplified music is played within the internal spaces, the external doors and windows shall be kept shut.
- Whilst in the outdoor play area, children should be discouraged from undertaking activities that result in short bursts of loud noise (e.g. banging of metal objects, shouting in unison, etc.).
- Stagger play times where possible to minimise the number of children playing externally at the same time.
- Preference for soft-wheeled toys in favour of hard surface play equipment.

As per the received noise management plan it is recommended to have an open and accessible complaints contact procedure between the child care facility and nearby neighbours. This must remain available for residents, with any complaints to be acted upon promptly as far as practicable.

6. CONCLUSION

As discussed with the local authority, the potential noise emissions from the proposed child care centre have been assessed using a desktop assessment methodology, as outlined above in this report (documentation / site photos etc.)

On the basis that general management of particularly noisy activities is undertaken, compliance with the daytime environmental noise regulations is likely to be achieved.

We trust this is of assistance, for any further queries regarding any of this please feel free to contact the undersigned on 9474 5966.

Regards,

Michael Ferguson
Associate Director *B.IntArch(Hons) M.A.A.S.*

GABRIELS HEARNE FARRELL PTY LTD
Member Firm – Association of Australasian Acoustical Consultants

A Unit 3 / 2 Hardy St South Perth WA 6151 **P** (08) 9474 5966
E michael@gabriels.net.au **W** gabriels.net.au **M** 0423 880 388

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Owner / Applicant Details:	
Name:	[redacted]
Address:	[redacted]
Phone:	[redacted]
Email:	[redacted]
Property Details:	
Lot No.:	4
Address:	235 Brisbane Street, Perth WA 6000
Parking Allocation: Please specific for each criteria the number bays allocated to each user group (i.e. staff, customers, accessible, service, etc).	
No. car parking spaces:	2
No. short term bicycle bays:	2
No. long term bicycle bays:	0
End-of-trip facilities:	0, not applicable to Childcare Centre
No. other parking: e.g., scooters	0, not applicable to Childcare Centre
Parking Demand: Please specify the anticipated parking demand for the development.	
Anticipated no. of staff at any one time:	1 staff (owner operator)
Anticipated no. of customers at any one time:	up to a maximum of 7 children
Likelihood of multipurpose trips:	Drop off in the morning an pick up in the afternoon.
Alternative transport options: Please consider alternative ways people may be able to access your site. The Journey Planner website may provide some assistance.	
Train: Where is the nearest station, how far is this from your site, and is the route provided with footpath access and shade?	Perth Station or Perth Underground via Lake St (10 minute walk) route is provided with footpath access and shade.
Bus: Where is the nearest bus stop, how far is this from your site and how frequent is the bus during peak periods?	Fitzgerald St before Aberdeen St, Aberdeen St Russell Square, William St before Brisbane St (less than 10 minute walk) – Buses: 950, 960, 980, 990, Perth Blue CAT

Cycling: Is there a cycle path that accesses your site, are there existing facilities cyclists can use?	Yes, Palmerston and Lake Streets. N/A for facilities for Childcare Centres as it will be a pick-up drop/off arrangement
Public parking: Are there public parking facilities (on-street or car parks) in the vicinity of the site? How many bays are available and are there any parking restrictions? Note: use of on-street parking within residential streets will not be supported.	On-street parking within residential areas will not need to be used.

Shared parking arrangement:

Clause 77Q of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 outlines the matters that the local government may have regard for when determining whether to approve a shared parking arrangement, including:

Whether the peak operation hours of the development will overlap with those of the shared site.	Not applicable
Whether the use of the car parking spaces to be made available on the shared site will impede the use of delivery or service areas on the shared site.	Not applicable
Any relevant local planning policy.	Not applicable
Adequate car parking is likely to be available at all times for both the proposed development and the shared site.	Not applicable
The relationship between he proposed development and the shared site will be such that the shared car parking spaces are likely to be used by persons using the proposed development.	Not applicable

Parking Management Strategies:

Please detail any parking management strategies that will be implemented such as management or tandem bays, way finding.

General Strategies Bay allocation and marking, time limited parking, fees payable.	Staggered drop off/pick up times to manage traffic efficiently with scheduled arrivals spaced every 15 mins to avoid congestion.
Management and maintenance of parking (including car stackers)	Fammilies allocated specific time slots for both drop off/pick ups. Adherence managed through communication/enrolment agreements
Management of tandem parking for staff / tenants	Dedicated on-site parking for staff and families reducing the need for street parking.
Wayfinding measures	Signage/induction will assist parents to navigate to parking areas
Promotion of alternative transport modes: I.e. The provision of well-maintained bicycle and end of trip facilities, use of active transport initiatives or public transport promotion.	Parents of the Centre will generally live and work locally. They will be encouraged to walk, cycle and/or use public transport to access the centre.

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Service Bays
Please detail how service vehicles will be accomodated

No. service bays provided: Private and/or shared	We are a small family business and don't anticipate the need for service vehicles
Expected no. of delivery's: Include schedule of deliveries (i.e. days, times)	Not applicable
Management of shared service bays: Include requirements of other tenancies, demonstrating there will no conflict.	Not applicable
Other Sign marking, etc	Not applicable

Key findings from Traffic Impact Statement / Assessment

A Traffic Impact Statement/Assessment is not required for less than 10 children.
Sight lines and safety management:
1. Staggered Drop-off and Pick up Times: Families will be allocated with set 15 minute staggered arrival and departure times to reduce congestion during peak periods and allowing for safer vehicle movement within the car parking area.
2. Speed reduction measures: All families will be advised to adhere to a 5km/hr speed limit within the premises. Signage applied in the car park and information reinforced.
3.Convex mirror installation: One or more convex safety mirrors will be installed to enhance visibility and minimise collision risk with other vehicles or pedestrians
4. Pedestrian safety signage: Visible signs will be installed to alert pedestrians to watch for reversing vehicles.
5. Parent Education: Safety protocols will be included in induction booklets and regular communications will include advice to hold a child's hand while walking, avoiding walking behind reversing vehicles, and parking etiquette and caution.

Justification for vehicle parking bays not satisfying the ratios stipulated in Table 1.

Not applicable, the available vehicle parking bays meets required ratios in Table 1.

Office Use Only

Responsible Officer	Manager Policy & Place
Initial Council Adoption	06/03/2018
Previous Title	Policy No. 7.7.1 Non-Residential Parking Requirements
Reviewed / Amended	01/2023
Next Review Date	2027

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Waste Management Plan – 235 Brisbane Street, Perth WA 6000

Summary of the development

- The location of the development is 235 Brisbane Street, Perth. The premises is a single ground floor with three bedrooms and one additional loft area accessible by staircase to be used as an office space.
- The premises is 362m^2 with 196m^2 of internal space. The intended use of the premises is a Centre-Based Child Care Centre servicing a maximum of seven (7) children.

Anticipated waste generation

- We have operated a Family Day Care service for five years under the City of Vincent's approval, during which time the standard residential waste services (FOGO, recycling, and general waste bins) were more than sufficient for our needs.
- Our child care service continues to operate as a small family-run microbusiness**,** caring for a maximum of seven children. The service will operate from 7:00 am to 6:00 pm, Monday to Friday**,** but the waste generation remains modest and comparable to a residential household. Additionally, the property will not be used as a private residence**,** which further reduces the overall volume of waste.
- As a microbusiness, we are committed to sustainable practices, including using the FOGO bin for compostable waste, maximising recycling, and choosing reusable materials wherever possible. Environmental education is a part of our program, helping children learn about responsible waste behaviour.
- The proposal does not increase the intensity of the number of children on site. Therefore, we do not anticipate an increase in waste disposal requirements. The anticipated waste generation is calculated to demonstrate compliance with the City's Waste Management Policy.
- We operate a small child care centre and the actual internal space used for seven children is 22.75m^2 (3.25 m^2 for each child) and are open only five days per week (Monday to Friday). Based on the City's waste service requirements (below) and adjusting for our part-time operation, our estimated weekly waste generation is as follows:

Childcare	240	240	120	L/100m^2/week

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Bin Type	Calculation (Volume Needed)	Adjusted Weekly Volume (5 days/week)	Bin Capacity (Fortnightly)	Weekly Bin Capacity	Sufficient?
General Waste	$(22.75/100) \times 240 = 54.6 \times \frac{5}{7} = 39.0\,L$	39.0L	120L	60L	✅ Yes
Recycling	$(22.75/100) \times 240 = 54.6 \times \frac{5}{7} = 39.0\,L$	39.0L	240L	120L	✅ Yes
FOGO	$(22.75/100) \times 120 = 27.3 \times \frac{5}{7} = 19.5\,L$	19.5L	240L	120L	✅ Yes

- These figures confirm the anticipated waste output is well within the limits of the standard residential bin sizes provided under the City's microbusiness waste service. We do not reside at the property, further reducing general household waste, and our age group (mostly 3+ years) means minimal, if any, nappy waste.

Bin size and quantity
The childcare centre will use the following bins, including size and quantity:

Bin Type	Colour	Size (L)	Quantity	Height (mm)	Depth (mm)	Width (mm)	Purpose
General Waste Bin	Red	140L	1	1065	540	500	Non-recyclable household waste
Recycling Bin	Yellow	240L	1	1080	735	580	Recyclable materials (paper, plastic, cans)
Green Waste Bin	Green	240L	1	1080	735	580	Garden and organic waste

Bin access and storage
The design of the bin store and associated waste management arrangements are compliant with the requirements outlined in Section 7.2 and are detailed as follows:

- **Waste Transport**: Waste will be transported from its source directly to the appropriately designated bins located within the bin store area. Waste handling will be undertaken by staff in accordance with site guidelines to ensure proper disposal and segregation.
- **Bin Store Size**: The bin store has a total area of 10.92m^2, as shown in the submitted floor plan.
- **Bin Store Layout**: The layout accommodates one 140L red bin for general waste, one 240L yellow bin for recyclables, and one 240L green bin for organic waste. The space allows for safe and efficient bin manoeuvrability and access.
- **Wash-Down Area**: An adjacent area is suitable for bin wash-downs and is equipped with appropriate stormwater drainage to prevent run-off and environmental contamination.

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- **Ventilation**: The bin store is located in an open space**,** ensuring adequate natural ventilation to mitigate odour build-up and maintain hygiene.
- **Vermin Prevention**: Vermin control will be implemented using residential baiting systems placed strategically within and around the bin storage area.
- **Noise Reduction**: Waste handling noise will be minimal due to the limited frequency and scale of waste movement. All bins are plastic, with lids and wheels, and are moved manually to reduce noise.
- **Stormwater Ingress Prevention**: The bin store and wash-down area are designed with graded surfaces and drainage**,** ensuring stormwater ingress is effectively prevented and managed.
- **Waste System**: Bins will be kept within the designated bin storage area and waste will be deposited into the appropriate bins as needed by site users.
- **Collection Method and Frequency**: The City of Vincent's residential collection vehicle will service the site. Bins will be moved from the storage area to the verge on the scheduled fortnightly collection day**.**
- **Waste Service Provider**: Waste collection and disposal services are provided by the City of Vincent.
- **Drawings/Figures**: Refer to the floor plan below for exact bin store placement (yellow highlighted), access pathways, and adjacent facilities.

Waste system

- The waste management system for the property will operate similarly to a standard household. A central internal bin will be used for general waste collection, which will be taken out to the bin area when full.
- An internal FOGO (Food Organics and Garden Organics) bin will be provided for the collection of food waste and organic materials, facilitating internal source separation in line with the City's waste guidelines.
- Recyclable materials will be managed using designated cardboard boxes. All recyclable waste, including flattened cardboard, will be placed in the yellow-lidded recycling bin for collection.
- As this is a single dwelling (not a multi-storey development), there will be no waste chute or compactor systems installed. Waste will be transferred internally by staff via regular household practices, placing waste into the appropriate internal bins before moving them outside for collection.
- Signage will be provided in internal waste storage areas to educate staff and visitors on correct waste sorting and bin usage, supporting effective source separation. Proposed signage is provided below:

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- Responsibility for the ongoing monitoring, cleaning, and maintenance of waste bins and equipment will rest with the childcare centre manager to ensure compliance with the City's waste management standards and to maintain hygiene and efficiency.

Collection method and frequency
The waste collection arrangements for the property align with standard residential practices and are outlined as follows:

- **Collection Vehicle**: Waste will be collected by the City of Vincent's residential collection vehicle.
- **Movement of Collection Vehicle**: The collection vehicle will travel along Brisbane Street as per the standard route used for other residential properties in the area. No special access or modification to usual traffic movement is required.
- **Bin Presentation Point**: Bins will be presented on the verge directly adjacent to the property, consistent with City of Vincent residential waste management guidelines.
- **Collection Location**: The verge serves as both the presentation and collection location, providing clear and safe access for the collection vehicle.
- **Transfer of Waste to Collection Vehicle**: On scheduled collection days, bins will be moved from the bin storage area to the verge by staff, and emptied by the City of Vincent waste truck using standard mechanical lifting equipment.
- **Frequency of Collection**: Waste will be collected on a fortnightly basis, in line with the City of Vincent's standard residential waste collection schedule.

Waste service provider
We nominate the City of Vincent as the waste service provider.

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Drawings/figures

- Please see below drawings slowing the generic floor level. The bin store area is highlighted in green. The bin store has a total area of 10.92m^2.
- There is no need for a bulk waste store as this is a small business operating on a residential scale. No bulk waste has been needed in the five years of operation nor is anticipated in the future due to the small scale of operations.
- Three bins will be required, consistent with what is supplied at present i.e., 1 x 120L red, 1 x 240L green and 1 x 240L yellow bins.
- The blue arrows in the drawings below show how the bins will be taken to the waste collection point on the verge of Brisbane Street for collection at the scheduled pickup day.

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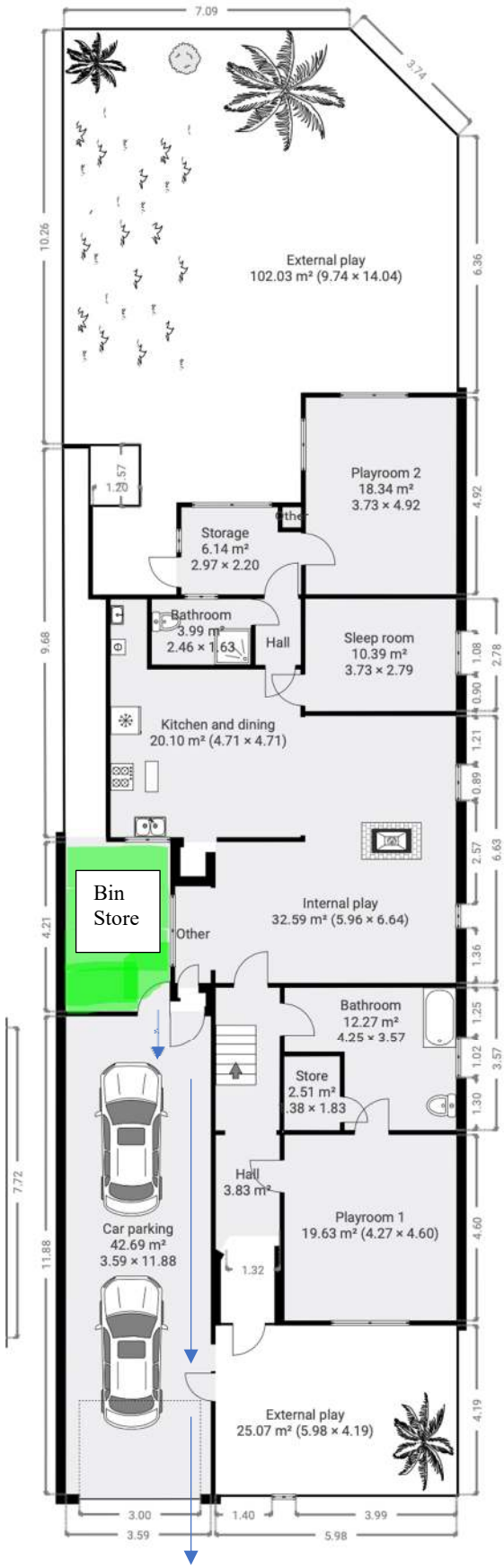

BRISBANE STREET –
BIN COLLECTION ON VERGE

REPORTS WITH DISCUSSION

9.1 NO. 235 (LOT: 4; D/P: 1189) BRISBANE STREET, PERTH - CHANGE OF USE FROM FAMILY DAY CARE TO CHILD CARE PREMISES

Ward: South Ward

Attachments:
1. Location and Consultation Plan
2. Development Plans
3. Noise Management Plan
4. Applicant's Justification
5. Site Photographs
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 application for the Change of Use from Family Day Care to Child Care Premises at No. 235 (Lot: 4; Plan: 1189) Brisbane Street, Perth, in accordance with plans provided in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 8:

1. Development Approval

This approval is for a Change of Use from Family Day Care to Child Care Premises as shown on the plans dated 16 May 2024. No other development forms part of this approval.

2. Use of the Premises

2.1. This approval is for Child Care Premises as defined in the City of Vincent Local Planning Scheme No. 2. The use of the subject land for any other land use may require further approval from the City.

2.2. The Child Care Premises shall be limited to the following hours of operation:
- **Monday to Friday: 7:00am to 6:00pm**
- **Saturday, Sunday and Public Holidays: Closed**

2.3. The Child Care Premises shall be limited to providing care for a maximum of seven children at any time.

2.4. The Child Care Premises shall have a maximum of two staff on site at any time.

3. Landscaping

Trees within the external play area shall be maintained at the expense of the owners/operators to provide for a minimum of 30 percent of the external play area as canopy coverage at maturity, to the satisfaction of the City.

4. Bicyle Parking

A minimum of two bicycle parking bays shall be provided on site prior to the commencement of the Child Care Premises use. The design and construction of the bike bays shall be in accordance with Australian Standards AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking, to the satisfaction of the City.

5. Noise Management

The Child Care Premises shall at all times operate in accordance with the operational measures outlined in the approved Noise Management Plan dated 29 May 2024, to the satisfaction of the City.

6. Signage

All signage shall be in strict accordance with the City of Vincent Local Planning Policy: Signs and Advertising, to the satisfaction of the City, unless further development approval is obtained.

COUNCIL DECISION ITEM 9.1

Moved: Cr Woolf, Seconded: Cr Castle

That the recommendation be adopted.

LOST (2-6)

For: Cr Castle and Cr Wallace

Against: Mayor Xamon, Cr Hallett, Cr Alexander, Cr Worner, Cr Woolf and Cr La Fontaine

(Cr Greer was on approved leave of absence for the Meeting.)

ALTERNATIVE RECOMMENDATION

Moved: Cr Hallett, Seconded: Cr Woolf

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 the Change of Use from Family Day Care to Child Care Premises at No. 235 (Lot: 4; Plan: 1189) Brisbane Street, Perth, in accordance with plans provided in Attachment 2.

REASON:

1. Pursuant to Clauses 67(m) and (n) in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the objectives of the Residential Zone of the City of Vincent's Local Planning Scheme No. 2, the proposed development would be incompatible with its setting and would have adverse impacts on the amenity and character of locality as:

    a) The introduction of a commercial land use would have an adverse impact on the residential amenity of the locality due to the encroachment of incompatible non-residential development into an area that is residential in nature. This would also result in an adverse impact on the existing and likely future character of the locality and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;

    b) The Child Care Premises land use would result in noise generating activities that are located adjacent to residential dwellings and areas of these properties that are sensitive to noise including private outdoor living areas. This would result in adverse amenity impacts and is inconsistent with the objectives of the City's Child Care and Family Day Care Policy. The proposed development also does not adequately demonstrate that the extent of noise generated from the development would not unreasonably impact the amenity of the surrounding residential properties, inconsistent with the objectives of the City's Policy No. 7.5.21 – Sound Attenuation;

    c) Proposed access arrangements and likely traffic generated by the proposed development would have a detrimental impact on the flow of traffic movements and the function of the surrounding road network. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy;

    d) The proposed development does not provide for adequate parking arrangements and management measures to demonstrate that parking and access would be suitable to meet the needs of its users. This is inconsistent with the objectives of the City's Child Care and Family Day Care Policy and Policy No. 7.7.1 Non-Residential Parking Requirements Policy.

CARRIED (6-2)

For: Mayor Xamon, Cr Alexander, Cr Worner, Cr Woolf, Cr Hallett and Cr La Fontaine

Against: Cr Castle and Cr Wallace

(Cr Greer was on approved leave of absence for the Meeting.)

At 7.19pm A/Executive Director Community & Business Services left the meeting.
At 7.22pm A/Executive Director Community & Business Services returned to the meeting
At 7.23pm A/Manager Development & Design left the meeting and did not return.

Brisbane St Childcare Centre

235 Brisbane Street, 6000 Perth, WA, Australia
TOTAL AREA: 463.76 m² • **LIVING AREA:** 183.80 m² • **FLOORS:** 2 • **ROOMS:** 19

magicplan

▼ Ground Floor

TOTAL AREA: 463.76 m² • **LIVING AREA:** 183.80 m² • **ROOMS:** 19

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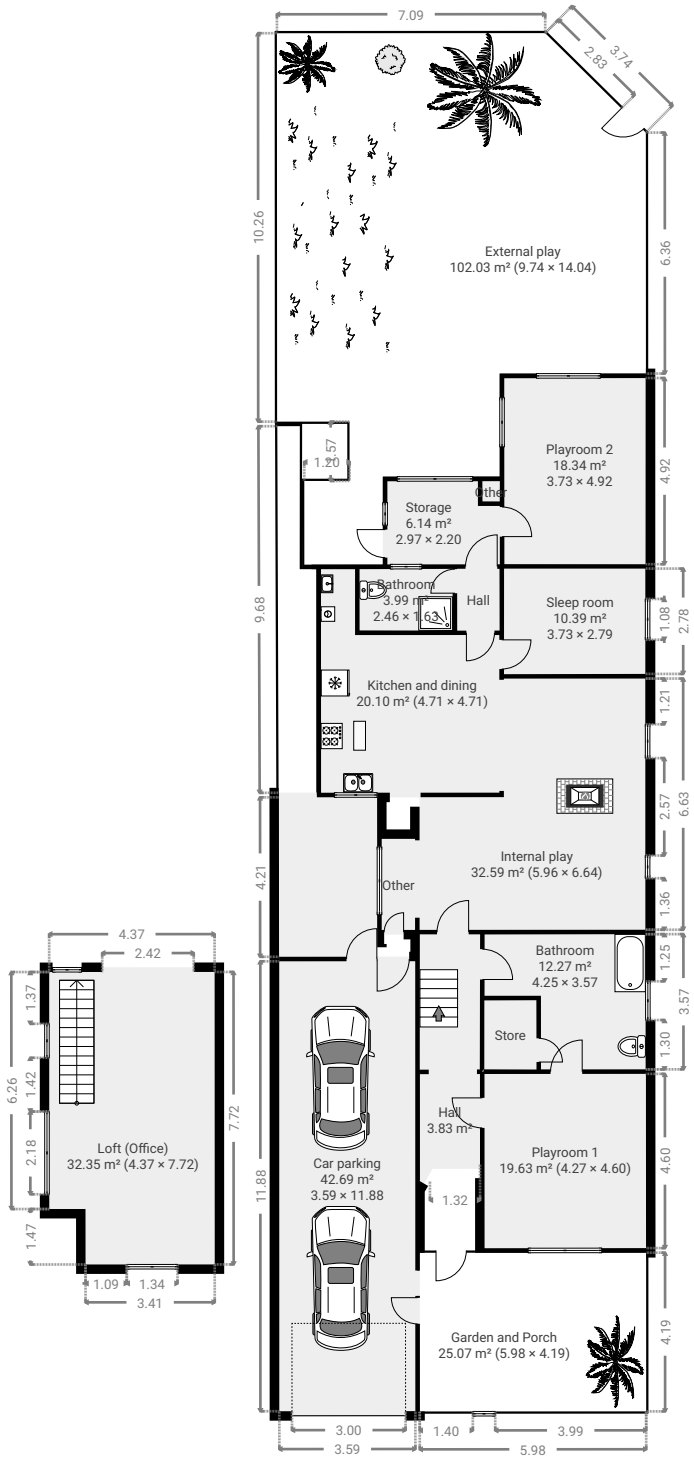
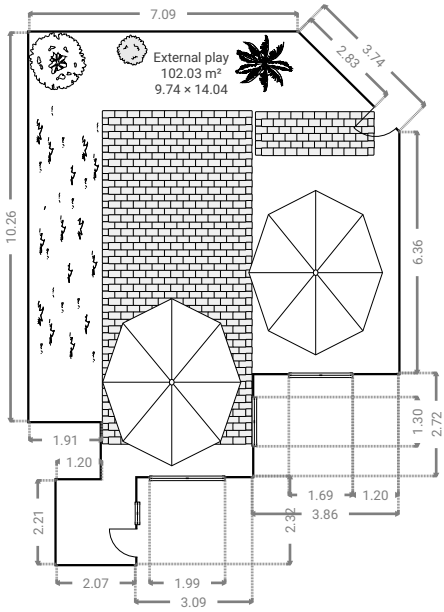
16 May 2024





CITY OF VINCENT
DA No. 5.2024.38.1

OMC 23 July 2024

REFUSED
Refer to Decision Notice

A/Coordinator Planning Services

THIS FLOORPLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSOPIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.

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Summary of Submissions:

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

Comments Received in Objection:	Applicant Comment:
Land Use	
• The introduction of the commercial use would be inconsistent with the amenity of the area. The approval of the use would represent incremental creep of commercial uses into the existing residential area.	• The applicant has no intention to alter the residential zoning of the site or to facilitate further commercial encroachment. The core of this application is a change in service model, not a fundamental shift in land use intensity. The proposed Child Care Premises, serving a maximum of seven children, will operate at a scale and intensity consistent with the existing Family Day Care, a use already exempt from planning approval in residential zones. The building will maintain its residential appearance, presenting as a single dwelling to Brisbane Street, thus preserving the established residential character. This aligns with an 'A' use classification under LPS2, which permits discretionary approval.
• The portion of Brisbane Street in which the subject site is located (between Lake Street and Palmerston Street) is the only portion entirely zoned Residential under LPS2. This contributes the land use diversity along Brisbane Street by providing an area exclusively for residential land uses which does not currently contain commercial activity.	
• The proposal does not align with State Planning Policy 7.0 – Design of the Built Environment, the objectives of the City of Vincent Local Planning Scheme No. 2 (LPS2) and the community aspirations in the Strategic Community Plan 2018-2028. These policies seek to preserve neighbourhood character, walkability and residential amenity which would be compromised by the proposal.	No State Planning Policies relevant to this proposal have been identified. The assessment demonstrates that the proposal is consistent with the objectives of the Residential Zone and the Strategic Community Plan. The low intensity of the proposed use, mirroring that of an exempt Family Day Care, ensures compatibility with the residential character, promoting local services without undermining amenity. The existing residential built form character of the area will be retained, as the building will continue to present as a single dwelling. While directly adjacent to residential uses, the applicant highlights five years of operation as a Family Day Care without reported adverse impacts to the community. Furthermore, numerous other non-residential businesses, such as Ton Sian Groceries and Palmerston Association, successfully operate within residential areas nearby, setting a precedent for compatible co-existence. Several existing Centre-Based Child Care Services, licensed for significantly more children than proposed here, have also been approved in residential areas within the City, such as Indigo Montessori and Busy Bees at Mt Lawley South, which further support the consideration of approval in residential zones.
• The proposal does not meet the objectives of the City's Local Planning Policy: Child Care and Family Day Care (Child Care Policy). Specifically, Clause 3.2 which says that Child Care Centres in the Residential zone shall be considered where it is adjacent to other non-residential land uses.	
• The change of the use will no longer require the owner/operator to live at the premises reducing consideration of the impacts of the development.	• The owner/operator's residency at the property is not a determining factor in this planning assessment. The City's planning framework and relevant legislation, such as the Education and Care Services National Law (WA) Act 2012, do not mandate operator residency for Family Day Cares. The assessment is based on the proposed operational measures, including daytime hours, which are designed to mitigate impacts on surrounding amenity irrespective of owner-occupancy.

Summary of Submissions:

Comments Received in Objection:	Applicant Comment:
Character of the Area The introduction of a commercial childcare facility at the subject site would impact character of the area and the existing sense of community.	• The applicant has committed to preserving the purely residential character of the area, with no intention of seeking rezoning or undertaking capital works that would alter the building's appearance. The proposed Centre-Based Child Care will continue to present as a single dwelling, consistent with the existing streetscape. This ensures the proposal remains complementary to the neighbourhood's character.
Future Applications / Expansion of the Child Care Centre If approved, the child care could expand the number of children present at the site and the building on the site could be redeveloped under different State and Federal legislations that would permit more children at the site. These additional approving authorities would circumnavigate the City of Vincent approvals.	• To address this, a critical condition of approval explicitly limits the maximum number of children to seven at any given time. The applicant has already demonstrated responsiveness to community feedback by reducing the initial proposal from eight children to seven. The City of Vincent has previously given advice that any future proposal to increase the number of children permitted would necessitate a new development application and would be subject to full review and determination, as per the current Register for Delegations, Authorisations, and Appointments. State and Federal legislations do not override local planning conditions imposed under the Planning and Development Act 2005, meaning any increase in numbers or works would require City of Vincent approval.
Traffic • The traffic generated by the proposed development would impact on the safety and amenity of the area. • The portion of Brisbane Street in which the subject site is located experiences existing high levels of vehicle traffic which would be exacerbated by the proposed development. • The increase in traffic would impact on vehicle and pedestrian safety, particularly for properties utilising the right-of-way to the west of the subject site.	• Given the proposed maximum of seven children, traffic generation is anticipated to be minimal, remaining consistent with the pre-existing Family Day Care operations. A Traffic Impact Statement is not required for developments accommodating fewer than 10 children, reflecting their low traffic impact. The site's proximity to multiple bus routes (e.g., Fitzgerald, William, and Beaufort Streets) and the Perth Cycle Network promotes active and public transport alternatives. To further mitigate potential impacts, the applicant proposes staggered 15-minute drop-off and pick-up times, ensuring only one family arrives at a time and preventing on-street queuing.

Summary of Submissions:

Comments Received in Objection:	Applicant Comment:
Parking • The proposed development would impact the availability of on-street car parking. • No bicycle parking is proposed as part of the revised application.	• The proposal fully complies with the City's Non-Residential Development Parking Requirements Policy, which mandates two on-site parking bays for this type of development. The applicant provides one staff parking bay and one customer parking bay for pick-up and drop-off, minimising reliance on street parking. Additionally, two short-term bicycle parking bays will be provided behind the front fencing to encourage active transport. A service bay is not required for low-intensity uses like this proposal, ensuring no impact on on-street parking or service-related traffic. Comprehensive parking management plans, including warning signage and clear parent communication on safe parking practices, will further ensure efficient and safe access.
Noise • The proximity of the outdoor play area to the outdoor living areas of adjoining properties which would result in a loss of amenity for these properties. • Unlike a Family Day Care, a Child Care Centre of this scale would result in continuous, disruptive noise throughout the day. • The Noise Management Plan would not sufficiently mitigate noise impacts from the proposed development.	• The site's history as a Family Day Care has not generated noise complaints. The proposed Centre-Based Child Care will operate at the same low intensity, with no anticipated increase in noise generation. A detailed Noise Management Plan (NMP) outlines robust mitigation measures: ○ Outdoor play restricted to two one-hour sessions daily, after 9:00 am. ○ Use of soft surfaces (e.g., grass, sandpits) and preference for soft-wheeled toys. ○ Prohibition of percussive or hard-wheeled toys outdoors. ○ Immediate relocation of crying children indoors to a quiet space. ○ Active supervision of outdoor play to manage noise levels. ○ Conducting noise generating activities like music and singing indoors with closed doors and windows. An independent Environmental Noise Report by Gabriels Hearne Farrell confirms that compliance with the Environmental Protection (Noise) Regulations 1997 during daytime hours is achievable. The City's Health Services also concurred that an Acoustic Report was not required given the low scale and proposed management. Noise from children playing is not regulated under the Environmental Protection (Noise) Regulations 1997, but the applicant has voluntarily committed to the NMP to proactively manage any potential amenity impacts.

Summary of Submissions:

Comments Received in Objection:	Applicant Comment:
National Construction Code (NCC) • The proposal would require significant external modifications to comply with the Building Code of Australia (known as the NCC). This includes the widening of doorways, installation of entrance ramps and modification to the front gate. • The modifications required to the building to comply with the NCC requirements may result in a reduction in the number of car bays, impacting on the acceptability of the proposal.	• The applicant has confirmed no structural changes to the building are intended as part of this planning application. A change of building classification from Class 1a (residential) to Class 9b (Child Care Premises) under the NCC will necessitate an Occupancy Permit. This process is separate from planning approval and will require the applicant to engage a private building surveyor to ensure compliance with NCC performance requirements. Any necessary internal modifications for NCC compliance do not form part of this development approval.
Applicant Information • The information provided by the applicant in response to the reasons for refusal regarding the timing and the previous operation of the use does not accurately represent how the use previously operated. • The applicant's justification that the previous operations demonstrate that the proposed development could operate without impacting on the amenity of the area are not accurate. • The statements provided by the applicant regarding the outcomes of community consultation on the previous proposal and the operation of other child care centres within residential areas are misleading. • The statements provided by the applicant outlining the community, social and economic benefits of the proposal are out of context due to the number of children accommodated by the development.	• The claim that the applicant's information regarding timing, previous operation, and justification for operating without impacting amenity is inaccurate, or that statements about community consultation and other childcare centres are misleading, is strongly refuted. The applicant's submission accurately represents the operational history and justification for the proposed change of use. Information presented, including details on community consultation outcomes and comparisons to other childcare centres, is factually accurate and based on direct feedback and existing approvals. Any assertions to the contrary are unfounded. The assessment of this application consistently focuses on its merits against the established planning framework, rather than speculating on the applicant's motivations. The applicant has demonstrably acted in good faith by proactively reducing the proposed maximum number of children from eight to seven in direct response to initial community feedback and in alignment with current policy and their existing approval. This action directly addresses concerns about intensity and shows responsiveness to community sentiment. The operation of the premises as a Family Day Care for five years before recently pausing operations, without any reported concerns or complaints to the City of Vincent, firmly supports the viability of a similar-scale operation without adverse impacts on amenity. This established history serves as a robust justification for the proposed change.

Summary of Submissions:

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	Furthermore, the proposed service, even at this low scale of a maximum of seven children, offers significant and valuable community, social, and economic benefits. It directly contributes to addressing the essential need for local childcare services, supports increased workforce participation (particularly for parents and carers), and strengthens community connections. The applicant's statements are not out of context; rather, they highlight how a small, well-managed childcare facility can positively contribute to the local community.
Privacy The existing dividing fences are below the height standards which compromises neighbour privacy.	• The proposed childcare activities will be contained to the ground floor, where existing perimeter fences provide adequate privacy. The first floor is designated for office use, and its windows do not overlook habitable rooms of adjoining properties, thereby preserving neighbour privacy.
Suitability of Site Child Care Centres have different requirements to a Family Day Care Centre. Family Day Care Centres primarily operate out of people's homes and do not generate the same amount of traffic and noise as a Child Care Centre.	• This proposal is for a small-scale Centre-Based Child Care, deliberately designed to operate at the same intensity as a Family Day Care – a use already permitted in residential zones. The applicant seeks to maintain the existing capacity of seven children, thus minimising any significant changes in traffic or noise generation compared to usual operations. The use of the existing residential dwelling helps retain the area's established character.
Streetscape The existing building on the property is run down and does not present well to Brisbane Street.	• The concern that the existing building on the property is run down and does not present well to Brisbane Street, is noted. The current application, however, does not propose any external works or modifications to the existing building. The focus of this application is a change of use, not a building renovation or upgrade. The site will continue to present as a single dwelling to Brisbane Street, thereby maintaining its current visual contribution to the streetscape. As such, any perceptions regarding the building's current condition or need for upkeep fall outside the scope of the planning approval sought for this change of use.

Summary of Submissions:

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Signage Proposed commercial and directional signage would be visually intrusive and inappropriate for a residential setting.	• The application does not include detailed signage plans. However, any future signage will strictly comply with the City of Vincent Local Planning Policy: Signs and Advertising. This policy limits commercial signage in residential zones to a maximum of two signs. The applicant has indicated an intention to keep signage minimal and in full compliance with policy.

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