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Nil 114

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Nil 114

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Nil 114

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Minutes of the Ordinary Meeting of the Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 10 June 2003, commencing at 6.00pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, JP declared the Meeting open at 6.00pm.

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

**(a) Apologies:**

Nil.

The Chief Executive Officer advised that Councillors Caroline Cohen and Maddalena Torre will be applying for Leave of Absence for tonight's meeting.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Basil Franchina	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Rick Lotznicher	Executive Manager, Technical Services
Mike Rootsey	Executive Manager, Corporate Services
Debbie Winfield	Minutes Secretary
Alia Bath	Journalist – Voice News
Ryan Sturman	Journalist – Guardian Express

Approximately 25 Members of the Public

**(c) Members on Leave of Absence:**

Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward - applying at tonight's meeting
Cr Maddelena Torre	South Ward - applying at tonight's meeting

**3. (a) PUBLIC QUESTION TIME & RECEIVING OF PUBLIC SUBMISSIONS**

1. Mr Louis Zampogna of Unit 3/177 Carr Place, Leederville - Item 10.1.12. Stated that he would like the item brought forward.
2. Mr Paul Martin of 94 Lincoln Street, Highgate - Item 10.1.3. Stated he was in support of the Town Officers recommendation and thanked Councillors Lake and Cohen, and the Towns' Planning Officers.

3. Shirley Barker of Unit 5 Leederville Gardens, Britannia Road, Leederville - Item 10.1.9. She stated that at the time of negotiating the lease for Unit 5 she should have been made aware of the proposal as her privacy had been compromised.
4. Joan Siciliano of 35B Victoria Avenue, Claremont - Item 10.1.5. Stated that the measurement on the plan (provided by Conwood) should be 2.59 metres not 2.0 metres for the setback. She also stated that it was always her intention to screen the balcony to address the privacy issues.
5. Lesley Dubois of 84 Grosvenor Road, Mount Lawley - Item 10.1.14. She stated that the density variation will have a severe impact on the amenity of neighbouring properties. She also stated that the ROW will have a high daily vehicle usage and there are no speed controls, and pedestrians will also be at risk. She referred to a potential overflow parking problem and that the community had not been consulted on this development.
6. Kevin Palassis, architect from Palassis Architects, of 353 Rockeby Road, Subiaco - Item 10.1.14. He stated that as the architects for the development, they had retained the Heritage Buildings (Hall buildings without other viable use) and the major trees, but to be feasible, a slight increase in density was necessary. He also stated that concerns of parking and the ROW access can be addressed. He requested Councillors to support the application and the reuse of the site and retention of the heritage values.
7. Norelle O'Neill, of 35A Britannia Road, Leederville - Item 10.1.9. She stated that she was co-owner of 35A Britannia Road, and did not support the development for the following reasons;
  - too big for land size available and detracts from the streetscape and surroundings both public and private
  - contravenes thirteen (13) R Codes, including open space and boundary setbacks
  - land size is 329square metres and the minimum requirement is 400 square metres
  - blocks sunlight from and thus devalues the Leederville Gardens Retirement Village

She requested Councillors to refuse the application.

8. James Bruni of 71 Raglan Road, Mount Lawley - Item 10.1.14. He stated that he was co-owner and resident of 71 Raglan Road, and he disagreed with the Town Officer's comment in the report concerning the loss of amenity. He referred to his written objections to the development and stated that the loss of amenity to his property will be significant, with the bedroom, living room and backyard of his property forming the boundary of the ROW, and the proposed metallic access gate to be directly opposite his living room. He requested Councillors to review the development and the loss of amenity to his property.
9. Lily Sabatino of Unit 6, 178 Grosvenor Street, North Perth - Item 10.1.8. She stated that she had been advised that her neighbours did not agree to the plans, although they had previously approved them.

She referred to the major concern as being from the neighbour at 84 Forrest Street, North Perth, regarding the cone of vision from the balcony and stated there was no intention to use the balcony to peer into neighbour's properties, but to enjoy the sky line view, and suggested a line of mature pencil pine trees be a screening option. She also requested the front setback remain at 5.5metres and not be amended to 6.0metres as she would prefer more space at the back. She advised that photographs from her balcony had been provided to the Town today.

10. Griff Morris of 142 London Street, North Perth - Item 10.1.11. Referred to a new site plan provided today that addressed changes requested by the Town. He also referred to the following issues;
  - the Lot size in the report shows 400 square metres required, he stated this is 220 square metres as it is not proposed as a green title
  - the carport northern side setback has been changed and now complies
  - the store (converted old garage) has been there for 30 years
  - the carport has been amended and is now toward the southern boundary
  - the site is currently zoned R30/40 and he could develop with three units, however, he was only developing one building at the rear of the existing house
11. Dudley Maier of 51 Chatsworth Road, Highgate - Item 10.1.15. He stated that the plans for the ground floor were missing from the Agenda report issued and from the boards in the Chamber. He also stated that he was concerned with the processes followed, and that there were some significant changes between the approved plans, what has been built and what was approved on the building licence. He asked who will take responsibility for the changes that were introduced between the approved plans and the building licence.

*Mayor Catania advised the question will be taken on notice and that the Chief Executive Officer will respond in writing.*

12. Juliet Bruning of 71 Raglan Road, Mount Lawley - Item 10.1.14. Stated that she is a proprietor of 71 Raglan Road and that she was concerned that the Town Officer approved the demolition of part of the church building which she believes is aesthetically appealing and important to the overall appearance of the building, and is an area landmark. She also stated that the proposed access along the ROW was a safety issue for pedestrians, due to its narrowness and lack of visibility at the entrance/exit point.
13. Jim Crohan of 118 Forrest Street, South Perth - Item 10.1.14. Stated that he was the developer of the site and had wanted to maintain the Heritage Buildings and had employed Palassis Architects to facilitate this. He thanked Town Officers for their assistance and asked Councillors to support the application.
14. Vicky Chapman of 254 Preston Point Road, Bicton - Item 10.1.2. She advised that she is the owner of 86A Bourke Street and the application was to build a two-storey house. She thanked Councillors Lake and Ker for their assistance. She stated that she had addressed areas of non compliance, and had met with Town Officer Des Abel to facilitate this. She requested Councillors to consider her application.

There being no further questions from the public, the Presiding Member closed Public Question Time at 6.30pm.

**(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

The Chief Executive Officer advised that Councillors Caroline Cohen and Maddalena Torre had requested Leave of Absence for the Ordinary Meeting of Council to be held 10 June 2003, Cr Cohen due to a personal commitment and Cr Torre due to being unwell, and Cr Ker for the Ordinary Meeting of Council to be held on 24 June 2003, due to business commitments.

**Moved Cr Farrell, Seconded Cr Franchina**

*That Council approve Councillor Caroline Cohen's and Maddalena Torre's request for leave of absence for the Ordinary Meeting of Council 10 June 2003, and Councillor Ian Ker's request for leave of absence for the Ordinary Meeting of Council 24 June 2003.*

**CARRIED (6-0)**

(Crs Chester, Cohen and Torre on approved leave of absence.)

**5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND MEMORIALS**

Nil.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**6.1 Ordinary Meeting of Council held on 27 May 2003.**

**Moved Cr Lake, Seconded Cr Ker**

*That the Minutes of the Ordinary Meeting of Council held on 27 May 2003 be confirmed as a true and correct record, subject to the following amendment.*

*That the words "only, unless otherwise determined by Council" are added at the end of clause (vii) of Item 10.1.18, on pages 55 and 56 of the Minutes, and on pages 29 and 30 of the Abridged Minutes, as follows;*

*"(vii) The approval for the consulting rooms is for Cyrenian House only, unless otherwise determined by Council".*

**CARRIED (6-0)**

(Crs Chester, Cohen and Torre on approved leave of absence.)

**6.2 Special Meeting of Council held on 28 May 2003.**

**Moved Cr Lake, Seconded Cr Ker**

*That the Minutes of the Special Meeting of Council held on 28 May 2003 be confirmed as a true and correct record.*

**CARRIED (6-0)**

(Crs Chester, Cohen and Torre on approved leave of absence.)

**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

**7.1 Employee of the Month Award for the Town of Vincent for June 2003**

Mayor Nick Catania advised that as members of the public will know, the Council recognises its employees by giving a Monthly Award for outstanding service to the ratepayers and residents of the Town, and the recipients receive a \$75 voucher and a certificate, and their photograph is displayed in the Administration Centre Foyer, in the Library and at Beatty Park Leisure Centre.

He announced that for June 2003, the award is presented to Jay Daebritz, Rates Officer in the Corporate Services Section, and that Jay was nominated by the Manager Financial Services for the work he did with Civica (a software provider) to enable the Town to produce a street directory that can be sold to the public and for internal use. The Town has previously not been able to produce a street directory for sale, which is often requested by real estate agents within the Town.

Mayor Catania advised that in addition, Jay re-formatted the spreadsheet of data and information as requested by the Electoral Commission for the recent Postal Elections.

Mayor Catania congratulated Jay and advised that unfortunately Jay was unavailable to attend tonight's meeting and that congratulations, the voucher and certificate would be passed onto him at work tomorrow.

**7.2 Certificate of Appreciation**

Mayor Nick Catania announced that Acting Mayor, Cr Ian Ker, accepted on the Town's behalf (during the Mayor's leave of absence) a Certificate of Appreciation presented by the Western Australian Institute of Self Help (Wish) at the 20th Anniversary Celebration and Launch of the Directory of Self Help and Support Groups and Poster.

He advised that this certificate is in recognition of the Town's valued support to the West Australian Institute of Self Help which helps link people facing similar life affecting issues.

**7.3 Perth Glory Soccer Club**

On behalf of the Town, Mayor Catania congratulated Perth Glory Soccer Club on their successful win of the National Soccer League Grand Final on Sunday 2 June 2003.

**8. DECLARATION OF INTERESTS**

8.1 Mayor Catania declared a proximity interest in Item 10.1.2 - Further Report - No. 86A (Lot 9, Strata Lot 2) Bourke Street, Leederville - Proposed Two Storey Grouped Dwelling on Strata Lot Investment Report. His interest being that a family member has interest in property in close proximity.

8.2 Mayor Catania declared a financial interest in Item 10.3.1 - Investment Report. His interest being that he is Chairperson of the Board of Directors of the North Perth Bendigo Bank.

**9. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN  
(WITHOUT DISCUSSION)**

Nil.

**10. REPORTS**

Presiding Member, Mayor Nick Catania announced that a late item had been included in tonight's agenda - Item 10.1.15 - Further Report - No.21 (Lot 254) Ethel Street, North Perth - Variations to Building Licence for Additional Three-Storey Grouped Dwelling.

Presiding Member, Mayor Nick Catania requested the Chief Executive Officer to advise the Meeting of:

**10.1 Items which are the subject of a question or comment from Members of the Public and the following was advised:**

Items 10.1.12, 10.1.3, 10.1.9, 10.1.5, 10.1.14, 10.1.8, 10.1.11, 10.1.15 and 10.1.2.

**10.2 Items which require an Absolute/Special Majority which have not already been the subject of a public question/comment and the following was advised:**

Nil.

Presiding Member, Mayor Nick Catania, requested Elected Members to indicate:

**10.3 Items which Elected Members wish to discuss which have not already been the subject of a public question/comment or require an absolute/special majority and the following was advised:**

Cr Ker	10.1.4, 10.1.7 and 10.2.2
Cr Lake	Nil
Cr Chester	Nil
Cr Torre	Nil
Cr Doran-Wu	Nil
Cr Farrell	Nil
Cr Cohen	Nil
Cr Franchina	Nil

Presiding Member, Mayor Nick Catania, requested the Chief Executive Officer to advise the Meeting of:

**10.4 Items which members/officers have declared a financial or proximity interest but which have not been subject to a public question/comment, require an absolute special majority or have been identified by elected members for discussion:**

Item 10.3.1.

10.5 **Unopposed items which will be moved en bloc and the following was advised:**

Items 10.1.1, 10.1.6, 10.1.10, 10.1.13, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.3.2, 10.4.1 and 10.4.2.

10.6 **Confidential Reports which will be considered behind closed doors and the following was advised.**

Nil

The Chief Executive Officer advised the meeting of the **New Order** of which items will be considered, as follows:

(a) **Unopposed items moved en bloc;**

Items 10.1.1, 10.1.6, 10.1.10, 10.1.13, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.3.2, 10.4.1 and 10.4.2.

(b) **Those being the subject of a question and/or comment by members of the public during "Question Time";**

Items 10.1.12, 10.1.3, 10.1.9, 10.1.5, 10.1.14, 10.1.8, 10.1.11, 10.1.15 and 10.1.2.

(c) **Those requiring an Absolute Majority/Special Majority decision;**

Nil.

(d) **Those which were identified by Electe d Members for discussion;**

Items 10.1.4, 10.1.7 and 10.2.2.

(e) **Items which members/officers have declared a financial or proximity interest but which have not been subject to a public question/comment, require an absolute special majority or have been identified by elected members for discussion;**

Items 10.3.1.

(f) **Confidential Reports which will be considered behind closed doors and the following was advised.**

Nil.

**Moved Cr Lake, Seconded Cr Farrell**

*That the following unopposed items be moved en bloc;  
Items 10.1.1, 10.1.6, 10.1.10, 10.1.13, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.3.2, 10.4.1 and 10.4.2.*

**CARRIED (6-0)**

(Crs Chester, Cohen and Torre on approved leave of absence.)

**10.1.1 Further Report - No. 120 (Lot 2) Palmerston Street, Perth - Proposed Carport to Existing Single House**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Hyde Park; P 12	<b>File Ref:</b>	PRO2090; (00/33/1553)
<b>Reporting Officer(s):</b>	J Barton		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

***FURTHER OFFICER RECOMMENDATION:***

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by G Ellery on behalf of the owner K Wong for proposed carport to existing single house, at No. 120 (Lot 2) Palmerston Street, Perth, and as shown on the amended plans date stamped 30 May 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division; and*
- (iii) a right of way security bond and/or bank guarantee for \$ 550.00 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.1**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**FURTHER REPORT:**

This application was considered at the Ordinary Meeting of Council held on 27 May 2003 where the Council resolved that the item '*Lie on the Table*' to allow the relevant parties to meet to address the concerns regarding the setback of the garage from the Right of Way (ROW), and the provision of visual truncations.

Following discussions with the Executive Manager Technical Services and the Manager Planning and Building Services, the applicant submitted revised plans on 30 May 2003 addressing the abovementioned concerns. Given that adequate turning space, visual truncations and a 1.5 metres rear setback have been provided to the proposed carport, the proposal now complies with the intent of the relevant requirements of the Residential Design Codes and the Town's Policies.

Councillors Sally Lake and Ian Ker requested that the item be placed back on the Agenda for this Ordinary Meeting of Council.

The revised proposal is considered acceptable and the previous conditional approval Officer Recommendation remains unchanged, except for the deletion of clauses/ conditions (i) and (iv) as they are no longer required.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 27 May 2003:

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by G Ellery on behalf of the owner K Wong for proposed carport to existing single house, at No. 120 (Lot 2) Palmerston Street, Perth, and as shown on plans stamp-dated 26 March 2003, subject to:*

- (i) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the carport being setback a minimum of 1.5 metres from the rear boundary.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (ii) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) *a visual truncation of 1.5 metres by 1.5 metres at the intersection of the driveway and the right of way shall be provided at the owner's cost; and*
- (v) *a right of way security bond and/or bank guarantee for \$ 550.00 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works.*

*If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*

*to the satisfaction of the Chief Executive Officer.*

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Moved Cr Lake, Seconded Cr Torre

*That the recommendation, together with the following amended clauses (i) and (iv) be adopted.*

*"(i) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the carport being setback a minimum of ~~1.5~~ 2.0 metres from the rear boundary.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;"*

*"(iv)a visual truncation of 1.5 metres by 1.5 metres at the intersection of the driveway and the right of way adjacent to the southern side of the carport shall be provided at the owner's cost; and"*

*Debate ensued.*

COUNCIL DECISION ITEM 10.1.9

Moved Cr Lake, Seconded Cr Franchina

*That this item "LIE ON THE TABLE" and the applicant be given an opportunity for amended plans tabled to be referred to the Town Officers for comment.*

CARRIED (8-0)

*(Mayor Catania JP on approved leave of absence.)*

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LANDOWNER: K Wong  
APPLICANT: G Ellery  
ZONING: Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R80  
EXISTING LAND USE: Single House

COMPLIANCE:

Use Class	Single house	
Use Classification	"P"	
Lot Area	450 square metres	
Requirements	Required	Proposed
Secondary Street (Right of Way)	1.5 metres	Nil
Manoeuvrability Depth	6 metres	3.4 metres

*SITE HISTORY:*

*The subject site has an existing single house that fronts Palmerston Street. A 3.42 metres wide privately owned unsealed right of way exists at the rear of the property.*

*CONSULTATION/ADVERTISING:*

*No objections were received during the advertising period.*

*DETAILS:*

*The proposal seeks to construct a double carport, to the rear, of an existing single storey single house.*

*COMMENTS:*

*The Town's Engineering Services have provided the following comments;*

*"As the garages on the opposite side of the R.O.W at the rear of the above property have been setback on a 1.4 m alignment the Technical Services Division consider a set back for this proposed carport of 1.5m as adequate."*

*In relation to the secondary street setback requirement, the applicant has agreed to setback the carport 1.5 metres, which should be conditioned accordingly. Therefore, the manoeuvrability requirement is achieved.*

*Accordingly, it is recommended that Council approves the proposal, subject to standard and appropriate conditions to address the above matters."*

**10.1.6 No. 168 (Lot 198) Coogee Street, Mount Hawthorn - Proposed Two Garages and Storeroom Additions to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	27 May 2003
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO 2106; 00/33/1599
<b>Reporting Officer(s):</b>	M Bonini		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner J W Dalton for proposed two garages and storeroom additions to existing single house on No. 168 (Lot 198) Coogee Street, Mount Hawthorn as shown on plans stamp-dated 23 May 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (v) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vi) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vii) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (viii) a right of way security bond and/or bank guarantee for \$220 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*

- (ix) *subject to first obtaining the consent of the owners of No. 166 Coogee Street and No. 170 Coogee Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 166 Coogee Street and No. 170 Coogee Street in a good and clean condition;*
- (x) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Coogee Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency; and*
- (xi) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*

*to the satisfaction of the Chief Executive Officer.*

**COUNCIL DECISION ITEM 10.1.6**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**LANDOWNER:** J W Dalton  
**APPLICANT:** As Above  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R30

**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	488 square metres

<b>Setback</b>	<b>Required</b>	<b>Provided</b>
North (Garage)	1 metre	Nil
South (Garage)	1 metre	Nil
East (Store)	1 metre	Nil
<b>Parapet Wall Height</b>	<b>Required</b>	<b>Provided</b>
North Wall	3 metres	Max 3.7 metres
South Wall	3 metres	Max 3.7 metres
<b>Visual Truncations</b>	1.5 metres by 1.5 metres	1.414 metres by 1.414 metres

### **SITE HISTORY:**

The site is occupied by a single storey single house. There is a sealed 5.0 metres wide right of way along the rear of the lot. Town records indicate that the right of way is privately owned. The Council at its Ordinary Meeting held on 23 July 2002 approved a similar application involving three boundary walls. The only differentiation between the plans applies to the garage being a double garage on the previous approval with the store located alongside to the north.

### **DETAILS:**

Approval is sought for the construction of two single garages with frontage to the rear right of way and a store, which is proposed on the rear boundary between the two garages. The proposal generally complies with the Residential Design Codes (R Codes) and the Town's Town Planning Scheme No. 1 and Policies with the exception of the above non-compliances. The alterations and additions to the existing dwelling is not part of this application as this component has been previously approved at the Ordinary Meeting of Council held on 23 July 2002.

### **CONSULTATION/ADVERTISING:**

The applicant sought and obtained signatures of consent from the neighbours of Nos.170 and 166 Coogee Street, and 157 Flinders Street.

### **COMMENTS:**

#### **Parapet Wall Setback and Wall Height**

The R Codes permit boundary wall development on one side boundary with restrictions placed on the height of the boundary wall. In this instance, the proposed development involves boundary walls on three side boundaries of single storey nature. One boundary wall abuts a right of way. Whilst it is a deviation from the requirements of the R Codes, such a provision can be varied. The boundary walls affecting adjoining neighbours are all single storey in nature and occupy minimal lengths on each of the boundaries. The boundary walls are not considered to be over imposing, rather they help to make effective use of space for the existing residence on the site. There is a variation in terms of the maximum permissible height of the walls. The R Codes stipulate that boundary walls are not to exceed 3 metres in height with an average of 3.5 metres. Two of the proposed walls that accommodate the garages exceed this requirement to a maximum of 3.7 metres. Despite this variation, the walls are not considered to cause any adverse undue impact to the adjoining affected neighbours as the wall heights are not a dominating feature and still maintain a single storey aspect. Furthermore, the adjoining affected neighbours have provided their written consent to the proposed walls on all three boundaries. The boundary walls are considered acceptable and therefore supported.

#### **Visual Truncation**

The R Codes state that a 1.5 metres by 1.5 metres sight line truncation is to be provided at the intersection of a crossover/driveway with a dedicated road. The applicant has provided a 1.414 metres by 1.414 metres sight line truncation. The applicant has been in consultation with the Town's Technical Services to arrive at the proposed truncation, which is considered to satisfy the engineering requirements. The proposed truncation is considered acceptable and therefore supported.

In light of the above, it is recommended that approval be granted for the proposal, subject to standard conditions.

**10.1.10 No. 53 (Lot 296) London Street, Mount Hawthorn – Proposed Additional Two-Storey Grouped Dwelling to Rear of Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	29 May 2003
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO 2214; 00/33/1427
<b>Reporting Officer(s):</b>	M Bonini		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner A and S Musbah for proposed additional two storey grouped dwelling to rear of existing single house at No.53 (Lot 296) London Street, Mount Hawthorn, and as shown on plans stamp-dated 9 May 2003, subject to:*

- (i) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, shall be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (iv) the construction of crossovers shall be in accordance with the Town's specifications;*
- (v) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vi) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (vii) subject to first obtaining the consent of the owners of No. 55 London Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 55 London Street in a good and clean condition;*
- (viii) compliance with all relevant Environmental Health, Engineering and Building requirements;*

- (ix) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the London Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (x) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 1 on the northern elevation and to the activity room on the eastern elevation, on the first floor, shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002;*

*to the satisfaction of the Chief Executive Officer.*

**COUNCIL DECISION ITEM 10.1.10**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**LANDOWNER:** A and S Musbah  
**APPLICANT:** As Above  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R30

**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Grouped Dwelling	
Use Classification	"P"	
Lot Area	653 square metres	
<b>Setback</b>	<b>Required</b>	<b>Provided</b>
North - Ground Floor	1.5 metres	0 metre to 5 metres
North - Upper Floor	1.9 metres	1.2 metres to 2 metres
East - Upper Floor	1.2 metres	0 metre
<b>Privacy Setback</b>	<b>Required</b>	<b>Provided</b>
East Facing Window of Activity Room	6 metres to south boundary	2 metres to south boundary
North Facing Window of Bedroom 1	4.5 metres to north boundary	1.2 metres to north boundary

## **SITE HISTORY:**

The site is occupied by a single storey dwelling located on the front lot with street frontage.

## **DETAILS:**

The proposed development involves an additional two storey grouped dwelling to the rear portion of the lot. The proposal generally complies with the Residential Design Codes (R Codes) and the Town's Town Planning Scheme No. 1 and Policies with the exception of the above non-compliances. The proposal was initially submitted on 13 December 2002. Subsequent to an assessment and numerous non-compliances, the applicant requested that the application be suspended in order to address the non-compliances with the owner. The applicant provided amended plans dated 9 May 2003 addressing many of the non-compliances. The amended plans have been addressed as part of the original application due to the proposal not deviating too greatly from the original proposal.

## **CONSULTATION/ADVERTISING:**

The proposal was advertised as part of the original proposal with no objections received by the Town. The application was not required to be readvertised as the amendments have resulted in an improvement to the overall proposal.

The proposal occurs along London Street, which is classified as an Other Regional Road (ORR) Reservation. The proposal was referred to the Department for Planning and Infrastructure for comment. Due to vehicular access to the subject land being provided to/from London Street via a single shared driveway, no objections have been raised to the proposed development by the Department for Planning and Infrastructure.

## **COMMENTS:**

### **Overshadowing**

An overshadowing assessment was conducted to establish the extent of overshadowing the development would impose onto the adjoining affected property. The outcome of this assessment established that a total of 59.35 square metres of the adjoining property will be overshadowed. This equates to 9 percent. This is considered to be within the requirements as per the R Codes. The R Codes stipulate that the shadow cast onto the adjoining property must not exceed 50 percent. Furthermore, the shadow affects the extreme rear portion of the yard area where there is no notable outdoor living used by the adjoining neighbours. The overshadowing is therefore in full compliance with the requirements of the R Codes and considered acceptable.

### **North Ground Floor Setback**

The portion of the wall that does not comply with the setback pertains to the garage, store and laundry being located on the boundary. Whilst it does not meet the setback requirement, the R Codes has a provision that allows for boundary wall development. The subject wall is single storey in nature reaching a maximum height of 3 metres and occupying a maximum length of 9 metres. No undue overshadowing is caused as a result of the proposed wall due to its location in relation to the orientation of the lot. In addition, no objection was received from the affected adjoining neighbour. The variation is considered acceptable and therefore supported.

### **North Upper Floor Setback**

The applicant seeks a variation to the setback of the dressing room, bathroom and void. The setback is deficient by a maximum of 0.7 metre from the north boundary for this portion of wall at a length of 11 metres. The wall does not contain major opening and does not impose an undue overshadowing concern to the northern neighbour. Furthermore, no objection was received from the northern neighbour in relation to the proposal.

The setback variation is therefore considered to be minor in nature and acceptable as a reasonable setback distance is deemed to be maintained from the boundary. The proposed variation is supported in this instance.

#### **East Setback**

There is a proposed boundary wall along the proposed lot boundary on the east side. The boundary wall involves the entire single storey and upper storey wall of the east elevation. Given that the wall is internally placed and only affects the front lot on the subject property, it is not deemed to unduly disrupt the amenity of any adjoining neighbours. The variation is therefore supported.

#### **Boundary Wall Development**

The R Codes permit boundary wall development on one side boundary with restrictions placed on the height of the boundary wall. In this instance, the proposed development involves one boundary wall on a side boundary of single storey nature and a two storey boundary wall on the internal proposed boundary on the subject property. Whilst it is a deviation from the requirements of the R Codes, such a provision can be varied. The boundary wall affecting the adjoining neighbour is single storey in nature and occupies a minimal length on the boundary. The boundary walls are not considered to be over imposing, rather they help make effective use of space for the development proposed on the site. The internal two storey boundary wall is not deemed to cause any undue loss of amenity to adjoining neighbours as its impact is contained to the subject property. The boundary walls are considered acceptable and therefore supported.

#### **Privacy Setback**

The activity room on the upper floor does not comply with the privacy requirements to the southern boundary. The distance is deficient by 4 metres. The windows to bedroom 1 also require to be screened. As such, to address any potential undue overlooking, appropriate screening as per the requirements of the R Codes should be applied to the windows. The variation to the setback is therefore considered acceptable and supported with the condition of screening being applied to the windows.

#### **Scheme Amendment No. 11**

It should be noted that the subject property is located within the Town's Eton Locality, which is subject to Amendment No.11 to the Town of Vincent Town Planning Scheme No. 1. Amendment No.11 proposes to rezone the Eton Locality from R30 and R30/40 to R20. The Amendment is at present with the Western Australian Planning Commission and Minister for Planning and Infrastructure for final determination.

In view of the above, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters. Compliance has been met in most areas and the variations are considered to be minor in nature and justified.

**10.1.13 Nos. 446-448 (Lot 4) William Street, Perth - Non-Compliance with Condition of Planning Approval**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO 1052; 98/33/0191
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *authorises the Chief Executive Officer to undertake the works necessary to fulfil condition (xvi) "the power pole shall be relocated at the applicant's expense" of the Approval to Commence Development No. 98/33/0191 issued on 12 January 1999 for the demolition of the existing building and construction of office building at Nos. 446-448 (Lot 4) William Street, Perth;*
- (ii) *authorises the Chief Executive Officer to take the necessary steps to recover the expenditure involved in carrying out the above works from the landowner; and*
- (iii) *advises the landowner of its intentions to undertake the works necessary to fulfil the outstanding condition (xvi) of the Approval to Commence Development No. 98/33/0191 issued on 12 January 1999 for the demolition of the existing building and construction of office building, and that the Town will pursue recovery of the expenditure upon completion of the works.*

**COUNCIL DECISION ITEM 10.1.13**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**LANDOWNER:** Pu Tsui-Ping Chiang  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No.1 - Commercial  
**EXISTING LAND USE:** Office building

**SITE HISTORY:**

21 December 1998 The Council at its Ordinary Meeting conditionally approved the demolition of the existing building and construction of an office building at Nos. 446-448 William Street, Perth.

12 January 1999 Formal Planning Approval (No.98/33/0191) issued for the above development.

4 May 1999 Building Licence No. 990123 issued for the above development.

- 27 February 2002      The owner of the subject site advised of non-compliance of the Planning Approval in relation to the condition requiring the relocation of the power pole.
- 23 January 2003      The Town advised in writing that the subject power pole has still not been removed.
- 14 April 2003      The owner of the subject site were sent a Notice under section 10 (1) of the Town Planning and Development Act 1928 and under clause 51 of the Town of Vincent Town Planning Scheme No.1 (TPS1) to comply with the condition of development approval to relocate the power pole.

A site inspection on 19 May 2003 has revealed that the following condition of Planning Approval 98/33/0191 still has not been complied with:

*"(xvi) the power pole shall be relocated at the applicant's expense."*

**DETAILS:**

The Town has received a letter from the owner dated 24 April 2003, which states as follows:

- "(1) If the power pole shall be removed on applicant's expense, then we would like to see this removal procedure take place along with the others on William Street, Northbridge at around the same time.*
- (2) What would be your resolution if for any instance, my tenants in the building feel disturbed, hurt or damaged due to this relocation? Will the Town of Vincent be responsible for such incidence?"*

The Town has received a written quotation from Western Power Corporation for the cost associated with the relocation of the power pole (refer to photograph attachment), which amounts to \$7202. This quote is however valid for a period of 30 days from 22 April 2003.

**COMMENTS:**

The matters raised in the owners submission dated on 24 April 2003 are dismissed for the following reasons:

- The condition imposed for the relocation of the power pole was on the basis that it was in the way of the entry to the above site, and that the relocation will provide for safe ingress and egress to the site. In letter dated 29 January 2003 from the complainant it was stated that there was a recent incident of someone hitting the offending power pole while leaving the site. The owner had the opportunity to appeal the condition if they were of the view that the condition was unreasonable within the 60 days period given for planning appeals and had chosen not to do so.
- The second issue raised is not considered to be a valid planning matter.

The 28 days compliance period given in the Notice served has since expired. In other similar situation, the Town's solicitors have advised that the Town should keep the owners informed of the course of action the Town is undertaking to ensure compliance with the condition of approval for the above development site, including the recovery of cost.

The Town is able to recover cost associated with the works that need to be carried out by Western Power pursuant to the Town Planning and Development Act 1928. This Act sets out the recovery procedure under the Town's TPS No.1.

The Town's TPS No.1 specifies under clause 51 (2) that, *"the Council may recover expenses under section 10(2) of the Act in any manner in which it is from time to time entitled to recover rates levied by it under the Local Government Act 1960"*.

The owner has had ample opportunity to relocate the power pole as per the planning condition imposed on the subject development. In view of the above, it is recommended that the Council authorise the Chief Executive Officer to undertake the necessary steps to fulfil the outstanding condition of Planning Approval stated above and to recover all associated cost from the owner once the works are completed. The owner should also be advised of the Council's intention in this regard.

**10.2.1 Mindarie Regional Council – Proposed Establishment Agreement and Deed**

<b>Ward:</b>	N/A	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	N/A	<b>File Ref:</b>	ORG0054
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	J Giorgi		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the Mindarie Regional Council's proposed Establishment Agreement and Deed (as laid on the table);*
- (ii) *Advises the Mindarie Regional Council that it SUPPORTS IN PRINCIPLE the proposed Establishment Agreement and Deed however, prior to final approval requests the Mindarie Regional Council to further review the following;*
  - (a) *Clause 9 of the Proposed Establishment Agreement should take exemptions and their possible effect into account when determining the distribution of any financial surpluses to members;*
  - (b) *Clause 11.4 of the Proposed Establishment Agreement to possibly include more safeguards for remaining members should an existing member wish to withdraw from the Mindarie Regional Council as outlined in clause 11.1;*
  - (c) *Clause 3.4 of the Proposed Deed should be amended to ensure discussions commence six (6) months prior to the date of the expiry of any existing member's exemption period; and*
  - (d) *the possible inclusion of an additional Clause in the proposed Deed which refers to future Secondary Waste Treatment in the region.*

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**COUNCIL DECISION ITEM 10.2.1**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**BACKGROUND:**

The existing Constitution of the Mindarie Regional Council (MRC) was originally drawn up pursuant to the provisions of section 697 of the Local Government Act 1960 (as amended) having been formally approved by the Minister for Local Government and recommended to the Governor in Executive Council on 22 December 1987.

The designated function accorded to the MRC is:

*The orderly and efficient treatment and/or disposal of waste delivered to a building or a place provided, managed or controlled for those purposes by the Regional Council.*

At its Ordinary meeting held on 17 April 2003 the Mindarie Regional Council (MRC) considered a report on a proposed Draft Establishment Agreement and Deed to replace the existing MRC Constitution.

The MRC currently operates under the following governance documents including:

- Constitution Agreement 1987
- Deed of Variation (August 1996)
- Deed of Variation (November 1996)
- Deed of Amendment (October 1999)
- Deed of Settlement (November 1996)

At its Ordinary meeting held on 17 April 2003 the MRC was advised that the main principle associated with the development of appropriate governance documents to replace the existing documents was to minimise the number of replacement documents and to:

- Adopt the language of the current Local Government Act
- Incorporate substantive agreements and arrangements of the existing Constitution and deeds of variation.
- Include relevant aspects of the MRC's Financial Model.
- Compilation of an agreement which includes core provisions essential to long term governance and implementation.
- Compile a Deed to deal with "non core" specifics such as the City of Stirling exemption for disposal of its residue bales (from Atlas) to Tamala Park at nil cost.

At the MRC meeting the following resolution was adopted:

*"That Council:*

- I. Receive the Draft Establishment Agreement and Deed as replacement governance documents to the existing suite.*
- II. Authorise the Chief Executive Officer to obtain endorsement and/or comments from each participant Council to these documents.*
- III. Note the inclusion of elements in these draft documents which provides for potential expansion of the Council's business, as well as the provision of input material into any Resource Recovery project.*
- IV. Approve 'in principle' the exemption of City of Stirling from municipal waste disposal at Tamala Park, for an initial period of ten years, commencing with effect from commencement of any new contracts for waste management."*

The MRC wrote to the Town on 3 May 2003, enclosing the proposed Draft Establishment Agreement and Deed, and requested comments from the Town and the other member Councils so that a further report on the matter can be prepared for the next round of MRC meetings.

#### **DETAILS:**

The MRC operates under a Constitution Agreement dated 1987 and the proposed Establishment Agreement is an update of this document. The Local Government Act 1995 contains a model for compiling an Establishment Agreement, which is the legislative instrument, to replace a Council's existing Constitution.

Work has progressed on the preparation of a draft Establishment Agreement in association with other member Councils and this recently progressed further following the endorsement by the MRC of a revised financial model in late 2002.

It is proposed that the following documents will replace the existing Constitution Agreement dated 1987 and various Deeds of Variation since 1996:

- Establishment Agreement (tabled)
- Deed (tabled)

A workshop for MRC officers, officers from member Councils and MRC's legal advisor was conducted on 21 March 2003 to finalise the draft documents for consideration by MRC.

#### **Proposed Establishment Agreement**

The key features of the proposed Establishment Agreement are as follows:

- Description of the MRC's original purpose, i.e. *the processing, recycling, treatment, sale and disposal of waste for the benefit of the communities of the participants*, is contained in the document. This has been expanded to enable investigation of non-waste business opportunities.
- Objectives and key elements are as follows:
  - Effective and cost efficient waste disposal.
  - Landfill, recycling and reuse.
  - Minimisation of waste and source.
  - Operation in a profitable, self-funding manner.
  - The authority to investigate other business opportunities, on an as required basis.
  - The MRC systems associated with the appointment, tenure and roles of elected members are described.
- Key elements of MRC's revised financial model are described including distribution of surpluses.
- Process for winding up the MRC is described.
- The process for withdrawal by a participant from the MRC is described.

#### **Business Opportunities**

The proposed Establishment Agreement includes the ability to investigate any business opportunities. The process for exploitation of any opportunity which, upon investigation, is considered worthy of pursuit would be by MRC resolution, and amendment to the Established Agreement in order to reflect a revised purpose of the business.

### **Proposed Deed**

The key features of the proposed Deed are as follows:

- The description of 'solid waste' has been broadened to reflect those items which are generally collected by member Councils, which should be excluded from consideration under these governance documents.
- A process for granting of exemptions to those governance documents by MRC.
- The remedy for any failure by a member Council to deliver appropriate material to the MRC.
- The description of the City of Stirling exemption, previously granted

### **City of Stirling Exemption**

As the council would be aware, the City of Stirling currently has an exemption from the disposal of some waste to Tamala Park on the basis of its existing contract with Atlas for the processing of its municipal solid waste.

The City's contract with Atlas is due to expire in mid 2003 and the City has *verbally* advised the MRC that it will continue with its current recycling operations.

Therefore in accordance with the current constitutional documents of the MRC, the City of Stirling requires an exemption in order for this to happen.

The City of Stirling currently generates the following waste streams:

- Municipal – processed by Atlas.
- Municipal residue – disposed at Tamala Park facility at nil cost.
- Miscellaneous, including bulk waste – disposed at Tamala Park at member rates.
- Green waste processed by others.

### **Suggested Changes / Additions to Proposed Establishment Agreement and Deed**

#### Establishment Agreement

##### Clause 9 - Surpluses

There is the ability in clause 3.2 of the proposed Deed to claim exemptions for the delivery of waste to Tamala Park.

It is considered that Clause 9 of the proposed Establishment Agreement should take exemptions (and their possible effect) into account when determining the distribution of any financial surpluses to members.

##### Clause 11.4 - Participants may be required to pay distributions

Should possibly include more safeguards for remaining members should an existing member wish to withdraw from the Mindarie Regional Council as outlined in clause 11.1;

#### Deed

##### Clause 3.4 of Proposed Deed – Expiry of Exemption Period

The wording suggests that at the end of an 'exemption period' a further six months is allowed for discussion and action. It is considered appropriate these discussions commence six (6) months prior to the date of the expiry of the existing exemption.

The possible inclusion of an additional Clause in the Deed referring to future Secondary Waste Treatment in the region.

**CONSULTATION/ADVERTISING:**

N/A

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 - Protect and enhance environmental sustainability and biodiversity. *"1.1 j) Develop a waste management strategy that is aligned with the Mindarie Regional Council's Secondary Waste Treatment initiatives and has positive environmental outcomes."*

**FINANCIAL/BUDGET IMPLICATIONS:**

The proposed Establishment Agreement contains key elements from the MRC's revised financial model as follows:

- Description of the system for determination, allocation and distribution of any surplus funds.
- Description of the manner of payment for any surplus.
- Definition of the applicable interest rate associated with any surplus calculations.
- Description of arrangements for any future borrowing by the MRC.

**COMMENTS:**

The MRC has provided the proposed Establishment Agreement and Deed to each of the seven (7) member Councils for comment and cannot be replace the existing Constitution Agreement and Deeds until all seven (7) member Councils endorse them.

Overall, it is considered the two documents address the issues and the requirements, however it is considered that there are several items that require further investigation prior to Council endorsement.

**10.2.3 Tender for the Supply and Delivery of Limestone - Tender No. 271/03**

<b>Ward:</b>	Both	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	All	<b>File Ref:</b>	TEN0281
<b>Reporting Officer(s):</b>	R.Lotznicher		
<b>Checked/Endorsed by:</b>	M.Rootsey		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council ACCEPTS the tender submitted by WA Limestone for the supply and delivery of Limestone in accordance with the specification as detailed in Tender No. 271/03.*

**COUNCIL DECISION ITEM 10.2.3**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**BACKGROUND:**

Tenders for the supply of limestone for a three (3) year period closed at 2.00 pm on 27 May 2003 and four (4) tenders were received.

The prices submitted are to be fixed for a twelve (12) month period and beyond this price adjustments for CPI and material increases/decreases may be negotiated.

**DETAILS:**

Details of all submissions received for Tender No. 271/03 are as follows:

Note: All prices are GST inclusive

Supplier	Supply onto Town's Vehicle \$/tonne		Delivered to Depot \$/tonne		Delivered within the Town \$/tonne	
	<u>Type A</u>	<u>Type B</u>	<u>Type A</u>	<u>Type B</u>	<u>Type A</u>	<u>Type B</u>
Readymix	3.60	8.80	8.80	14.08	4.20	9.40
BGC	3.68	n/a	8.52	n/a	9.03	n/a
Roadstone	3.30*	6.60*	7.98	11.28	8.10	11.50
	3.55**	6.88*				
WA Limestone	3.63	6.93	7.37	10.67	7.70	11.00

Note: Type A = 75mm nominal size aggregate

Type B = 19mm nominal size aggregate

Note: All prices are GST inclusive.

**Tender Evaluation**

The tenders were evaluated in accordance with the selection criteria as outlined in the tender documentation as follows:

<i>Selection Criteria</i>	<i>Raw Score</i>	<i>Weighting</i>
Contract Price	100	50%
Past Experience in similar projects/works	100	20%
Organisational structure/capacity/resources	100	15%
Financial capacity	100	5%

<i>Selection Criteria (cont'd)</i>	<i>Raw Score</i>	<i>Weighting</i>
References	100	5%
Compliance with Tender Specification	100	5%
		100%

Maximum raw score x weighting = Total Score.

Contractor	Overall Contract Price	Past Performance	Organisational Structure	Financial Capacity	References	Compliance	Total
Readymix	48.75	19	15	5	5	5	97.75
BGC	-	-	-	-	-	-	-
Roadstone	48.42	19	15	5	5	5	97.42
WA Limestone	50	19	15	5	5	5	99

BGC was not considered further as they did not provide prices for type B limestone as requested.

**CONSULTATION/ADVERTISING:**

Tender Number 271/03 was advertised for a minimum of fourteen (14) days in accordance with the Local Government (Function & General) Regulations 1996, Part 4 (15).

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. "b) Develop and implement streetscape enhancements and wider street initiatives."

**FINANCIAL/BUDGET IMPLICATIONS:**

Will be funded from 2003/2004 Capital and Operating infrastructure budgets.

**COMMENTS:**

A substantial amount of limestone is used by the Town each year in implementing the Capital Works Program and for maintenance works.

WA Limestone Company's has submitted the most competitive tender.

WA Limestone Company have a good reputation as a supplier of quality products and have previously held a tender for the supply of limestone with the Town. It is therefore recommended that they be awarded the tender for the supply of limestone.

**10.2.4 Tender for the Supply and Delivery of Brick Pavers - Tender No. 268/03**

<b>Ward:</b>	Both	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	All	<b>File Ref:</b>	TEN0278
<b>Reporting Officer(s):</b>	R.Lotznicher		
<b>Checked/Endorsed by:</b>	M.Rootsey		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council ACCEPTS the tender submitted by Midland Brick for the supply and delivery of brick pavers in accordance with the specification as detailed in Tender No. 268/03.*

**COUNCIL DECISION ITEM 10.2.4**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**BACKGROUND:**

Tenders for the supply and delivery of brick pavers - Tender No. 268/03 - for a three (3) year period, closed on 27 May 2003 and two (2) tenders were received.

The prices submitted are to be fixed for a twelve (12) month period and, beyond this, price adjustments for CPI and material increases/decreases may be negotiated.

**DETAILS:**

Tenders were received from Midland Brick Company Pty Ltd, (the Town's current contractor) and BGC Concrete Products Pty Ltd. The tender submitted by BGC was for the supply of concrete pavers was "non conforming" and was not considered.

Therefore, the details of the conforming submission received for Tender No. 268/03 is as follows:

SUPPLY OF CLAY BRICK PAVERS		Midland Brick
1.	<b>Heavy Duty</b> (232x115x60mm)	
	1.1 Delivered to the Town's Depot \$/m <sup>2</sup>	17.91
	1.2 Loaded onto the Town's truck \$/m <sup>2</sup>	16.69
2.	<b>High Performance</b> (232x115x70mm)	
	1.1 Delivered to the Town's Depot \$/m <sup>2</sup>	24.01
	1.2 Loaded into the Town's truck \$/m <sup>2</sup>	22.38

3.	<b>Cream / Charcoal Heavy Duty (232x115x60mm)</b> 1.1 Delivered to Town's Depot \$/m <sup>2</sup> 1.2 Loaded into the Town's truck \$/m <sup>2</sup>	17.38 16.16
4.	<b>Cream / Charcoal High Performance (232x115x70)</b> 1.1 Delivered to Town's Depot \$/m <sup>2</sup> 1.2 Loaded into the Town's truck \$/m <sup>2</sup>	23.61 21.98
5.	<b>Common Cored Bricks</b> 1.1 Delivered to Town's Depot \$/1000 1.2 Loaded into the Town's truck \$/1000	435 398

Note: All prices are GST inclusive.

#### **CONSULTATION/ADVERTISING:**

Tender Number 268/03 was advertised for a minimum of fourteen (14) days in accordance with the Local Government (Function & General) Regulations 1996, Part 4 (15).

#### **STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“b) Develop and implement streetscape enhancements and wider street initiatives.”*

#### **FINANCIAL/BUDGET IMPLICATIONS:**

Will be funded from 2003/2004 Capital and Operating infrastructure budgets.

#### **COMMENTS:**

As in previous years, the Town will be carrying out a large volume of brick paving during the next two to three financial years, mainly on streetscape upgrade projects.

Red / Pilbara Iron Clay Pavers, Cream Clay Pavers and, in more recent times, Charcoal Clay Pavers have been predominantly used as the preferred paving material for streetscape improvement works in the Town.

The advantage of the “Midland” Clay Brick Paver is that the bricks are double faced, which results in less wastage and easier laying as either face can be used. In time, the bricks can be “flipped over”, resulting in a newly paved surface for only the laying costs.

It is recommended that the tender for the supply and delivery of clay brick pavers be awarded to Midland Brick.

**10.2.5 Tender for Tree Watering and Planting - Tender No. 266/03**

<b>Ward:</b>	Both	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	All	<b>File Ref:</b>	TEN0275
<b>Reporting Officer(s):</b>	J van den Bok		
<b>Checked/Endorsed by:</b>	R Lotznicher/M Rootsey		
<b>Amended by:</b>			

**OFFICER RECOMMENDATION:**

*That the Council ACCEPTS the tenders submitted by Acacia General and Leo Heaney to undertake Tree Watering and Planting throughout the town in accordance with the specifications as detailed in Tender No. 266/03.*

**COUNCIL DECISION ITEM 10.2.5**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**BACKGROUND:**

Tenders to undertake Tree Watering and Planting throughout the Town for a three (3) year period closed at 2pm on the 27 May 2003 and two (2) tenders were received.

The prices submitted are to be fixed for a twelve (12) month period. Beyond this, price adjustments for CPI and material increases/decreases may be negotiated.

**DETAILS:**

Details for all submissions received are listed below: -

	<i>Leo Heaney</i>	<i>Acacia General</i>
	Fixed Rate Per Hour	Fixed Rate Per Hour
Tree Watering as required	\$38.00	\$38.00
Tree Planting as required	\$38.00	\$38.00

An evaluation panel consisting of the Manager Parks Services, Supervisor Parks Services and Parks Services Technical Officer assessed the tenders using the selection criteria in accordance with the tender documentation as follows: -

<i>Selection Criteria</i>	<i>Raw Score</i>	<i>Weighting</i>
Contract Price	100	50%
Past Experience in similar projects/works	100	20%
Organisational structure/capacity/resources	100	15%
Financial capacity	100	5%
References	100	5%
Compliance with Tender Specification	100	5%
		100%

Maximum raw score x weighting = Total Score.

	<i>Acacia General</i>	<i>Leo Heaney</i>
Contract Price	50	50
Past Experience in similar projects/works	20	20
Organisational structure/capacity/resources	14.25	13.5
Financial capacity	5	5
References	5	5
Compliance with Tender Specification	5	5
	99.25	98.5

Following the evaluation process, it is evident that both submissions represent good value and satisfy all requirements of the specification.

Both Acacia General and Leo Heaney have undertaken this work for the Town since its inception and have a great deal of expertise and local knowledge.

Both Contractors have an excellent rapport with supervisory, administration staff and are regularly identified by the Town's ratepayers as being most helpful when approached.

The Parks Services Section requires two (2) trucks for twelve (12) months of the year for tree watering and planting. In addition, depending on the number of trees planted a third truck may be required during the summer watering period.

Leo Heaney can, if required, supply a second truck.

#### **CONSULTATION/ADVERTISING:**

Tender No. 266/03 was advertised for a minimum of fourteen (14) days in accordance with the Local Government (Function and General) Regulation 1996 - Part 4 (15).

#### **STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 – 1.4 Maintenance and Enhance the Town's Infrastructure to Provide a Safe, Healthy, Sustainable and Functional Environment. “(c) *Continue to design and implement infrastructure improvements for public open space.*”

#### **FINANCIAL/BUDGET IMPLICATIONS:**

Tree watering and planting costs are sourced from the Street Trees operating budget.

#### **COMMENTS:**

It is therefore recommended that the Council accepts the tenders submitted by Acacia General and Leo Heaney to undertake Tree Watering and Planting in accordance with the specifications as detailed in Tender No. 266/03.

**10.2.6 Proposed Traffic Safety Improvements – Anzac Road, Leederville / Mount Hawthorn**

<b>Ward:</b>	North	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	Mount Hawthorn Centre P2 & Leederville Precinct P3	<b>File Ref:</b>	TES0508 & TES0021
<b>Reporting Officer(s):</b>	C Wilson		
<b>Checked/Endorsed by:</b>	R Lotznicher		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) receives the report on proposed Traffic Safety Improvements in Anzac Road, Shakespeare Street to Loftus Street;*
- (ii) APPROVES the implementation of the proposed works as shown on attached plan No 2141-CP.2 incorporating the suggestions put forward by the Local Area Traffic Management Advisory Group and the residents, at an estimated cost of \$13,500; and*
- (iii) APPROVES the surplus funds from the previous Anzac Road works, Oxford Street to Shakespeare Street, being carried forward to the 2003/04 financial year to fund the proposed works.*

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**COUNCIL DECISION ITEM 10.2.6**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**BACKGROUND:**

As a result of traffic calming measures introduced in Anzac Road in 2002, between Oxford and Shakespeare Streets, residents of Anzac Road, east of Shakespeare Street, sought to have similar works implemented in the remainder of the street. To this end, a petition was presented to Council in August 2002, whereupon it was referred to the Town's Local Area Traffic Management (LATM) Advisory Group for consideration.

The Anzac Road petition, and the concerns it raised, were discussed in detail at the LATM Advisory Groups meeting held on 3 February 2003 and included two (2) Anzac Road residents as invited guests.

At the conclusion of the discussion, the group resolved to refer the following suggested actions to Council for consideration.

1. The Town to investigate downgrading Anzac Road, between Oxford and Loftus Streets, from a District Distributor B Road to a Local Distributor Road.
2. Investigate measures to enhance the 'Stop' control in Shakespeare Street including pruning/removal of the adjacent street trees and the installation of approach median islands to accommodate additional signage.
3. Install an additional speed hump on approach in Anzac Road (for west bound traffic), adjacent to the Shakespeare Street intersection east side.
4. Consider the installation of an additional mid-block speed hump (Oxford Street to Shakespeare Street) near No. 43 to reduce traffic speed when approaching the Shakespeare Street intersection east bound.
- 5.
6. Where a speed hump is to be installed without a corresponding nib, the speed hump is to be extended through to the kerb, i.e. near Harrow Street, south side.
7. Agreed not to raise the profile of the existing speed humps at this time. To monitor traffic speed and consider in future if warranted.

A report outlining the above was then presented to Council at its Ordinary Meeting held on 25 February 2003, whereby Council resolved the following:

*“That the Council;*

- (i) receives the report on proposed Traffic Safety Improvements in Anzac Road, Leederville/Mt Hawthorn, Shakespeare Street to Loftus Street;*
- (ii) adopts the amended plan No 2141-CP.1 which incorporates the suggestions put forward by the Local Area Traffic Management Advisory Group;*
- (iii) requests Main Roads WA to downgrade the section Anzac Road, Oxford Street to Loftus Street, from a District Distributor B Road to a Local Distributor Road;*
- (iv) readvertises the proposal for public comment for a period of twenty one (21) days, inviting written submissions; and*
- (v) receives a further report on the matter at the conclusion of the public consultation should any adverse comments regarding the proposal be received.”*

With reference to the proposed changes in Shakespeare Street and an additional speed hump in Anzac Road west of Shakespeare Street (points 2 & 4 of the LATM Advisory Groups recommendations), the works will be listed for inclusion in the Town's 2003/04 Miscellaneous Traffic Management improvement program.

#### **DETAILS:**

In May 2003, the Town wrote to the residents of Anzac Road, Shakespeare Street to Loftus Street, outlining the LATM Advisory Group process and Council's resulting resolution, seeking their comments and feedback.

A total of thirty-seven (37) letters were delivered (to residents) generating some eight (8) responses, representing approximately 22% of those canvassed.

Of the responses, seven (7) were in favour without reservations, while one (1) was in favour but had concerns about the placement of the proposed speed hump adjacent to Harrow Street.

An officer of the Town visited the concerned resident to ascertain and allay their concerns in respect of the proposed location of the speed hump, and it was agreed that it (the speed hump) could be moved marginally west so as not to impede their driveway without compromising the design.

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 - 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *h) Investigate and implement traffic management improvements in liaison with the Local Area Traffic Management (LATM) advisory Group – identify initiatives for redirecting traffic*".

**CONSULTATION/ADVERTISING:**

Affected residents were consulted in accordance with clause (iii) of the recommendation and Council Policy No. 4.1.21 "Community Consultation".

**FINANCIAL IMPLICATIONS:**

The previously completed Anzac Road works, Oxford Street to Shakespeare Street, had a budget allocation of \$25,000 with expenditure to date of approximately \$15,600. Therefore, some \$10,000 remains with which to install the proposed traffic calming measures in Anzac Road east of Shakespeare Street. An additional \$3,500 will need to be sourced from the 2003/2004 Traffic Management Miscellaneous Requests allocation.

**COMMENT:**

Therefore, in accordance with Council's resolution of 25 February 2003, and in light of the results of the public consultation, the works are tentatively scheduled to commence in the latter part of June 2003. In respect of funding the surplus monies, some \$9,400, from the previous stage (Oxford Street to Shakespeare Street), is to be carried forward to the new financial year, augmented by additional funds from the Traffic Management "Miscellaneous Requests" budget allocation.

**10.3.2 Beatty Park Leisure Centre – Tender No. 260/03 Supply and Installation of an Ultraviolet Water Disinfection System for the Indoor Pool at Beatty Park Leisure Centre**

<b>Ward:</b>	South	<b>Date:</b>	29 May 2003
<b>Precinct:</b>	-	<b>File Ref:</b>	TEN0270
<b>Reporting Officer(s):</b>	D Morrissy		
<b>Checked/Endorsed by:</b>	M Rootsey		
<b>Amended by:</b>			

**OFFICER RECOMMENDATION:**

*That the Council ACCEPTS the tender as submitted by Trisley's Hydraulic Services for the supply and installation of a Uviflo 400 ultraviolet unit at a cost of \$57,720 exc GST as being the most acceptable to the Town.*

**COUNCIL DECISION ITEM 10.3.2**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**BACKGROUND:**

Tenders were called for the supply and installation of an ultraviolet water disinfection system for the Indoor pool at Beatty Park Leisure Centre.

The tender was advertised in the West Australian on Saturday 12 April 2003. Seven (7) tenders were received by 2.00pm, 6 May 2003. Present at the opening were David Paull (Purchasing/Contracts Officer) and Dale Morrissy (Acting Manager, Beatty Park Leisure Centre). A summary of the submissions is detailed below:

<b>Company Name</b>	<b>Submissions</b>
Trisley's Hydraulic Services	2 options submitted
Telford Industries	2 options submitted
Boilergenic	1 option submitted
Engineering of Process and Equipment	1 option submitted
Aqua Vinyl Pool Construction	1 option submitted
Systemaire Pty Ltd	1 option submitted
Shenton Enterprises Commercial Pool Equipment Division	4 options submitted

The selection criteria used to evaluate the submissions was as follows:

- 55% Cost of materials and installation
- 15% Ability to satisfy requirements in 3.2
- 10% Ability to meet 'operational considerations' in point 3.4
- 10% References
- 5% Quality, aesthetics and compatibility to existing fittings in plant room
- 5% Product Warranty

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**100% TOTAL**

**DETAILS:**

The submissions were evaluated as follows:

%	Evaluation Criteria	Trisley's Hydraulic Services		Telford Industries		Boilergeries	Engineering of Process & Equipment
		Option 1	Option 2	Option 1	Option 2		
55	Cost of materials and installation	51	40	47	41	16	5
15	Ability to satisfy requirements in 3.2	12	12	7	7	8	8
10	Ability to meet 'operational considerations' in 3.4	10	10	4	4	0	10
10	References	10	10	2	2	2	0
5	Quality, aesthetics and compatibility	4	4	1	1	0	1
5	Product Warranty	3	3	4	4	0	4
	<b>TOTAL SCORE</b>	<b>90</b>	<b>79</b>	<b>65</b>	<b>59</b>	<b>26</b>	<b>28</b>

%	Evaluation Criteria	Aqua Vinyl Pool Construction	Systemaire Pty Ltd	Shenton Enterprises Commercial Pool Equipment Division			
				Option 1	Option 2	Option 3	Option 4
55	Cost of materials and installation	53	55	49	45	10	30
15	Ability to satisfy requirements in 3.2	15	12	15	15	15	15
10	Ability to meet 'operational considerations' in 3.4	7	7	4	4	4	4
10	References	4	2	7	7	7	7
5	Quality, aesthetics and compatibility	4	4	4	4	4	4
5	Product Warranty	2	3	4	5	3	5
	<b>TOTAL SCORE</b>	<b>85</b>	<b>83</b>	<b>83</b>	<b>80</b>	<b>43</b>	<b>65</b>

**CONSULTATION/ADVERTISING:**

The tender was advertised in the West Australian on Saturday 12 April 2003.

**LEGAL/POLICY:**

Tender called in accordance with Section 3.57 of the Local Government Act (1995).

**STRATEGIC IMPLICATIONS:**

The proposal is in accordance with the Town's Strategic Plan 2000-2002 Key Result Area 2.5 "Consolidate Beatty Park as a premier leisure centre".

**FINANCIAL/BUDGET IMPLICATIONS:**

An amount of \$104,000 has been allocated in the 2002/2003 Annual Budget for this item.

**COMMENTS:**

As a result of the detailed evaluation and reference checks it is recommended that the Trisley's Hydraulic Services (Option 1- Uviflo 400) tender for \$57,720.00 excluding GST be approved.

**10.4.1 Use of Common Seal**

<b>Ward:</b>	-	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0042
<b>Reporting Officer(s):</b>	M McKahey		
<b>Checked/Endorsed by:</b>	John Giorgi		
<b>Amended by:</b>	-		

**RECOMMENDATION:**

*That the Council ENDORSES the use of the Common Seal on the documents listed in the report.*

**COUNCIL DECISION ITEM 10.4.1****Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**DETAILS:**

The Common Seal of the Town of Vincent has been affixed to the following documents:

<b>Date</b>	<b>Document</b>	<b>No of copies</b>	<b>Details</b>
08/05/03	Withdrawal of Caveat	2	Town of Vincent and Minter Ellison of Level 49, Central Park, 152-158 St Georges Terrace, Perth re: Lot 356 on Deposited Plan 32220 (Smith Street, Highgate)
08/05/03	Withdrawal of Caveat	2	Town of Vincent and Minter Ellison of Level 49, Central Park, 152-158 St Georges Terrace, Perth re: Lot 355 on Deposited Plan 32220 (Smith Street, Highgate)
08/05/03	Withdrawal of Caveat	2	Town of Vincent and Minter Ellison of Level 49, Central Park, 152-158 St Georges Terrace, Perth re: Perth Suburban Lot 149 and being Lots 1 and 123 on Diagram 3600 (Smith Street, Highgate)
09/05/03	Contract Documents	2	Town of Vincent and Leederville Gardens (Inc) of 37 Britannia Road, Leederville and Ms P.C. Bell re: Unit 33, Leederville Gardens
09/05/03	Deed for Reduction in Service Fees	2	Town of Vincent and Leederville Gardens (Inc) of 37 Britannia Road and Ms P.C. Bell re: Unit 33, Leederville Gardens

**10.4.2 Information Bulletin**

<b>Ward:</b>	-	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	-	<b>File Ref:</b>	-
<b>Reporting Officer(s):</b>	A Smith		
<b>Checked/Endorsed by:</b>	J Giorgi		
<b>Amended by:</b>	-		

**RECOMMENDATION:**

*That the Information Bulletin dated 10 June 2003, as distributed with the Agenda, be received.*

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**COUNCIL DECISION ITEM 10.4.2**

**Moved Cr Lake, Seconded Cr Farrell**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**DETAILS:**

The items included in the Information Bulletin dated 10 June 2003 are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>
IB01	FESA - Letter re Successful Grant Application
IB02	Returned Services League of Australia WA Branch (inc) - Letter of Appreciation re Anzac Day Ceremony

**10.1.12 Nos. 177-179 (Lot 48) Carr Place, Leederville - Proposed Additional Eight Two-Storey Grouped Dwellings to Existing Six Two-Storey Grouped Dwellings and Associated Alterations and Additions, Including Fencing - Determination of Appeal by Minister for Planning and Infrastructure**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Oxford Centre, P4	<b>File Ref:</b>	PRO0119; 00/33/0944
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in light of the decision of the Minister for Planning and Infrastructure to uphold an appeal and approve the application submitted by R Zampogna on behalf of the owners M, V, M and R Zampogna, for an additional eight two storey grouped dwellings to existing six two-storey grouped dwellings and associated alterations and additions, including fencing, on Nos. 177-179 (Lot 48) Carr Place, Leederville as shown on plans stamp dated 7 February 2002, the Council APPLIES the following conditions to this proposed development:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) the car parking areas on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owners/occupiers to the satisfaction of the Town;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a general security bond and/or bank guarantee of \$1100 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and a bollard has been installed where Bold Court meets the path between Units 7 and 8, and/or reinstated to the satisfaction of the Town's Technical Services Division;*
- (v) the path between Units 7 and 8 to Bold Court shall not be used for vehicle access. A central bollard on the boundary shall be installed at the applicant's/owner(s) cost and to the satisfaction and specifications of the Town's Technical Services Division, and maintained thereafter by the owner(s)/occupier(s);*
- (vi) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Carr Place verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vii) all affected windows on the upper level facing the side boundaries to have a sill height of 1.6metres consistent with the Residential Design Codes;*

- (viii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property that the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*
- (ix) *the development shall be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation shall be in accordance with the recommendations, developed in consultation with the Town, of an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The sound insulation recommendations shall be submitted and approved prior to the issue of a Building Licence. The engagement of and the implementation of the recommendations of this acoustic consultant are to be at the applicant's/owner(s)' costs;*
- (x) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence; and*
- (xi) *prior to the first occupation of the development, the car visitor's parking spaces shown on the approved plans shall be clearly marked and signposted for the exclusive use of visitors to the development;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.12**

**Moved Cr Franchina, Seconded Cr Lake**

*That the recommendation be adopted.*

*Debate ensued.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**LANDOWNER:** M, V, M and R Zampogna  
**APPLICANT:** R Zampogna  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Commercial and Residential R80  
**EXISTING LAND USE:** Six grouped dwellings

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	'P'
Lot Area	2732 square metres

**SITE HISTORY:**

The following is a comprehensive site history of the subject development proposal:

- 18 December 1995      The Council at its Ordinary Meeting granted conditional Planning Approval for six grouped dwellings at Nos. 177-179 (Lot 48) Carr Place, Leederville.
- 11 October 2000      A Building Licence for a retaining wall on the site was issued under delegated authority as it did not exceed the maximum height as outlined in the Town's Local Law relating to Fences, Floodlights and other External Lights.
- December 2001  
January 2002      The Town investigated reports that unauthorised fencing, of approximately 2.9-3.9 metres in height, had been erected on the subject site. The height did not comply with the Town's Local Law, which requires approval for fences exceeding 2.4 metres in height.
- 19 February 2002      Planning Application received by the Town seeking Planning Approval for eight additional grouped dwellings including associated boundary fences, and seeking retrospective Planning Approval for the unauthorised fencing on the subject property.
- 9 April 2002      The Council, at its Ordinary Meeting, refused the above Planning Application. The Council also resolved that the unauthorised portion of the retaining wall, boundary fence and site fill shall be removed within 14 days of notification and the Council authorised the Chief Executive Officer to commence legal proceedings should this requirement not be complied with.
- 31 May 2002      The Town commissioned a detailed survey of the subject site, including the height of retaining walls and boundary fences that had been constructed, by Brook and March Licensed Surveyors.
- 6 June 2002      A copy of the applicant's appeal to the Office of the Minister for Planning and Infrastructure was received by the Town.
- 17 June 2002      Planning and Building Notices were issued in respect of the unauthorised retaining wall, boundary fence and site fill that had been placed upon the site.
- 19 July 2002      Respondent Statement lodged by the Town's solicitors acting on behalf of the Town.
- 12 and 18  
November 2002      Mediation conferences held between the appellant and representatives of the Office of the Minister for Planning and Infrastructure and the Town.
- 3 December 2002      The Council at its Ordinary Meeting considered the outcome of the planning appeal mediation conferences, and resolved that the item be deferred for further clarification of the issues raised and a report to be submitted.

- 17 December 2002      The Council at its Ordinary Meeting considered the outcome of the planning appeal mediation conferences, and resolved not to approve the application for the following reasons:
1.      Non-compliance with orders.
  2.      Current orders in effect.
  3.      Non-compliance with the Town Planning Scheme.
  4.      Height of wall.
  5.      Illegal fill on site.

**DETAILS/COMMENTS:**

In a letter dated 13 May 2003, attached at Appendix 10.1.12, the Minister for Planning and Infrastructure has advised the Town details of the appeal determination, which has been summarised as follows:

The matters relating to height of the retaining walls along the south and west boundaries, the relevance of the abutting lots, which are zoned commercial including the impact on the amenity of the neighbouring lots have been considered. Due to the commercial zoning of the adjoining lots, this would imply different amenity requirements and would in certain circumstances enable them to be built close to the common boundary walls similar in height to the retaining wall and fence proposed. Further investigation reveal that Lot 11 to the east of the subject site has also been similarly filled resulting to a similar impact to that proposed in the above development on the commercial lots to the south.

The plot ratio has been recalculated as being in compliance with the requirements of the Residential Design Codes. It is also significant that a 14 unit development for the site is within the allowable Residential density coding for the adjoining residential lots.

The development proposal the subject of the appeal has been **upheld** on the above basis for the additional 8 grouped dwellings, subject to the following conditions:

- "1. All affected windows on the upper level facing the side boundaries to have a sill height of 1.6m consistent with the Residential Design Codes;*
- 2. The development complying with such other conditions as the Town of Vincent might reasonably impose on a development of this type."*

The planning approval granted by the Hon Minister is valid for a period of two (2) years from 13 May 2003. The applicant/owners are still required to obtain all other necessary permits and licences as required under other legislation.

In light of the above, it is recommended that Council apply the conditions to the subject development as detailed in the Officer Recommendation. These conditions are similar to those contained in the Officer Recommendation presented in Item 10.1.2 to the Ordinary Meeting of Council held on 17 December 2002, and amended to reflect the above conditions imposed by the Minister for Planning and Infrastructure.

**10.1.3 Further Report - No. 94 (Lot 2) Lincoln Street, Highgate – Proposed Additional Two Storey Grouped Dwelling and Front Screen Wall Additions to Existing Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	Forrest, P14	<b>File Ref:</b>	PRO1752; 00/33/1568
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

***FURTHER OFFICER RECOMMENDATION:***

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by T A Blair for proposed additional two storey grouped dwelling and front screen wall additions to existing dwelling at No.94 (Lot 2) Lincoln Street, Highgate and as shown on the plans stamp dated 2 April 2003 (floor plans and elevations) and 30 May 2003 (site plan), subject to:*

- (i) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates along and within the front setback area of Lincoln Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the balcony to the living room on the western elevation shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*
- (iv) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to the dining room on the first floor level on the southern elevation shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002;*
- (v) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*

- (vi) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (vii) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (viii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (ix) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (x) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (xi) *compliance with all relevant Environmental Health, Engineering and Building requirements; and*
- (xii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Lincoln Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.3**

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted.*

*Debate ensued*

**LOST (2-4)**

**For**

**Cr Doran-Wu  
Cr Farrell**

**Against**

**Mayor Catania  
Cr Franchina  
Cr Ker  
Cr Lake**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**Reasons:**

- 1. Non compliances per Town Officer's report.**
- 2. Adverse impact of walls without major openings, on surrounding properties.**
- 3. Not in keeping with the amenity of the area.**

**FURTHER REPORT:**

This application was considered at the Ordinary Meeting of Council held on 13 May 2003 where the Council resolved that the *"Item LIE ON THE TABLE to allow the applicant to address the concerns regarding the issues of setbacks, window opening and the amount of screening, the adequacy of open space and the store at the front of the development, and also consider the amended recommendation."*

Following discussions with the Town's Officers, the applicant submitted the following information and revised site plan on 30 May 2003, to address the abovementioned concerns.

*"In relation to the proposal above I have no objection to any of the officers recommendations dated 7<sup>h</sup> May 2003 and brought forward in Council meeting dated 13 May 2003.*

*The Council decided at that meeting to "Lie on the table" the application until I can address the issues that the Councillors have concerns with. This is as follows.*

*Issues of setbacks- the setback comply with the town-planning scheme as the setback is allowed to be 1.2m as long as the wall does not exceed 8m in length. Where it has exceeded 8m the setback has been 1.5m. I note there was no objection with these setbacks in the officers recommendations.*

*Window Opening- the windows from the dinning area will not be able to open and are made from obscure glass.*

*Open space- The open space is shown on the balcony area, if the vergola area is not taken into consideration then there is 25m<sup>2</sup> of open space.*

*Front store at the front of the development- the Council have noted item (xiv) c which follows: The deletion of the store additions to the existing dwelling. The Council approves the variation to the store requirements of the Residential Design Codes so that no store is required for the existing dwelling. I have no objection to this.*

*In relation to the additional/amended recommendations the Council have requested to be adopted*

*Item:*

*(iii) no objection*

*(vi) no objection and amended proposed site plan (attached)*

*(xiv) a/ no objection and amended proposed site plan (attached)*

*b/ the retaining/screen wall between home 1 and the car stands being modified so that it has a 1 metre by 1 metre truncation where it meets the driveway.*

*If a truncation were to be introduced this would mean that the carstand to home 1 would not be large enough to fix 2 cars in, one behind each other.*

*The turning space and rear area to home 2 complies with Residential Design Codes.*

*The width of driveway to turn and enter from is in excess of requirements*

*The amount of traffic leaving from home 2 is not that of traffic when leaving to connect to a normal street.*

*I therefore request that Council reconsider this item and vote that it is not required.*

*c/ no objection and amended proposed site plan"*

The provision for open space was not included in the previous Compliance Table as it fully complies. The Residential Design Codes require a minimum 45 percent open space and the development proposes 57 percent.

Councillors Sally Lake and Caroline Cohen have requested that the item be placed back on the Agenda for this Ordinary Meeting of Council.

The previous conditional approval Officer Recommendation and subsequent Amended Recommendation remains unchanged, except for the deletion of clauses/conditions (vi) and (xiv) as they have now been satisfied in the revised plans received on 30 May 2003, and the amendment of clause/condition (iii).

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 13 May 2003:

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by T A Blair for proposed additional two storey grouped dwelling and store and front screen wall additions to existing dwelling at No.94 (Lot 2) Lincoln Street, Highgate and as shown on the plans stamp dated 2 April 2003, subject to:*

- (i) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates along and within the front setback area of Lincoln Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the balcony to the living room on the western and southern elevation shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*
- (iv) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to the dining room on the first floor level on the southern elevation shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002;*
- (v) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*

- (vi) *a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*
- (vii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (viii) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (ix) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (x) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xi) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (xii) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (xiii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Lincoln Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*

*to the satisfaction of the Chief Executive Officer.*

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Moved Cr Ker, Seconded Cr Cohen

*That the following amended recommendation be adopted.*

**AMENDED RECOMMENDATION:**

*Amend clauses (iii) and (vi) of the previous recommendation and add a new clause (xiv), as follows:*

- "(iii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the balcony to the living room on the western ~~and southern~~ elevation shall be screened with a permanent obscure material and be non operable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*
- (vi) *a visual truncation of ~~2~~ 1.5 metres by ~~2~~ 1.5 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*
- (xiv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) *the car stands being a minimum width of 3.5 metres;*

- (b) the retaining/screen wall between home 1 and the car stands being modified so that it has a 1 metre by 1 metre truncation where it meets the driveway; and
- (c) the deletion of the store additions to the existing dwelling. The Council approves the variation to the store requirements of the Residential Design Codes so that no store is required for the existing dwelling.

The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;"

Debate ensued.

COUNCIL DECISION ITEM 10.1.7

Moved Cr Ker, Seconded Cr Torre

That this Item "LIE ON THE TABLE" so that the applicant can address the issues of setbacks, window opening and the amount of screening, the adequacy of open space and the store at the front of the development, and also consider the amended recommendation.

CARRIED (9-0)

COMMENTS:

With regard to clause (iii), the applicant has provided the Town with a letter dated 12 May 2003 from the owners of No. 96B Lincoln Street (north-western neighbours) stating that they 'have no objection to the Southern Wall of the above property not having screening to 1.8m high ... are happy for this not to be screened so ... [applicant/owner] can see the city from the balcony'. Therefore, the southern elevation of the balcony is no longer required to be screened and this clause has been amended accordingly.

With regard to new clause (xiv), the Town's Technical Services has included this condition to allow for adequate manoeuvring to/from the car bays at the rear of the existing dwelling.

LANDOWNER: T A Blair  
 APPLICANT: T A Blair  
 ZONING: Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R80  
 EXISTING LAND USE: Single House  
 COMPLIANCE:

Use Class	Grouped Dwelling	
Use Classification	"P"	
Lot Area	620 square metres	
Requirements	Required	Proposed
Setbacks -		
Northern side (Ground Floor)	1.5 metres	1.2 - 1.5 metres
Eastern side (Ground Floor)	1.5 metres	1.2 - 1.5 metres
Northern side (First Floor)	1.6 metres	1.2 - 1.5 metres
Eastern side (First Floor)	1.6 metres	1.2 - 1.5 metres
Western side (First Floor)	2.8 metres	1.5 metres

<p><i>Privacy - Western and Southern Sides (balcony to living)</i></p>	<p><i>Balconies within 7.5 metres of a property boundary on the first floor to be screened</i></p>	<p><i>No screening shown (screening condition applied)</i></p>
<p><i>Screen Walls and Fences</i></p>	<p><i>Front walls and fences within the primary street setback area to be visually permeable 1.2 metres above natural ground level.</i></p>	<p><i>A solid wall to a height of 1.8 metres proposed within the front setback area along the southern side boundary.</i></p>

**SITE HISTORY:**

*The subject site is occupied by a single storey character dwelling. The surrounding area is characterised by a mixture of single storey and two storey character dwellings.*

**CONSULTATION/ADVERTISING:**

*There was one objection received during the advertising period. Issues raised included the variations to setbacks, and the potential for overlooking onto the adjacent property.*

**DETAILS:**

*Approval is sought for the additional two storey grouped dwelling and store and front screen wall additions to the existing dwelling.*

**COMMENTS:**

*Privacy*

*With regard to the potential for unreasonable overlooking from the balcony on the first floor on the southern and western elevations, it is considered necessary that relevant screening conditions are applied to these openings to comply with the privacy requirements of the Residential Design Codes.*

*The upper floor dining room windows on the southern elevation should be appropriately screened due to the lack of details of the nature of the windows shown on the submitted plans.*

*Setbacks*

*It is considered that the side setback variations do not present an unreasonable loss of amenity to the adjacent properties and given the overlooking balcony at first floor level is conditioned to be screened in accordance with the Residential Design Codes, the variations to setbacks are considered supportable.*

*Screen wall*

*A 1.8 metres high screen wall is proposed within the front setback area. This screen wall will replace an existing wall to allow for a 2 metres by 2 metres truncation between the driveway and the footpath. As such, the screen wall shall be conditioned to comply with the Town's Policy relating to Screen Walls and Fences.*

*Summary*

*The proposal is generally supportable as it is not considered to unreasonably adversely affect the amenity of the adjacent properties or the streetscape of the area. Accordingly, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters."*

**10.1.9 No. 33 (Lot 5) Britannia Road, Leederville – Proposed Additional Two Storey Grouped Dwelling to Existing Single House**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Leederville, P3	<b>File Ref:</b>	PRO 1958; 00/33/1606
<b>Reporting Officer(s):</b>	S Crawford		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Cross Fishwick and Associates on behalf of the owners M and L Abel for proposed additional two storey grouped dwelling to existing single house at No. 33 (Lot 5) Britannia Road, Leederville, and as shown on plans stamp-dated 29 April 2003 (drawing SK02) and 9 May 2003 (drawing SK01), subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) a road and verge security deposit bond and/or bank guarantee of \$500 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (iv) the construction of crossovers shall be in accordance with the Town's specifications and the existing dwelling's crossover shall be upgraded to concrete/brick paving construction and all costs shall be borne by the applicant/owner(s) to the satisfaction of Engineering Services;*
- (v) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (vi) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (vii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development,*
  - (a) the west facing window to upper level Bedroom 2; and*
  - (b) the south facing window to upper level Bedroom 3;*

*shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees;*

- (viii) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the southern upper level wall being setback in accordance with the Residential Design Codes;*
  - (b) *the proposed dwelling having a maximum plot ratio of 0.65 in accordance with the Residential Design Codes;*
  - (c) *each dwelling being provided with a store in accordance with the Residential Design Codes;*
  - (d) *deletion of the proposed carport to the existing dwelling;*
  - (e) *the existing dwelling being provided with two (2) uncovered car parking spaces on-site;*
  - (f) *the existing dwelling complying with the open space requirements of the Residential Design Codes;*
  - (g) *the existing dwelling being provided with a minimum outdoor living space of 16 square metres with minimum dimensions of 4.0 metres in accordance with the Residential Design Codes; and*
  - (h) *the eastern facing parapet wall, being for the store and garage, being reduced in height to comply with the provisions of the Residential Design Codes for walls on the boundaries.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (ix) *subject to first obtaining the consent of the owners of Nos. 31, 35A and B Britannia Road for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing the existing dwelling at No. 33, and Nos. 31, 35A and 35B Britannia Road, in a good and clean condition; and*
- (x) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Britannia Road verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xi) *details of any trees within the boundary of the property shall be submitted prior to the commencement of works on site; and*
- (xii) *trees within the property can only be removed with the written consent of the Town's Parks Services Section and all costs shall be borne by the applicant/owner(s);*

*to the satisfaction of the Chief Executive Officer.*

**NOTE:**

*The applicant and owners are advised that under the terms of the Residential Design Codes, any future subdivision of the property can only be supported by the Town in the form of grouped dwellings, thereby creating a survey strata lot with common property or a built strata lot only. The site cannot support a green title subdivision or a survey strata subdivision without common property as the minimum rear battle-axe lot area requirement of 400 square metres under the Residential R60 density code cannot be achieved.*

**COUNCIL DECISION ITEM 10.1.9**

**Moved Cr Doran-Wu, Seconded Cr Farrell**

*That the recommendation be adopted.*

*Debate ensued.*

**LOST (0-6)**

(Councillors Chester, Cohen and Torre on approved leave of absence.)

**Reasons:**

1. **The extent of non compliance to Residential Design Codes.**
2. **The extent of redesign proposed to comply to Residential Design Codes.**
3. **The adverse affect of overshadowing on the neighbouring properties.**
4. **Consideration of the objections received.**

**LANDOWNER:** M and L Abel  
**APPLICANT:** Cross Fishwick and Associates  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R60  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	562 square metres

<b>Requirement</b>	<b>Required</b>	<b>Proposed</b>
Setbacks		
Unit 2 - Proposed Dwelling		
Northern side ground level	1.0 metre	Nil
Northern side upper level	1.2 metres	1.0 metre
Southern side upper level	2.9 metres	1.2 metres
Eastern side ground level	1.5 metres	Minimum Nil
Eastern side upper level	3.6 metres	Minimum 1.2 metres
Western side ground level	1.0 metre	Minimum Nil
Western side upper level	3.3 metres	Minimum 1.2 metres
Cone of Vision Setbacks - Upper Level Proposed Dwelling		
Bedroom 3 - view southwards	4.5 metres	4.0 metres
Bedroom 2 - view southwards	4.5 metres	4.0 metres

Carports - Existing dwelling	Permitted within the front setback, however width of carport not to exceed 50 per cent of the frontage at the building line	50.98 per cent
Plot Ratio - Proposed Dwelling	0.65	0.66
Open Space - Existing dwelling	45 per cent	30.5 per cent
Essential Facilities – Existing dwelling	4.0 square metres store 16 square metres outdoor living space	Nil illustrated
Rear battle-axe lot size	400 square metres	329.34 square metres

**SITE HISTORY:**

The site currently supports a single storey single house.

The Council at its Ordinary Meeting of 28 May 2002 granted conditional approval for alterations, carport addition and additional two storey grouped dwelling to the existing dwelling involving partial demolition.

**DETAILS:**

The applicant seeks to construct an additional two storey grouped dwelling to the rear of the existing residence.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and written submissions have been received from four owners. These submissions were a mixture of comments, which accompanied the application and objections. These are summarised below;

- No. 31B Britannia Road (eastern neighbour) state that they have sited the plans for the proposed parapet wall to their boundary (garage) and subject to it remaining at 2.7 metres in height and being render finished to their side they raise no objection;
- Nos. 35A and 35B Britannia Road (western neighbours) advised the applicant that prior to signing any such consents they requested further details. As part of the community consultation procedures, these neighbours were advised of the proposal and made aware that a full set of plans were available for viewing at the Town. These owners have subsequently provided a second submission objecting to the proposal. Further to this objection, each neighbour has provided another additional submission. The owners object on the following grounds: reduction in sunlight, the dwelling's size, the lot size is less than that prescribed in the Residential Design Codes, open space, reduced setbacks, further details are requested as to the parapet wall finish to the western side, upper level western side setback and the windows to the upper level staircase which face the western neighbour;
- A verbal discussion was held with the neighbour to the rear (south) of the subject site, who owns the retirement villa most affected by the proposal. The neighbour is concerned with the effect of the proposal on their courtyard with respect to the effect of the overshadowing and loss of light. This is the objectors primary outdoor space and wishes to maintain their amenity. The objector advised that a written objection would follow. At time of writing the report, the objection had not been received; and

- Owner/resident of one of the retirement village villas to the rear, objects to the proposal based on the proposed lot size, reduced proposed setbacks and the associated externalities this is perceived to create in a similar fashion to other comments made from other neighbours.

#### **COMMENTS:**

#### **Setbacks – Proposed Dwelling**

##### **Northern Side Ground Level Setback**

The Residential Design Codes (R Codes) require this wall to be setback 1.0 metre from the affected boundary, whereas the applicant seeks a nil setback to accommodate a garage. The proposed wall is located on the southern boundary of the site and therefore any overshadowing cast by the structure will be onto the proposed dwelling, thereby not affecting the existing dwelling's courtyard provision. On this basis, the impact of the parapet wall in this location is considered to provide privacy to the existing residence and will not reduce the amenity of their outdoor living space. As such, the reduced setback can be supported.

##### **Northern Side Upper Level Setback**

The R Codes require this wall to be setback 1.2 metres to the boundary, whereas the applicant seeks a reduced setback of 1.0 metre. Again, due to the wall being located to the south of the existing residence, no undue overshadowing is created. Taking into account the form and height of the wall, it is considered that the structure will not unduly affect the amenity of the existing residence, and again can be supported.

##### **Southern Side Upper Level Setback**

This wall would generally be required to be setback 2.9 metres from the boundary, with the applicant seeking a reduced setback of 1.2 metres. The reduced setback in this instance is not considered appropriate due to the effect on the southern neighbour; coupled with this, the neighbour has specifically objected on the grounds of overshadowing and loss of light.

The applicant seeks a 5.31 metres high wall on this southern elevation for a length of 5.4 metres, with the remainder of the southern wall complying with the R Code setbacks. It has been calculated that the proposal will generate 76.76 square metres of overshadowing to the south, which will directly affect the objector's primary courtyard space. Furthermore, as the southern neighbours are part of an overall retirement village, it is important to note their complex has very little communal open space provision and thus residents are reliant on their courtyard provisions. It is acknowledged that the site is in close proximity to Britannia Road Reserve (extension of Lake Monger), and that overall the proposal complies with the R-Codes overshadowing requirements, however the immediate effect on this southern neighbour is inappropriate. As such, it is recommended that the southern upper level wall be setback in accordance with the R Codes.

The applicant has various measures to achieve this requirement without a substantial alteration in design, and the applicant is directed to the principles contained within Figure 2D of the R Codes to address this issue.

##### **Eastern Side Ground Level Setback**

The R Codes would generally require a 1.5 metres setback to this side boundary, whereas the applicant seeks to reduce this to nil to accommodate a parapet wall (garage/store) within the development. The R Codes permit that in areas coded R30 or higher one side boundary may incorporate a parapet element, so long as the wall is no greater in height than 3.5 metres with an average height of 3.0 metres. The proposed parapet is 8.4 metres in length with an average height of 3.3 metres.

The affected neighbour provided their consent to a 2.7 metres high parapet wall only, however the proposal was duly advertised to all affected neighbours in accordance with the Town's Policy for Community Consultation. It is considered that a 3.3 metres high parapet wall in this location will have no greater impact than a 2.7 metres high parapet, with no undue implications with respect of privacy and overshadowing occurring. Therefore, on this basis, the proposed parapet is considered acceptable.

#### **Eastern Side Upper Level Setback**

The R Codes would require the eastern upper level wall to be setback 3.6 metres from the affected boundary, whereas the applicant has sought a setback of between 1.2 metres to a maximum of 3.0 metres for differing elements of the subject wall. The affected neighbour has similarly developed a rear additional grouped dwelling on their site, which is located in close proximity to the affected boundary. As such, the impact of the reduced setback on this neighbour is considered negligible, as the affected area of adjacent residence does not represent their sensitive areas of the dwelling. In addition, no undue overshadowing or privacy concerns will result from the proposal to the eastern neighbour. As such, this relaxation in setback is not considered to unduly adversely affect their amenity provision, and therefore can be supported.

#### **Western Side Ground Level Setback**

The R Codes require this wall to be setback 1.0 metre from the boundary, whereas the applicant seeks to incorporate a third parapet wall in the proposal to accommodate a family room. The proposed parapet is 5.1 metres in length and 3.3 metres in height. The proposed parapet is adjacent to the affected neighbour's vacant rear yard. The neighbour has raised concerns with respect to the development, however in relation to this parapet wall concerns related to the finish and access arrangements in order to provide the necessary finish. A condition of approval has been included that requires this wall to be suitably finished and for the applicant to seek the neighbour's permission to do so. The finish of the wall will be consistent with the dwelling. The proposed parapet is not considered to unreasonably diminish the amenity of the affect neighbour's outdoor space provision and will result in no undue overshadowing. As such, the proposal is therefore considered acceptable.

#### **Western Side Upper Level Setback**

The upper level wall requires a 3.3 metres setback to the boundary, whereas the applicant seeks a reduced setback of between 1.2 metres to 5.42 metres. The reduced setback request affects Bedroom 3 and the stairwell, with the stairwell having a 3.0 metres setback from the boundary. As such, effectively the reduced setback principally is to accommodate Bedroom 3 for a wall length of 5.1 metres. Again, this reduced setback will cause no undue privacy or overshadowing concerns and therefore is considered acceptable.

#### **Cone of Vision – Upper Level Proposed Dwelling**

##### **Bedroom 3 – South Facing Window**

The R Codes require such openings to be setback a minimum of 4.5 metres from the boundary. The subject window is located only 4.0 metres from the southern boundary. As such, due to the ability of this window to unreasonably overlook the southern neighbour and their courtyard provision, appropriate screening should be imposed.

##### **Bedroom 2 – West Facing Window**

The above window provides views southwards, despite the denotation of screening on the plans. This window is again required to be 4.5 metres from any boundary. Applying the cone of vision principles, unreasonable views can still be seen from the window, past where the screening has been provided to. As such, an appropriate screening requirement should again be imposed.

### **Carport – Existing Dwelling**

The applicant has demonstrated a carport type structure for the existing dwelling, however this has not been accompanied by an appropriate site plan, floor plans or elevations for the structure. These details were specifically requested after the application had been received. Therefore, it is appropriate to delete the carport from this proposal, as a full assessment cannot be made.

### **Plot Ratio – Proposed Dwelling**

The Residential R60 density code permits a plot ratio of 0.65 for this form of development. The applicant has proposed a plot ratio of 0.66. It is considered appropriate to maintain consistency with respect to plot ratio in order to maintain appropriately scaled development within this area. In addition, the dwelling already proposes numerous variations to the R Codes. As such, in this instance, it is considered appropriate to require the applicant to reduce the plot ratio figure to comply with the provisions of the R Codes.

### **Open Space – Existing Dwelling**

A minimum open space provision of 45 per cent is required in the subject density code, whereas the existing house appears to only provide 30.5 per cent open space. However, with the deletion of the carport, this situation will dramatically improve for the existing house. However, in considering the overall development of the lot, it is considered necessary in this instance to ensure compliance with open space provisions, and such the approval will be conditioned accordingly.

### **Essential Facilities – Existing Dwelling**

No such facilities are illustrated for the existing residence, these should be required as a condition of approval.

### **Lot Size**

The proposal has been assessed as an additional grouped dwelling under the terms of the R Code provisions. However, the plan clearly demonstrates the intention for the rear dwelling to be independent of that of the existing dwelling, through provision of an independent battle-axe leg for the rear and an additional crossover to service the existing dwelling. As a grouped dwelling, the minimum and average lot sizes can apply to the development, and as proposed, the proposal is compliant.

However, at the time of subdivision, due to the configuration indicated, the applicant would need to achieve a minimum rear battle-axe lot of 400 square metres. As proposed, the rear lot is only 329.34 square metres. The applicant was advised in writing of this concern on 8 May 2003. Due to the location of the existing residence on the lot, the ability to achieve a 400 square metres lot to the rear is unachievable. As such, any future subdivision will need to incorporate an element of common property in order to comply with the grouped dwelling provisions of the R Codes. It is considered important to advise the applicant and owners of this requirement at the present time in order to avoid false expectation that a green title or survey strata lot (with no common property) can be achieved, as due to the above requirements this form of subdivision could not be supported by the Town.

It is considered that the proposal will generally have no unreasonable detrimental impact on the amenity and streetscape of the area. Accordingly, the proposal is recommended for approval, subject to standard and appropriate conditions to address the above matters.

### **NOTE:**

**The Manager Planning and Building Services; Des Abel, is not related to the owners M and L Abel.**

**10.1.5 No. 5 (Lot 7) Pakenham Street, Mount Lawley – Proposed Retaining Wall to Existing Two Storey Single House**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Banks, P15	<b>File Ref:</b>	PRO 1954; 00/33/1615
<b>Reporting Officer(s):</b>	S Crawford		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Conwood Retaining Walls on behalf of the owners T and J Siciliano for proposed retaining wall to existing two storey single house at No. 5 (Lot 7) Pakenham Street, Mount Lawley, and as shown on plans stamp-dated 1 May 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town’s Technical Services Division. An application for the refund of the security deposit must be made in writing; and*
- (iii) the applicant shall install appropriate dividing fencing to both side and rear boundaries to a minimum height of 1.8 metres above the proposed finished ground levels of the lot;*

*to the satisfaction of the Chief Executive Officer.*

**COUNCIL DECISION ITEM 10.1.5**

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**LANDOWNER:** T and J Siciliano  
**APPLICANT:** Conwood Retaining Walls  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R20/40  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	350 square metres

Requirement	Required	Proposed
Site Works		
Setbacks	2.4 metres	2.0 metres to rear boundary and nil to side boundaries
Fill Limit	Within one metre of a common boundary not more than 0.5 metre above natural ground level at the boundary	1.5 metres
Privacy	6.0 metres (as retained and unscreened outdoor created space above ground level is treated as habitable space)	2.0 metres to rear boundary and nil to side boundaries

**SITE HISTORY:**

The site currently supports a two storey single house.

**DETAILS:**

The applicant seeks to construct a retaining wall within the rear yard of the property to provide a level outdoor area to the rear of the existing residence. The retaining wall is located 2.0 metres off the rear boundary and is proposed to be 1.5 metres in height, retaining 1.5 metres of fill.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and one verbal submission was received. The neighbours at No. 7 Pakenham Street are concerned with respect to overlooking and the nature of the retaining walls.

**COMMENTS:**

**Site Works**

**Setbacks**

The Residential Design Codes (R Codes) address site works, by stating that setbacks for retaining walls should be treated as if they were a constructed wall of a dwelling. On this basis, the retaining walls would be required to be setback 2.4 metres from the boundaries. The proposed wall seeks a 2.0 metres setback to the rear boundary, and a nil setback to the two side boundaries, as the wall is proposed to run the width of the lot. The proposed retaining wall is consistent with the management of surrounding properties and the manner in which they have retained their rear yards, due to the sloping nature of the blocks. The location of the retaining wall is also consistent with an existing sewerage easement that affects this site and the two adjacent properties to the east. On this basis, the reduced setbacks are considered appropriate and will cause no undue impact on surrounding neighbours. The issue of privacy is addressed below.

**Fill Limit**

The R Codes generally limits the amount of permissible fill to 0.5 metre above natural ground level. In this instance, the applicant seeks 1.5 metres of fill above the natural ground level of the rear of the lot. This degree of fill makes the area immediately to the rear of the residence, up to the same level as the dwelling to create a suitable outdoor living area.

This approach to managing the level changes over the lot has been adopted by two lots to the east of the property. As such, subject to privacy concerns being addressed, the variation to allow greater fill is considered suitable.

**Privacy**

Because the proposed retaining will create a raised outdoor area, there is the potential for privacy issues to arise from overlooking. Under the terms of the R Codes, a retained area accessible by persons should be treated as habitable space. On this basis, and utilising the cone of vision principles, the raised portion of outdoor space would require separation to the boundaries by 6.0 metres. However, in this instance, a more appropriate measure to address overlooking is to ensure that a standard dividing fence is erected at the proposed finished ground levels to a minimum height of 1.8 metres. Such fencing at the differing levels of the lot will ensure reasonable privacy to neighbours. In particular, this would result in two fences along the width of the lot, however this is the only effective means of ensuring reasonable privacy to all surrounding neighbours, which also addresses the objector's concerns.

It is considered that the proposal will generally have no unreasonable detrimental impact on the amenity and streetscape of the area. Accordingly, the proposal is recommended for approval, subject to standard conditions and conditions to address the above matters.

**10.1.14 No. 65 - 67 (Lots 111, 112 and 113) Raglan Road, corner William Street Mount Lawley – Proposed Alterations and Additions to Existing Single House, Alterations and Additions to Existing Place of Worship Buildings to Create Five (5) Single Bedroom Grouped Dwellings and Three (3) Grouped Dwellings and Construction of Four (4) Grouped Dwellings, Resulting in the Development of One (1) Single Storey Grouped Dwelling, Seven (7) Two - Storey Grouped Dwellings and Five (5) Single Bedroom Two - Storey Grouped Dwellings**

<b>Ward:</b>	South	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	Norfolk, P10	<b>File Ref:</b>	PRO2320; 00/33/1586
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Palassis Architects on behalf of the owners Wasley Institute Pty Ltd for proposed alterations and additions to existing single house, alterations and additions to existing place of worship buildings to create five (5) single bedroom grouped dwellings and three (3) grouped dwellings and construction of four (4) grouped dwellings, resulting in the development of one (1) single storey grouped dwelling, seven (7) two - storey grouped dwellings and five (5) single bedroom two - storey grouped dwellings at No. 65 - 67 (Lots 111, 112 and 113) Raglan Road, corner William Street, Mount Lawley, and as shown on the plans stamp dated 30 May 2003 and 5 June 2003, subject to:*

- (i) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (ii) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the William Street and Raglan Road verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
  - (a) the provision and location of bin storage to the satisfaction of the Town's Technical and Health Services;*
  - (b) car bays 13, 14, 15 and 22 having a minimum width of 2.7 metres;*
  - (c) car bays 13, 14, and 22 having a minimum aisle width of 6.2 metres;*
  - (d) the provision of lighting to the vehicular accessway and carparking area to the satisfaction of the Town's Technical Services;*

- (e) *the deletion of the entry gate structure and fencing within the 1.5 metres wide William Street Other Regional Road reservation; and*
- (f) *the plot ratio floor area of units 11 and 12 being limited to a maximum of 60 square metres;*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iv) *subject to first obtaining the consent of the owners of No. 555 (Lot 200) William Street, for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing, No. 555 (Lot 200) William Street in a good and clean condition;*
- (v) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to William Street and Raglan Road shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (vi) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (vii) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (viii) *prior to the first occupation of the development, a minimum of twenty two (22) car parking spaces (including one (1) visitor bay) shall be provided for the development, and the visitor bay shall be clearly marked and signposted for the exclusive use of the visitors of the development;*
- (ix) *all car-parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking".*
- (x) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xi) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xii) *a road and verge security deposit bond and/or bank guarantee of \$2200 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xiii) *the construction of crossovers shall be in accordance with the Town's specifications;*

- (xiv) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xv) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (xvi) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (xvii) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (xviii) *prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (xix) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site; and*
- (xx) *prior to the first occupation of the development, the applicant/owner(s) shall, in at least 12-point size writing, advise (prospective) purchasers of the single bedroom residential units/dwellings that:*
- "the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the single bedroom residential units/dwellings. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development";*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.14**

**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Lake, Seconded Cr Ker**

*That this item "LIE ON THE TABLE", and a Further Report be provided concerning the retention of trees, the location of trees affecting stores, the location of the bin storage, fences, the type of surface of the church (render or original restoration), the potential impact on the property at 71 Raglan Road, and including a property Heritage Report.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**LANDOWNER:** The Wasley Institute Pty Ltd  
**APPLICANT:** Palassis Architects  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R60  
**EXISTING LAND USE:** Place of Public Worship and Single House

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	1781 square metres

Requirements	Required	Proposed
Setbacks -		
Southern side (Ground Floor)	1.5 metres	1.25 - 1.725 metres
Southern side (First Floor)	1.5 metres	1.25 - 1.725 metres
Street Setback -		
William Street Ground Floor	4.0 metres	3.445 metres
First Floor	6.0 metres	2.3 metres
Car parking	23 bays (21 bays plus 2 visitors bays)*	22 bays (21 bays plus 1 visitors bay)
Plot Ratio Single Bedroom Unit 11 and Unit 12	Maximum of 60 square metres	77 square metres
Density - based on eight (8) grouped dwellings and five (5) single bedroom dwellings * **	1892 square metres	1840 square metres (2.8 percent density bonus)

\* Site area for single bedroom dwellings calculated at 111.67 metres each based on Clause 3.1.3 (A3) (i) of the Residential Design Codes (R Codes).

\*\*Site area of 1840 square metres includes up to half the width of the right of way based on Clause 3.1.2 (A2) (ii) of the R Codes.

**SITE HISTORY:**

The subject site is occupied by a collection of church buildings facing William Street and a single dwelling facing Raglan Road. The surrounding area is characterised by a mixture of single storey and two storey character dwellings and two storey grouped dwellings.

A 3.96 metres wide, resumed vested and sealed right of way abuts the western boundary of the property and will provide vehicular access to the proposed dwellings.

### **CONSULTATION/ADVERTISING:**

There were seven letters of objection received during the advertising period, including a petition with forty four signatures.

Issues raised included the impact on the amenity of the surrounding area from the density of the site, the perceived increase in noise and traffic from the development, the impact on parking on the surrounding area and vehicular access from the right of way.

### **DETAILS:**

Approval is sought for proposed alterations and additions to the existing single house, alterations and additions to the existing place of worship buildings to create five (5) single bedroom grouped dwellings and three (3) grouped dwellings and construction of four (4) grouped dwellings, resulting in the development of one (1) single storey grouped dwelling, seven (7) two - storey grouped dwellings and five (5) single bedroom two - storey grouped dwellings.

### **COMMENTS:**

#### **Partial Demolition**

The subject site is occupied by a collection of church buildings that were constructed in a series of campaigns from 1913 to the 1920s. Further single-storey, light weight additions were undertaken to the group of buildings from the late 1950s through to the late 1970s. The place is listed on the Town's Municipal Heritage Inventory and is known as the former St Margaret's Uniting Church. The place is a good example of the Federation Free Gothic style of architecture and is a local landmark. The site also includes a single residence that fronts onto Raglan Road.

The proposed change of use from place of public worship and associated buildings to grouped dwellings is supported as the new use is considered to be compatible with the site and its cultural significance. The proposed conversion to residential apartments will entail minimal intervention to the significant fabric of the place. The significant buildings on the site will be retained and their external appearance will be conserved. Some internal alterations are required to create separate residential units, however, these alterations have been kept to a minimum. The existing windows, doors, ceilings and large volumes that are typical of church buildings will be retained. Additionally, some of the original arched window openings that have been bricked in will be opened up and reconstructed.

With regard to demolition, it is proposed that the 1950s-1970s accretions be removed. These parts of the buildings are considered to be of little significance, if not intrusive to the place, and therefore their demolition is supported. It is also proposed that a small rear section of the single residence be demolished to accommodate more space for on-site parking. This demolition proposal is supported because the bulk of the residence will be retained and the additional parking will contribute to the amenity of the site and the surrounding residential area. Only a small section of the significant church buildings is proposed for demolition, namely the end bay of the church building that fronts onto Raglan Road. The demolition of the end bay will provide space for two private courtyards and it will effectively open up the site to provide an uninterrupted vista of courtyards between the significant buildings. Whilst the end bay that is proposed for demolition is part of the significant fabric of the place, it will result in improved open space, light and circulation for the site. Thus, in the context of these benefits, the proposed demolition of this section of building is considered acceptable.

Overall it is considered that the significance of the place as a landmark church site in the Federation Free Gothic style will not be compromised as a result of the proposed development. Given that the proposed development will essentially conserve and enhance a significant heritage place, it is considered acceptable that a density bonus under clause 20 of the Town's Town Planning Scheme No1 be granted. Furthermore, as the place is included in the Town's Municipal Heritage Inventory, reasonable variations to any development or site requirements may be considered.

The Heritage Council of Western Australia (HCWA) has advised the Town that they have received a referral under Section 9 of the *Heritage of Western Australia Act 1990*. This referral will result in HCWA determining whether the place should undergo an assessment for consideration for listing on the State Register of Heritage Places in the future. The outcome will be forwarded to the Town for its information.

In summary, the development proposal is supported subject to a comprehensive archival record of the place being submitted to and approved by the Town prior to the issue of a Demolition Licence.

### **Density**

The development proposes a 2.8 percent increase in the permitted dwelling density. The existing church buildings are listed on the Town's Municipal Heritage Inventory and are considered of sufficient cultural significance to warrant a density bonus. In light of this, it is considered that under Clause 20 of Town Planning Scheme No.1, the development proposal is worthy of a density bonus. A number of objections received raise concern over the increased density of the site. The variation is considered only minimal and as such is not considered to unduly affect the amenity of the surrounding residents.

Clause 3.1.2 A2 (ii) of the R-Codes stipulates the following for battleaxe lots abutting right of way (ROW):-

*"in the case of a rear battleaxe site, the site area inclusive of access leg where such an access leg contributes no more than 20 per cent of the site area as required by Table 1. Where the lot (excluding access leg) adjoins or abuts a right-of-way or public reserve for open space, pedestrian access, school site or equivalent, half the width (up to a maximum depth of two metres) may be added to the site area".*

Notwithstanding that the abovementioned clause only applies to battleaxe sites for single houses, the proposal would still result in the same effective lot area and sense of openness.

After adding half the width of the adjacent ROW to the subject land, the total site area is 1840 square metres.

### **Street Setbacks**

Given the relative William Street setback and scale of the existing church development on site, and the various design features incorporated into the front facade and setback, including landscaping in the front courtyards of Unit 3 and Unit 4, the proposed front setback to William Street is considered acceptable. The Town requires a ground floor setback of 4.0 metres and first floor setback of 6.0 metres. The ground floor and upper floor of the proposed buildings (units 1, 2, 3 and 4) are in line with the existing church buildings and the only encroachment is minor in the form of two balconies. A condition has also been applied to restrict any buildings within the 1.5 metres Other Regional Road Reservation.

### **Side Setbacks**

It is considered that the southern side setback variations do not present an unreasonable loss of amenity to the adjacent properties due to staggering of setbacks and the windows facing the southern side are all minor openings, therefore these variations are considered supportable.

### **Plot Ratio - Single Bedroom Dwellings**

There are five single bedroom dwellings proposed for the development all of which are incorporated into the existing church buildings. The Residential Design Codes (R Codes) requires single bedroom dwellings to have a maximum plot ratio floor area of 60 square metres. Units 11 and 12 exceed the requirement, and should comply with the 60 square metres limit.

### **Car Parking**

The 13 grouped dwellings require 23 car parking bays (including 2 visitor bays) in total to comply with the R Codes requirements and the relevant Australian Standards for car parking. The development proposes 22 car parking bays (including 1 visitor bay). In this instance, the variation to carparking is considered acceptable as there is only a shortfall of 1 bay, Raglan Road has no parking time restrictions installed, and the Town has received no complaints from existing residents that there is a current problem with parking congestion. The site is also situated within close proximity to public transport in the form of bus stops along William Street.

### **William Street - Other Regional Road**

The Town has received comments from the Department of Planning and Infrastructure (DPI) in relation to the William Street Metropolitan Region Scheme "Other Regional Road" (ORR) reservation, which encroaches over a 1.5 metres wide section of the subject lots. In summary, the DPI states that it has no objection to the proposal, however the building proposed on Lot 111 should be located entirely on the portion of the land that is not reserved for Other Regional Road purposes. As such, a condition should be applied restricting any buildings within this area.

### **Summary**

The proposal is generally supportable as it aims to retain and enhance both internally and externally existing buildings listed on the Town's Municipal Heritage Inventory and is not considered to unreasonably adversely affect the amenity of the adjacent properties or the streetscape of the area. Accordingly, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters.

**10.1.8 No. 86 (Lot 3) Forrest Street, North Perth – Proposed Two Storey Single House**

<b>Ward:</b>	South	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Norfolk, P10	<b>File Ref:</b>	PRO1765; 00/33/1526
<b>Reporting Officer(s):</b>	S Crawford		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by T Noonan on behalf of the owners C and V Sebatino for proposed two storey single house at No. 86 (Lot 3) Forrest Street, North Perth and as shown on the plans 29 April 2003, subject to:*

- (i) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) *subject to first obtaining the consent of the owners of No. 84 (Lot 2) Forrest Street, for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 84 (Lot 2) Forrest Street, in a good and clean condition;*
- (iii) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Forrest Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iv) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development;*
  - (a) *the north facing window to upper level Bedrooms 3; and*
  - (b) *the eastern elevation of the upper level balcony;*

*shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole window can be top hinged and the obscure portion of the window openable to a maximum of 20 degrees;*
- (v) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*

- (vi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following;*
- (a) *a minimum 6.0 metres deep reversing and manoeuvrability provision being provided between the rear of the garage and the northern side of the right of way for vehicular access; and*
  - (b) *the first floor front setback being 6.0 metres.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (vii) *prior to the first occupation of the development, the full length and width of the right of way from Norfolk Street to the western most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s) full expense;*
- (viii) *a bond or bank guarantee for \$5500 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (ix) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of Town's Technical Services Division, shall be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (x) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xi) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xii) *the construction of crossovers shall be in accordance with the Town's specifications; and*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense.*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Doran-Wu, Seconded Cr Ker**

*That the recommendation be adopted.*

*Debate ensued.*

**COUNCIL DECISION ITEM 10.1.8**

**Moved Cr Doran-Wu, Seconded Cr Farrell**

*That this item be DEFERRED to the next Meeting for further investigation and report, with regard to the additional information provided by the applicant at 4.55pm today.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**LANDOWNER:** C and V Sebatino  
**APPLICANT:** T Noonan  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House	
Use Classification	"P"	
Lot Area	455 square metres	
<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Setbacks		
Front – upper level	6.0 metres	5.5 metres
Eastern side ground level	1.5 metres	1.2 metres
Eastern side upper level	1.8 metres	Minimum 1.2 metres
Western side ground level	1.5 metres	1.2 metres
Western side upper level	1.9 metres	1.2 metres
Cone of Vision – Upper Level		
Front balcony	7.5 metres to eastern and western boundaries	1.2 metres to eastern boundary 4.515 metres to western boundary
Bedroom 2 north facing window	4.5 metres	2.2 metres to western boundary
Bedroom 3 north facing window	4.5 metres	2.2 metres to eastern boundary
Manoeuvring	6.0 metres to far side of right of way	5.5 metres

**SITE HISTORY:**

The subject site is occupied by a single storey dwelling.

The Council at its Ordinary Meeting of 7 May 2001 granted conditional approval for the demolition of the existing dwelling.

On 31 March 2003, a subsequent application for demolition was approved under Delegated Authority.

There is a privately owned unsealed 4.5 metres wide Right of Way to the rear of the property.

### **CONSULTATION/ADVERTISING:**

The proposal was advertised and a number of submissions were received.

One submission is from the property owner to the west of the subject site who had previously signed a letter of no objection to accompany the application based on the understanding that the proposal is compliant with the statutory provisions. This neighbour has since been made aware of the variations the proposal seeks and withdraws their non objection and requests that the applicant provides all requirements to her. As the owner has been made aware of the proposal through the required Community Consultation procedure and the applicant was made aware that a copy of the plans were available for inspection, it is not the Town's role to facilitate such further interaction between owners.

The applicant has provided the signatures of the owners of Nos. 84 and 88 Forrest Street stating they have no objection to the proposed upper level windows and balcony with respect to cone of vision considerations.

The owner of No. 84 Forrest Street subsequently wrote to the Town and withdrew his previous consent. This owner objects to the reduced setback to the eastern side for the perceived impact on light to his western windows and the impact construction will have on his 100 year old dwelling. In addition, objection was raised to Bedroom 3 and the balcony's ability to overlook his premises. The owner also raises concerns with respect to legal boundaries.

The objections will be addressed in the relevant sections of the report. However, it should be noted that development is only approved on the subject application lot, and any concerns with respect to correct boundaries are a civil matter between neighbours.

### **DETAILS:**

Approval is sought for the construction of a two storey single house.

### **COMMENTS:**

#### **Setbacks**

##### **Front – Upper Level**

The Residential Design Codes (R Codes) permits front setbacks to be 4.0 metres from the property boundary. However, the Town's Policy relating to the Alma Locality requires that a 6.0 metres setback be provided to an upper level. A review of Forrest Street indicates that single storey residences predominate the area. As such, it is considered that there is little precedence under which to consider the reduced upper level front setback in relation to the existing streetscape. On this basis, it is considered reasonable that the upper level should be required to comply with the Town's Policy.

##### **Eastern Side Ground Level Setback**

The R Codes require a 1.5 metres setback be achieved for the dwelling to the eastern boundary, whereas the applicant seeks a reduced setback of 1.2 metres. No major openings are contained within this elevation and no undue overshadowing will be caused to the affected neighbour, due to the location of north in relation to the proposal. These factors address the concerns of the affected neighbour. On this basis, the reduced setback is considered acceptable.

##### **Eastern Side Upper Level Setback**

The R Codes require a setback of 1.8 metres based on the length, height and lack of major openings to the subject wall. The applicant seeks a reduced setback of a minimum of 1.2 metres with this increasing to a maximum setback of 2.0 metres.

Again, the reduced setback proposed will not cause privacy issues to the affected neighbour, and again no undue overshadowing will result. As such, no objection is raised to the reduced setback.

#### **Western Side Ground Level Setback**

Similar to the eastern side setback of the dwelling, the R Codes require a 1.5 metres setback to the boundary for the subject wall, whereas the applicant seeks a reduced setback to 1.2 metres. This elevation contains major openings, however due to their location at ground level there will be no privacy issues arising. In addition, due to the location of north in relation to the proposal no undue overshadowing will result to the affected neighbour. The proposal is not considered to have any undue impact on the amenity of the neighbour, who has provided their consent, and therefore can be supported.

#### **Western Side Upper Level Setback**

The R Codes require this wall to be setback 1.9 metres from the boundary, whereas the applicant seeks a 1.2 metres setback. The elevation does not contain any major openings to habitable rooms, with major openings being restricted to wet areas. Once again, no privacy concerns are raised by the proposal and no undue overshadowing will result. As such, the proposal can be supported.

#### **Cone of Vision**

##### **Front Balcony**

The upper level balcony is setback 5.5 metres from the front boundary. The two adjacent dwellings sit further forward of the subject proposal respectively. As such, the openings to both side boundaries incorporated in the balcony design are considered to raise privacy issues to the two affected neighbours, as the setbacks do not meet the R Code requirements. The western neighbour has provided their consent to this situation, however it is considered suitable to require screening of the remaining eastern balcony elevation as a condition of approval.

##### **Bedrooms 2 and 3 – North Facing Windows**

The subject windows face to the rear of the site, however when applying the cone of vision principles overlooking is created to the each side neighbour respectively. The windows are only setback 2.2 metres from each boundary whereas a setback of 4.5 metres would be required to be compliant. The western neighbour has provided their consent to this situation, however it is considered suitable to require screening of Bedroom 3's northern facing window as a condition of approval.

##### **Manoeuvring**

A 6.0 metres reversing depth is required from the end of the garage to the far side of the right of way. In the proposal, it appears that the applicant only achieves a 5.5 metres reversing span. As such, it is necessary to require compliance with this requirement via a condition of approval.

The proposal is generally supportable as it is not considered to unreasonably adversely affect the amenity of the adjacent properties or the streetscape of the area. Accordingly, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters.

**10.1.11 No. 142 (Lot 4030) London Street, North Perth – Proposed Additional Two Storey Grouped Dwelling and Alterations and Additions to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO 2336; 00/33/1612
<b>Reporting Officer(s):</b>	S Crawford		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner G Morris for proposed additional two storey grouped dwelling and alterations and additions to existing single house at No. 142 (Lot 4030) London Street, North Perth, and as shown on plans stamp-dated 30 April 2003, subject to:*

- (i) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) *the proposed carport to Unit 1 being deleted from the plans and alternative car parking in the form of two (2) uncovered car bays being provided on-site for Unit 1 in order to allow the proposal to comply with the terms of grouped dwellings under the provisions of the Residential Design Codes;*
  - (b) *adequate vehicle manoeuvrability to both dwellings and associated car parking; and*
  - (c) *appropriate outdoor living space provision for Unit 1 as a result of the required revisions in accordance with the Residential Design Codes.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iii) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised.*
- (v) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*

- (vi) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing; and*
- (vii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (viii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (ix) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (x) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (xi) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to London Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (xii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the London Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xvii) *the support/approval of the Department for Planning and Infrastructure and/or the Western Australian Planning Commission and compliance with its comments and conditions at the applicant(s)/owner(s) full expense;*

*to the satisfaction of the Chief Executive Officer.*

**NOTES:**

*The subject property is located within the Town's Eton Locality which is subject to amendment No.11 to the Town of Vincent Town Planning Scheme No. 1. Amendment No.11 proposes to rezone the Eton Locality from R30 and R30/40 to R20. The amendment is currently with the Western Australian Planning Commission and Minister for Planning and Infrastructure for final approval.*

*The owner is advised that under the terms of the Residential Design Codes any future subdivision of the property can only be supported by the Town in the form of grouped dwellings, thereby creating a survey strata lot with common property or a built strata lot only. The site cannot support a green title subdivision or a survey strata subdivision without common property as the minimum rear battle-axe lot area requirement of 400 square metres under the Residential R60 density code cannot be achieved.*

**Moved Cr Ker, Seconded Cr Farrell**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Ker, Seconded Cr Lake**

*That in clause (ii)(a) delete the words 'the proposed carport to Unit 1 being deleted from the plans and alternative car parking in the form of two (2) uncovered car bays being provided on-site for Unit 1 in order to allow the proposal', and insert the words 'common property sufficient', as follows;*

*"(ii)(a) common property sufficient to comply with the terms of grouped dwellings under the provisions of the Residential Design Codes;"*

**AMENDMENT CARRIED (6-0)**

(Councillors Chester, Cohen and Torre on approved leave of absence.)

**MOTION AS AMENDED CARRIED (6-0)**

(Councillors Chester, Cohen and Torre on approved leave of absence.)

**COUNCIL DECISION ITEM 10.1.11**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner G Morris for proposed additional two storey grouped dwelling and alterations and additions to existing single house at No. 142 (Lot 4030) London Street, North Perth, and as shown on plans stamp-dated 30 April 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) common property sufficient to comply with the terms of grouped dwellings under the provisions of the Residential Design Codes;*
  - (b) adequate vehicle manoeuvrability to both dwellings and associated car parking; and*
  - (c) appropriate outdoor living space provision for Unit 1 as a result of the required revisions in accordance with the Residential Design Codes.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

- (iii) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised.*
- (v) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (vi) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (vii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (viii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (ix) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (x) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (xi) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to London Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the new front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (xii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the London Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xvii) *the support/approval of the Department for Planning and Infrastructure and/or the Western Australian Planning Commission and compliance with its comments and conditions at the applicant(s)/owner(s) full expense;*

*to the satisfaction of the Chief Executive Officer.*

**NOTES:**

*The subject property is located within the Town's Eton Locality which is subject to amendment No.11 to the Town of Vincent Town Planning Scheme No. 1. Amendment No.11 proposes to rezone the Eton Locality from R30 and R30/40 to R20. The amendment is currently with the Western Australian Planning Commission and Minister for Planning and Infrastructure for final approval.*

*The owner is advised that under the terms of the Residential Design Codes any future subdivision of the property can only be supported by the Town in the form of grouped dwellings, thereby creating a survey strata lot with common property or a built strata lot only. The site cannot support a green title subdivision or a survey strata subdivision without common property as the minimum rear battle-axe lot area requirement of 400 square metres under the Residential R60 density code cannot be achieved.*

**LANDOWNER:** G Morris  
**APPLICANT:** As above  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R30/40 (R40 applies)  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	774 square metres

Requirement	Required	Proposed
Lot size - rear battle -axe	400 square metres	376.85 square metres
<b>Setbacks</b>		
<b>Unit 1</b>		
Carport northern side setback	1.0 metre	0.8 metre
Store northern side setback	1.0 metre	0.8 metre
<b>Unit 2</b>		
Ground level western side setback	1.5 metres or in areas Coded R30 or higher one side boundary setback may be permitted to nil for 2/3 of the length of the boundary	Nil

**SITE HISTORY:**

The site currently supports a single storey single house.

**Scheme Amendment No. 11**

It should be noted that the subject property is located within the Town's Eton Locality, which is subject to Amendment No.11 to the Town of Vincent Town Planning Scheme No. 1. Amendment No.11 proposes to rezone the Eton Locality from R30 and R30/40 to R20.

The Amendment is at present with the Western Australian Planning Commission and Minister for Planning and Infrastructure for final determination.

**DETAILS:**

The applicant seeks to construct an additional rear two storey grouped dwelling and alterations and additions to the existing dwelling.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and one submission was received within this time. The submission is from the owner of No. 144 London Street who raises objection to the reduced northern side setback for the proposed carport and store, as this may affect future development potential of the objector's site. In addition, the objector opposes the reduced side setback due to vehicle noise being so close to his residence. The subject property abuts London Street, which is classified as an Other Regional Road (ORR) Reservation. The proposal was referred to the Department for Planning and Infrastructure for comment.

**COMMENTS:**

**Lot Size**

The proposal has been assessed as an additional grouped dwelling under the terms of the Residential Design Code (R Codes) provisions. However, the plan clearly demonstrates the intention for the rear dwelling to be independent of that of the existing dwelling, through provision of an independent battle-axe leg for the rear and an additional crossover to service the existing dwelling. As a grouped dwelling, the minimum and average lot sizes can apply to development, and as proposed, the proposal is compliant.

However, at the time of subdivision, due to the configuration indicated, the applicant would need to achieve a minimum rear battle-axe lot area of 400 square metres. As proposed, the rear lot is only 376.85 square metres. The applicant was advised of this concern verbally. Due to the location of the existing residence on the lot, the ability to achieve a 400 square metres lot to the rear is achievable if the subdivision was reconfigured. As such, any future subdivision will need to incorporate an element of common property in order to comply with the provisions of the R Codes. It is considered important to advise the applicant and owners of this requirement at the present time in order to avoid false expectation that a green title or survey strata lot (with no common property) can be achieved, as due to the above requirements this form of subdivision could not be supported by the Town. This aspect was discussed with the applicant again on 28 May 2003.

**Setbacks**

**Unit 1 - Carport**

The Residential Design Codes (R Codes) require the carport structure to be setback 1.0 metre from the side boundary, whereas the applicant seeks reduce setback of 0.8 metre in line with the existing garage structure that is to be converted to a store. The affected neighbour has objected to the proposed setback. In light of the issues associated with achieving subdivision of the site, which is the intent of the applicant as prescribed on the application form, it is necessary to address the carport at this stage. Allowing a carport in this location raises a number of issues. Firstly, it indicates that a separate crossover is achievable for the proposed front unit, which in turn does not address the need for common property for future subdivision. Secondly, a carport in this location makes poor use of the front setback area which is the major provision of outdoor living space for the dwelling. As such, on this basis the carport should be deleted from the proposal and the applicant required to address car parking for Unit 1 through revised plans as part of the Building Licence application.

**Unit 1 – Store**

The location of the existing store is currently a garage structure. The applicant seeks to recreate this space as a storage area in order to meet the requirements of essential facilities under the R Codes. As the structure is substantially existing and will not cause any undue harm to the affected neighbour by means of privacy or overshadowing, the proposal is considered acceptable. Furthermore, the alignment of the structure is in keeping with the existing setback.

**Unit 2 – Ground Level Western Side Setback**

The R Codes require this setback to be 1.5 metres, whereas the applicant is seeking a parapet wall to the boundary. This wall is internal to the development and only affects the applicant and any future owner of proposed Unit 1. Furthermore, the R Codes permits the use of parapet walls to one side boundary in areas coded R30 or higher, when the wall is no greater in height than 3.5 metres with an average height of 3.0 metres. In these circumstances, two thirds of the boundary is permitted as a parapet. The proposal complies with this requirement and is therefore acceptable.

It is considered that the proposal will generally have no unreasonable detrimental impact on the amenity and streetscape of the area. Accordingly, the proposal is recommended for approval, subject to standard and appropriate conditions to address the above matters.

**10.1.15 Further Report - No.21 (Lot 254) Ethel Street, North Perth - Variations to Building Licence for Additional Three-Storey Grouped Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	9 June 2003
<b>Precinct:</b>	Norfolk, P10	<b>File Ref:</b>	PRO-1668; 00/33/0455
<b>Reporting Officer(s):</b>	G Snelling		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*the Council APPROVES the amendments as detailed on the amended plans stamp dated 11 March 2003, to the Building Licence No.20/1426 issued 4 July 2002 to the owner S. L. Eaton, for the additional three-storey grouped dwelling on No.21 (Lot 254) Ethel Street, North Perth, subject to:*

- (i) favourable comments from the owners of the front property of No.21 Ethel Street, regarding the new external brick fireplace and chimney, constructed in the pergola/alfresco area adjacent to the rear boundary;*
- (ii) subject to first obtaining the consent of the owners of No.21 Ethel Street, North Perth for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No.21 Ethel Street, North Perth in a good and clean condition; and*
- (iii) compliance with all relevant Environmental Health, Building and Engineering requirements;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Lake, Seconded Cr Ker**

*That new clauses (iv), (v) and (vi) be added, as follows;*

- ''(iv) two (2) standard right of way speed humps, one adjacent to the northern boundary of the subject development and one adjacent to the southern portico pillar, shall be installed on the adjacent right of way at the owners'/ applicants' costs, prior to the first occupation of the development;*
- (v) an opening shall be made on the northern face of the portico at the owners'/ applicants' costs, prior to the first occupation of the development, to ensure pedestrians alighting from the dwelling have adequate sight lines of passing vehicles prior to entering the adjacent right of way; and*
- (vi) the pedestrian access way from Ethel Street to the rear dwelling shall be a minimum width of 1.2 metres;''*

**AMENDMENT CARRIED (6-0)**

(Councillors Chester, Cohen and Torre on approved leave of absence.)

*Debate ensued.*

**Moved Cr Lake, Seconded Cr Ker**

*That Table 1 in the Further Report issued to Council on 10 June 2003, is amended in row (i) under the Status column to indicate that a written complaint was received from Mr Jim Christou, adjoining property owner, on 30 April 2001.*

**AMENDMENT CARRIED (6-0)**

(Councillors Chester, Cohen and Torre on approved leave of absence.)

**MOTION AS AMENDED CARRIED (5-1)**

**For**  
Mayor Catania  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Lake

**Against**  
Cr Franchina

**COUNCIL DECISION ITEM 10.1.15**

*That;*

*the Council APPROVES the amendments as detailed on the amended plans stamp dated 11 March 2003, to the Building Licence No.20/1426 issued 4 July 2002 to the owner S. L. Eaton, for the additional three-storey grouped dwelling on No.21 (Lot 254) Ethel Street, North Perth, subject to:*

- (i) favourable comments from the owners of the front property of No.21 Ethel Street, regarding the new external brick fireplace and chimney, constructed in the pergola/alfresco area adjacent to the rear boundary;*
- (ii) subject to first obtaining the consent of the owners of No.21 Ethel Street, North Perth for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No.21 Ethel Street, North Perth in a good and clean condition;*
- (iii) compliance with all relevant Environmental Health, Building and Engineering requirements;*
- (iv) two (2) standard right of way speed humps, one adjacent to the northern boundary of the subject development and one adjacent to the southern portico pillar, shall be installed on the adjacent right of way at the owners'/ applicants' costs, prior to the first occupation of the development;*
- (v) an opening shall be made on the northern face of the portico at the owners'/ applicants' costs, prior to the first occupation of the development, to ensure pedestrians alighting from the dwelling have adequate sight lines of passing vehicles prior to entering the adjacent right of way; and*

- (vi) *the pedestrian access way from Ethel Street to the rear dwelling shall be a minimum width of 1.2 metres;*

*to the satisfaction of the Chief Executive Officer.*

**FURTHER REPORT:**

A copy of the approved Building Licence ground floor plan is attached.

Construction of the additional three-storey grouped dwelling complies with the Planning Approval, approved on 27 March 2001 and issued on 6 April 2001, with the exception of the following variations detailed in Table 1.

**Table 1**

VARIATION	STATUS	COMMENTS/ RECOMMENDATION
(a) Original ridge style roof construction changed to an apex style structure, increasing the total height of the dwelling from 11.2 metres to 12.68 metres from the ROW ground level to the roof apex.	As per constructed and shown on Building Licence (No.20-1426) plans issued 4 July 2002.	Acceptable, and no further action to be undertaken. Not considered to have a further visual impact on the streetscape of the area surrounding Ethel Street and Alma Road, as it is setback approximately 28 metres and 14 metres respectively.
(b) One of the third floor ensuite windows has been deleted.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(c) New door installed leading from the master bedroom and entering the roof void, creating an additional storage area on the second floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(d) New door installed leading from bedroom 2 and entering the bathroom, on the first floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(e) New external brick fireplace and chimney constructed in the pergola/alfresco area, adjacent to the rear boundary.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, subject to favourable comments from adjoining property owner; issue Amended Building Licence.
(f) Increased ground floor ceiling level height from 2743 millimetres to 2795 millimetres.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.

(g) Sub-floor ventilation area, to underside of timber floor structure, at ground floor level.	Not previously required to be shown on Building Licence plans.	Acceptable, no further action to be undertaken.
(h) Reduction in the western side portico setback to the ROW, from 1.2 metres to a nil setback.	The Building Licence (No.20-1426) plans issued 4 July 2002, approved a reduced setback of 200 millimetres.	Nil setback is considered acceptable, issue Amended Building Licence and no further action to be undertaken.
(i) Alleged damage of retaining wall on the northern side boundary between No.21 and No.23 Ethel Street.	A written complaint was received on 30 April 2001 from Jim Christou, adjoining property owner.	Investigation to be undertaken upon receipt of written complaint from adjoining property owner. No damage evident from No. 21 Ethel Street. Probably a civil matter between the two parties.
(j) Reduction in the northern side ground floor setback to the lounge room, from 0.64 metre to a nil setback.	The Building Licence (No.20-1426) plans issued 4 July 2002, approved the reduced nil setback.	Acceptable, no further action to be undertaken.
(k) Reduction in the eastern front setback to the carport boundary parapet wall facing No.101 Alma Road, North Perth, from 2.0 metres to 1.0 metre.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken, as it is not considered to have a further visual impact on the Ethel Street streetscape.

The subject development has an open space provision of 49 per cent of the site area, which complies with the Residential Design Codes' requirement of 45 per cent.

The Town's approved plans do not indicate a storage area underneath the ground floor slab or the external alfresco floor structure, however, it is good building practice for dwellings with timber floors, to have such spaces for sub-floor ventilation, but not for habitable purposes. The height of this sub-floor ventilation area from ground level to the underside of the timber floor joists, varies from approximately 600 millimetres to 1360 millimetres.

On 30 May 2002, the Building Licence application was checked by a Town Planning Officer in terms of compliance with the Planning Approval. The Building Licence indicates a reduction in the northern side ground floor setback to the lounge room from 0.64 metres to a nil setback. The lounge room parapet wall measures 3900 millimetres wide by 6220 millimetres high, and the higher portion of the garage parapet wall measures 4630 millimetres wide by 6220 millimetres high from the rear courtyard of No.23 Ethel Street.

It is not evident that fill has been removed from the site.

The reduction in the western side portico setback to the rear right of way (ROW) from 1.2 metres to a nil setback, has been assessed and the following comments made:

The ROW is approximately 4300 millimetres wide, and the new double garage is set back 1000 millimetres with a garage door opening width of 6000 millimetres.

It is considered that the maneuvering width is adequate, however, to improve safety the Town Technical Services recommend that the owners/applicants install two (2) standard ROW speed humps, one on the northern boundary of the subject development and one adjacent to the southern portico pillar (as shown on the attached site plan "P-1").

It is also recommended that an opening be made on the northern face of the portico, to ensure pedestrians alighting from the dwelling have adequate sight lines of passing vehicles, prior to entering the adjacent ROW.

The Planning Approval and the Building Licence indicates a 1200 millimetres wide pedestrian access leg from Ethel Street to the subject grouped dwelling, along the southern side boundary. The amended plans submitted 11 March 2003, indicate a reduced pedestrian access leg from 1200 millimetres to 1000 millimetres, however, a site inspection on 10 June 2003, revealed that this access leg varies from 1000 millimetres at Ethel Street to 910 millimetres adjoining the subject development. This reduction in the pedestrian access leg is not considered supportable and should be a minimum width of 1.2 metres.

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#### **FURTHER REPORT:**

This application was considered at the Ordinary Meeting of Council held on 27 May 2003, where the Council resolved, *"that this item LIE ON THE TABLE, and a further report with all the details provided including what changes and unauthorised works have been undertaken in order that the details can be assessed"*.

Following a detailed site meeting held on 5 June 2003, with S.L. Eaton, K. Eaton, K. Cousins, the Executive Manager Environmental and Development Services, the Manager Planning and Building Services and the Principal Building Surveyor, the parties agreed to the following:

- (a) Modify the existing front carport northern side brick parapet wall adjacent to Ethel Street, so that its height is at or lower than the height of the existing fence on the adjoining No.23 Ethel Street.

This modification work has now been undertaken, as confirmed during an inspection on 9 June 2003 (photograph copies attached).

- (b) Re-measure the overall height of the recently constructed three (3) storey grouped dwelling by using a common datum point, being 300 millimetres in front of the ground floor front door and level with the top of the sealed right of way (ROW), at No. 21 (Lot 254) Ethel Street, North Perth.

This measurement work was carried out by the Town's Engineering Technical Officers on 9 June 2003, who established that the overall height of this 3 storey building from the ROW to the apex of the roof is 12.68 metres.

The Mayor, Nick Catania has requested that the item be placed back on the Agenda for this Ordinary Meeting of Council.

Construction of the additional three-storey grouped dwelling complies with the Planning Approval, approved on 27 March 2001 and issued on 6 April 2001, with the exception of the following variations detailed in Table 1.

**Table 1**

VARIATION	STATUS	COMMENTS/ RECOMMENDATION
(a) Original ridge style roof construction changed to an apex style structure, increasing the total height of the dwelling from 11.2 metres to 12.68 metres from the ROW ground level to the roof apex.	As per constructed and shown on Building Licence (No.20-1426) plans issued 4 July 2002.	Acceptable, and no further action to be undertaken. Not considered to have a further visual impact on the streetscape of the area surrounding Ethel Street and Alma Road, as it is setback approximately 28 metres and 14 metres respectively.
(b) One of the third floor ensuite windows has been deleted.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(c) New door installed leading from the master bedroom and entering the roof void, creating an additional storage area on the second floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(d) New door installed leading from bedroom 2 and entering the bathroom, on the first floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(e) New external brick fireplace and chimney constructed in the pergola/alfresco area, adjacent to the rear boundary.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, subject to favourable comments from adjoining property owner; issue Amended Building Licence.
(f) Increased ground floor ceiling level height from 2743 millimetres to 2795 millimetres.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(g) Sub-floor ventilation area, to underside of timber floor structure, at ground floor level	Not previously required to be shown on Building Licence plans.	Acceptable, no further action to be undertaken.
(h) Reduction in the western side portico setback to the ROW, from 1.2 metres to a nil setback.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(i) Alleged damage of retaining wall on the northern side boundary between No.21 and No.23 Ethel Street.	<del>No</del> A written complaint was received on <u>30 April 2001</u> from <u>Jim Christou</u> adjoining property owner.	Investigation to be undertaken upon receipt of written complaint from adjoining property owner. No damage evident from No. 21 Ethel Street. Probably a civil matter between the two parties.

(j) Reduction in the northern side ground floor setback to the lounge room, from 0.64 metre to a nil setback.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(k) Reduction in the eastern front setback to the carport boundary parapet wall facing No.101 Alma Road, North Perth, from 2.0 metres to 1.0 metre.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken, as it is not considered to have a further visual impact on the Ethel Street streetscape.

Item (a) in Table 1 varies from the Planning Approval issued on 6 April 2001, in that the total height of the dwelling is 11.2 metres, measured from the ROW ground level, whereas the Building Licence approved by the Town's Officers on 4 July 2002 shows 12.68 metres. The dwelling has been constructed with a height of 12.68 metres as per the approved Building Licence.

Items (b), (c), (d), (e), (f), (h), (j) and (k) are variations to both the Planning Approval issued on 6 April 2001, and the Building Licence issued on 4 July 2002. The applicant is seeking the approval of the Council and issue of an Amended Building Licence for these variations.

The variations are considered acceptable and the previous conditional approval Officer Recommendation remains unchanged.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 27 May 2003:

*"OFFICER RECOMMENDATION:*

*That;*

*the Council APPROVES the amendments as detailed on the amended plans stamp dated 11 March 2003, to the Building Licence No.20/1426 issued 4 July 2002 to the owner S. L. Eaton, for the additional three-storey grouped dwelling on No.21 (Lot 254) Ethel Street, North Perth, subject to:*

- (i) favourable comments from the owners of the front property of No.21 Ethel Street, regarding the new external brick fireplace and chimney, constructed in the pergola/alfresco area adjacent to the rear boundary;*
- (ii) subject to first obtaining the consent of the owners of No.21 Ethel Street, North Perth for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No.21 Ethel Street, North Perth in a good and clean condition; and*
- (iii) compliance with all relevant Environmental Health, Building and Engineering requirements;*

*to the satisfaction of the Chief Executive Officer.*

COUNCIL DECISION ITEM 10.1.7

Moved Cr Cohen, Seconded Cr Lake

*Cr Torre departed the Chamber at 7.47pm.*

*Debate ensued.*

*Cr Torre returned to the Chamber at 7.50pm.*

*Moved Cr Cohen, Seconded Cr Lake*

*That this item "LIE ON THE TABLE", and a further report with all the details provided including what changes and unauthorised works have been undertaken in order that the details can be assessed.*

CARRIED (8-0)

*(Mayor Catania JP on approved leave of absence.)*

**FURTHER REPORT:**

*The Town's approved plans do not indicate a storage area underneath the ground floor slab or the external alfresco floor structure, however, it is good building practice for dwellings with timber floors, to have such spaces for sub-floor ventilation, but not for habitable purposes.*

*On 30 May 2002, the Building Licence application was checked by a Town Planning Officer in terms of compliance with the Planning Approval. The Building Licence indicates a reduction in the northern side ground floor setback to the lounge room from 0.64 metres to a nil setback. Given the single storey nature of the parapet and the relatively short length of the wall, the proposed parapet is considered supportable and not considered to have a further adverse impact on the amenity of the locality.*

*The Building Licence indicates a reduction in the western side portico setback to the rear right of way from 1.2 metres to a nil setback. Given the orientation of the portico and the existing reduced setbacks along the rear right of way, the proposed setback is considered supportable and not considered to have a further adverse impact on the amenity of the locality.*

*On 20 March 2003, the Town's Officers carried out a site inspection and endeavoured to measure the total height of the 3 storey dwelling on the above-mentioned property. The estimated total height from the finished ground floor level (FGL) to the top ridge of the roof structure, is approximately twelve (12) metres, however, when measured in accordance with the new Residential Design Codes, i.e.: "height shall be measured from the natural level (NL) immediately below the relevant point on the wall or roof", the estimated total height from the NL to the top ridge of the roof structure, is approximately 12.9 metres.*

*The Town has not received a complaint relating to the damage of the retaining wall on the northern side boundary between No.21 and No.23 Ethel Street, North Perth. This is considered to be a separate matter to the subject variations to the Building Licence, however, a detailed investigation will be undertaken and a response on the outcome of these investigations will be forwarded to Councillor Caroline Cohen.*

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<b>LANDOWNER:</b>	<i>K &amp; S Eaton</i>
<b>APPLICANT:</b>	<i>Cousins Constructions</i>
<b>ZONING:</b>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R40</i>
<b>EXISTING LAND USE:</b>	<i>Existing dwelling, and additional grouped dwelling under construction.</i>

**COMPLIANCE:**

<i>Use Class</i>	<i>Grouped Dwelling</i>
<i>Use Classification</i>	<i>"P"</i>
<i>Lot Area</i>	<i>680 square metres</i>

**SITE HISTORY:**

*The subject site is occupied by a single storey dwelling and the subject additional grouped dwelling is under construction. The surrounding area is characterised by a mix of single and two storey dwellings. A Town owned and sealed right of way runs along the rear boundary of the site.*

*The Council at its Ordinary Meeting held on 27 March 2001, conditionally approved an additional three-storey grouped dwelling, carport and alterations to an existing single house.*

**CONSULTATION / ADVERTISING:**

*One letter of objection was received during the previous advertising period. The main concerns included the three storey nature of the proposal and the potential for overshadowing onto adjacent properties.*

**DETAILS:**

*Approval is sought for the construction of minor amendments to the additional three-storey grouped dwelling.*

**COMMENTS:**

*In response to Elected Members Requests from Councillors Ker, Cohen and Chester dating back to 10 February 2003, and a complaint from the owner of Nos.101a and 101b Alma Road, the Town's Planning and Building Services Officers carried out a site inspection, of the recently constructed three (3) storey grouped dwelling at No. 21 (Lot 254) Ethel Street, North Perth.*

*The Council at its the Ordinary Meeting held on 27 March 2001, approved the subject grouped dwelling with a height of eleven (11) metres. The total height of the constructed dwelling is twelve (12) metres. It is considered that the additional metre in total height of the dwelling will not have any additional undue impact on the amenity and streetscape of the locality. The subject property is situated to the rear of an existing property along Ethel Street and has its primary access from the right of way. The subject development is setback approximately 28 metres from Ethel Street and 14 metres from Alma Road. Upon site inspection, it was also identified that a new external brick fireplace and chimney have been constructed in the pergola/alfresco area, adjacent to the rear boundary. This is not perceived to have an undue negative impact on the adjacent properties and no complaints have been received to date in relation to this structure.*

*Construction of the additional three-storey grouped dwelling complies with the Town Planning Approval, approved on 27 March 2001 and issued on 4 April 2001, with the exception of the ground floor ceiling height, the alteration of the roof design to an apex style and the variations detailed in Table 1.*

*On 30 May 2002, the Building Licence application was checked by a Town Planning Officer in terms of compliance with the Planning Approval. It was determined that the total height of the proposed three (3) storey grouped dwelling, complies with the Town's Policy relating to Building Scale, which permits a maximum height of twelve (12) metres for 3 storey dwellings with a pitched roof. As such, the height of 12 metres was considered supportable, and not considered to have a further adverse impact on the amenity of the locality.*

*On 4 July 2002, the Building Licence for an additional three-storey grouped dwelling, carport and alterations to existing house was issued.*

*The Building Licence plans indicate the dwelling roof structure consisting of a forty five (45) degree pitched roof and the scaled total height from the finished ground floor level (FGL) to the top ridge of the roof structure, being approximately twelve (12) metres.*

*On 20 March 2003, the Town's Officers carried out a site inspection and endeavoured to measure the total height of the 3 storey dwelling on the above-mentioned property. The estimated total height from the FGL to the top ridge of the roof structure, is approximately twelve (12) metres, and the roof appears to have been constructed in accordance with the approved Building Licence plans with a pitch of 45 degrees. However, the roof has been altered from a longer ridge design in reference to the Planning Approval, to an apex style which complies with the Building Licence.*

*A discussion with the Building Supervisor on 17 April 2003, revealed that the designer's original roof structure was designed with longer ridges creating a lower pitched roof, however, the roof carpenter's opinion prior to submitting the Building Licence application, declared the original roof design to be too problematic, specifically with the central valley and gutter system, and the supervisor agreed to consult with the designer to change the design to an apex style, which added an extra metre to the overall height of the building.*

*A further discussion on 24 April 2003 with the designer, revealed the following comments:*

*"The new apex roof style structure:*

- a) improves the external aesthetics of the building;*
- b) removes the previous ridge roof styles central valley and gutter system to reduce future maintenance and eliminate potential areas for roof leaks; and*
- c) increases the structural integrity of the building".*

*Therefore, construction of the additional three-storey grouped dwelling complies with the Planning Approval, approved on 27 March 2001 and issued on 6 April 2001, and the Building Licence issued on 4 July 2002, with the exception of the following variations detailed in Table 1.*

*Table 1*

<i>VARIATION</i>	<i>STATUS</i>	<i>COMMENTS/ RECOMMENDATION</i>
<i>(a) Original ridge style roof construction changed to an apex style structure, increasing the total height of the dwelling from 11 metres to 12 metres.</i>	<i>As per constructed and shown on Building Licence (No.20-1426) plans issued 4 July 2002.</i>	<i>Acceptable, and no further action to be undertaken. Not considered to have a further visual impact on the streetscape of the area surrounding Ethel Street and Alma Road, as it is setback approximately 28 metres and 14 metres respectively.</i>
<i>(b) One of the third floor ensuite windows has been deleted.</i>	<i>As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.</i>	<i>Acceptable, issue Amended Building Licence and no further action to be undertaken.</i>
<i>(c) New door installed leading from the master bedroom and entering the roof void, creating an additional storage area on the second floor.</i>	<i>As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.</i>	<i>Acceptable, issue Amended Building Licence and no further action to be undertaken.</i>

(d) <i>New door installed leading from bedroom 2 and entering the bathroom, on the first floor.</i>	<i>As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.</i>	<i>Acceptable, issue Amended Building Licence and no further action to be undertaken.</i>
(e) <i>New external brick fireplace and chimney constructed in the pergola/alfresco area, adjacent to the rear boundary.</i>	<i>As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.</i>	<i>Acceptable, subject to favourable comments from adjoining property owner.</i>
(f) <i>Increased ground floor ceiling level height from 2743 millimetres to 2795 millimetres.</i>	<i>As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.</i>	<i>Acceptable, issue Amended Building Licence and no further action to be undertaken.</i>

*The visual impact of the three-storey grouped dwelling is somewhat "softened" in the context of the scale and nature existing and intended development in the nearby North Perth Centre, and the setbacks from Ethel Street and Alma Road.*

*In light of the above, it is recommended that the proposed amendments to the issued Building Licence be approved, subject to standard and appropriate conditions to address the above matters."*

**FURTHER REPORT:**

The Town's approved plans do not indicate a storage area underneath the ground floor slab or the external alfresco floor structure, however, it is good building practice for dwellings with timber floors, to have such spaces for sub-floor ventilation, but not for habitable purposes.

On 30 May 2002, the Building Licence application was checked by a Town Planning Officer in terms of compliance with the Planning Approval. The Building Licence indicates a reduction in the northern side ground floor setback to the lounge room from 0.64 metres to a nil setback. Given the single storey nature of the parapet and the relatively short length of the wall, the proposed parapet is considered supportable and not considered to have a further adverse impact on the amenity of the locality.

The Building Licence indicates a reduction in the western side portico setback to the rear right of way from 1.2 metres to a nil setback. Given the orientation of the portico and the existing reduced setbacks along the rear right of way, the proposed setback is considered supportable and not considered to have a further adverse impact on the amenity of the locality.

On 20 March 2003, the Town's Officers carried out a site inspection and endeavoured to measure the total height of the 3 storey dwelling on the above-mentioned property. The estimated total height from the finished ground floor level (FGL) to the top ridge of the roof structure, is approximately twelve (12) metres, however, when measured in accordance with the new Residential Design Codes, i.e.: *"height shall be measured from the natural level (NL) immediately below the relevant point on the wall or roof"*, the estimated total height from the NL to the top ridge of the roof structure, is approximately 12.9 metres.

The Town has not received a complaint relating to the damage of the retaining wall on the northern side boundary between No.21 and No.23 Ethel Street, North Perth. This is considered to be a separate matter to the subject variations to the Building Licence, however, a detailed investigation will be undertaken and a response on the outcome of these investigations will be forwarded to Councillor Caroline Cohen.

**LANDOWNER:** K & S Eaton  
**APPLICANT:** Cousins Constructions  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Existing dwelling, and additional grouped dwelling under construction.

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	680 square metres

**SITE HISTORY:**

The subject site is occupied by a single storey dwelling and the subject additional grouped dwelling is under construction. The surrounding area is characterised by a mix of single and two storey dwellings. A Town owned and sealed right of way runs along the rear boundary of the site.

The Council at its Ordinary Meeting held on 27 March 2001, conditionally approved an additional three-storey grouped dwelling, carport and alterations to an existing single house.

**CONSULTATION / ADVERTISING:**

One letter of objection was received during the previous advertising period. The main concerns included the three storey nature of the proposal and the potential for overshadowing onto adjacent properties.

**DETAILS:**

Approval is sought for the construction of minor amendments to the additional three-storey grouped dwelling.

**COMMENTS:**

In response to Elected Members Requests from Councillors Ker, Cohen and Chester dating back to 10 February 2003, and a complaint from the owner of Nos.101a and 101b Alma Road, the Town's Planning and Building Services Officers carried out a site inspection, of the recently constructed three (3) storey grouped dwelling at No. 21 (Lot 254) Ethel Street, North Perth.

The Council at its the Ordinary Meeting held on 27 March 2001, approved the subject grouped dwelling with a height of eleven (11) metres. The total height of the constructed dwelling is twelve (12) metres. It is considered that the additional metre in total height of the dwelling will not have any additional undue impact on the amenity and streetscape of the locality. The subject property is situated to the rear of an existing property along Ethel Street and has its primary access from the right of way. The subject development is setback approximately 28 metres from Ethel Street and 14 metres from Alma Road. Upon site inspection, it was also identified that a new external brick fireplace and chimney have been constructed in the pergola/alfresco area, adjacent to the rear boundary. This is not perceived to have an undue negative impact on the adjacent properties and no complaints have been received to date in relation to this structure.

Construction of the additional three-storey grouped dwelling complies with the Town Planning Approval, approved on 27 March 2001 and issued on 4 April 2001, with the exception of the ground floor ceiling height, the alteration of the roof design to an apex style and the variations detailed in Table 1.

On 30 May 2002, the Building Licence application was checked by a Town Planning Officer in terms of compliance with the Planning Approval.

It was determined that the total height of the proposed three (3) storey grouped dwelling, complies with the Town's Policy relating to Building Scale, which permits a maximum height of twelve (12) metres for 3 storey dwellings with a pitched roof. As such, the height of 12 metres was considered supportable, and not considered to have a further adverse impact on the amenity of the locality.

On 4 July 2002, the Building Licence for an additional three-storey grouped dwelling, carport and alterations to existing house was issued. The Building Licence plans indicate the dwelling roof structure consisting of a forty five (45) degree pitched roof and the scaled total height from the finished ground floor level (FGL) to the top ridge of the roof structure, being approximately twelve (12) metres.

On 20 March 2003, the Town's Officers carried out a site inspection and endeavoured to measure the total height of the 3 storey dwelling on the above-mentioned property.

The estimated total height from the FGL to the top ridge of the roof structure, is approximately twelve (12) metres, and the roof appears to have been constructed in accordance with the approved Building Licence plans with a pitch of 45 degrees. However, the roof has been altered from a longer ridge design in reference to the Planning Approval, to an apex style which complies with the Building Licence.

A discussion with the Building Supervisor on 17 April 2003, revealed that the designer's original roof structure was designed with longer ridges creating a lower pitched roof, however, the roof carpenter's opinion prior to submitting the Building Licence application, declared the original roof design to be too problematic, specifically with the central valley and gutter system, and the supervisor agreed to consult with the designer to change the design to an apex style, which added an extra metre to the overall height of the building.

A further discussion on 24 April 2003 with the designer, revealed the following comments:

*"The new apex roof style structure:*

- a) improves the external aesthetics of the building;*
- b) removes the previous ridge roof styles central valley and gutter system to reduce future maintenance and eliminate potential areas for roof leaks; and*
- c) increases the structural integrity of the building".*

Therefore, construction of the additional three-storey grouped dwelling complies with the Planning Approval, approved on 27 March 2001 and issued on 6 April 2001, and the Building Licence issued on 4 July 2002, with the exception of the following variations detailed in Table 1.

**Table 1**

VARIATION	STATUS	COMMENTS/ RECOMMENDATION
(a) Original ridge style roof construction changed to an apex style structure, increasing the total height of the dwelling from 11 metres to 12 metres.	As per constructed and shown on Building Licence (No.20-1426) plans issued 4 July 2002.	Acceptable, and no further action to be undertaken. Not considered to have a further visual impact on the streetscape of the area surrounding Ethel Street and Alma Road, as it is setback approximately 28 metres and 14 metres respectively.
(b) One of the third floor ensuite windows has been deleted.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.

(c) New door installed leading from the master bedroom and entering the roof void, creating an additional storage area on the second floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(d) New door installed leading from bedroom 2 and entering the bathroom, on the first floor.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.
(e) New external brick fireplace and chimney constructed in the pergola/alfresco area, adjacent to the rear boundary.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, subject to favourable comments from adjoining property owner.
(f) Increased ground floor ceiling level height from 2743 millimetres to 2795 millimetres.	As per constructed and shown on proposed amended Building Licence plans dated 11 March 2003.	Acceptable, issue Amended Building Licence and no further action to be undertaken.

The visual impact of the three-storey grouped dwelling is somewhat "softened" in the context of the scale and nature existing and intended development in the nearby North Perth Centre, and the setbacks from Ethel Street and Alma Road.

In light of the above, it is recommended that the proposed amendments to the issued Building Licence be approved, subject to standard and appropriate conditions to address the above matters".

Mayor Catania announced that he had declared a proximity interest in this item and departed the Chamber at 7.41pm. He did not speak or vote on the item. Deputy Mayor, Cr Ker assumed the Chair.

**10.1.2 Further Report - No. 86A (Lot 9, Strata Lot 2) Bourke Street, Leederville  
- Proposed Two Storey Grouped Dwelling on Strata Lot**

<b>Ward:</b>	South	<b>Date:</b>	4 June 2003
<b>Precinct:</b>	Leederville, P3	<b>File Ref:</b>	PRO 1804; 00/33/1537
<b>Reporting Officer(s):</b>	S Crawford, D Abel		
<b>Checked/Endorsed by:</b>	R Boardman		
<b>Amended by:</b>	-		

***FURTHER OFFICER RECOMMENDATION:***

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner V Chapman for a proposed two storey grouped dwelling on strata lot at No. 86A (Lot 9, Strata Lot 2) Bourke Street, Leederville, and as shown on revised plans stamp-16 May 2003 and 4 June 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (v) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vi) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (vii) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (viii) subject to first obtaining the consent of the owners of Survey Strata Lot 1 of No. 86 Bourke Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing Survey Strata Lot 1 of No. 86 Bourke Street in a good and clean condition;*

*to the satisfaction of the Chief Executive Officer.*

**COUNCIL DECISION ITEM 10.1.2**

**Moved Cr Lake, Seconded Cr Doran-Wu**

*That the recommendation be adopted.*

*Debate ensued.*

**CARRIED (5-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence. Mayor Catania was absent from the Chamber and did not vote.)**

**FURTHER REPORT:**

The applicant has submitted an amended shadow cast diagram stamp dated 6 June 2003, which reflects the revised plans stamp dated 16 May 2003.

The amended shadow cast diagram attached, demonstrates that the proposed development will result in 24.77 per cent of the site area of the adjoining southern No.86 (Survey Strata Lot 1) Bourke Street being overshadowed at midday, 21 June. This, therefore, complies with the maximum requirement of 35 per cent of that site area.

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**FURTHER REPORT:**

**Background**

This application was considered at the Ordinary Meeting of Council held on 22 April 2003 where the Council resolved that *"the item LIE ON THE TABLE to allow the relevant parties to meet and address any concerns"*.

The Town received revised plans from the applicant on 16 May 2003 and a shadow cast diagram on 4 June 2003.

Councillor Sally Lake has requested that the item be placed back on the Agenda for this Ordinary Meeting of Council.

**Amended Compliance Table**

<b>Requirement</b>	<b>Required</b>	<b>Proposed</b>
Eastern side first floor setback	2.1 metres	2.068 metres

**Setbacks**

The revised plans received on 16 May 2003 demonstrate that the proposal now complies with the setback requirements of the Residential Design Codes (R Codes), except the first floor eastern side setback requirement.

The proposed first floor eastern side setback has not changed from the original proposal, and is considered acceptable as it will not unduly affect the amenity of the adjacent eastern property due to the minor nature of the variation, and the proposal abuts onto a 1.6 metres wide access way (to the rear survey strata Lot 3) and is 3.668 metres to the boundary of the adjacent eastern property.

With respect to the southern elevation, the acceptable development clause 3.3.2 A2 of the R Codes states that *"in areas coded R30 and higher, walls not higher than 3.5m with an average 3m for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary"*. The revised proposal comprises only one boundary wall, which is proposed on the southern boundary. The proposed wall complies with this requirement, therefore is permitted.

The revised plans also demonstrate that the first floor southern side setback complies with the relevant setback requirements of the R Codes (1.5 metres required, 1.5 metres proposed). Therefore, condition/clause (i) (a) of the previous Officer Recommendation is no longer required.

### **Car Parking**

The revised plans show a reconfigured garage, which allows two vehicles to have adequate manoeuvrability to safely and conveniently access the garage and enter the street in forward gear. Consequently, conditions/clauses (i) (b), (c) and (d) of the previous Officer Recommendation are no longer required.

### **Wall Height**

The R Codes permits a 7.0 metres wall height for concealed roof design houses. The original application incorporated a 6.5 metres wall height. The revised plans denote that the wall height varies from 6.5 metres (west) to 6.7 metres (east). The slight increase in height does not increase the setback requirements in terms of the R Codes.

### **Privacy**

The revised plans comply with the privacy requirements of the R Codes.

### **Garage - Fire Safety and Access into Main Dwelling**

The revised plans indicate that the garage is fully enclosed with brick walls, except for the vehicle access into/from the garage. Therefore, there is no access from the garage directly into the main dwelling. The occupiers who park within the garage will be required to come out of the garage then through the dwelling's porch/entry in order to gain access into the main dwelling. The first floor is only accessible via the internal stairs adjacent to the ground floor meals area of the main dwelling.

The garage now complies with fire safety requirements of the Building Code of Australia.

### **Overshadowing**

The proposed development will result in approximately 25 per cent of the site area of the adjoining southern No.86 (Survey Strata Lot 1) Bourke Street being overshadowed at midday, 21 June, therefore complying with the maximum requirement of 35 per cent of that site area.

### **Consultation**

The owner of the adjoining southern No.86 (Survey Strata Lot 1) Bourke Street viewed the revised plans on 30 May 2003 and raised no objection to the revised proposal.

### **Conclusion**

The revised proposal is considered acceptable and the previous conditional approval Officer Recommendation remains unchanged, except for the deletion of conditions/clauses (i)(a), (b), (c) and (d) as they are no longer required, subsequent renumbering of the conditions/clauses, and the amendment of previous condition/clause (ix).

### **Previous Report**

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 22 April 2003:

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner V Chapman for a proposed two storey grouped dwelling on strata lot at No. 86A (Lot 9, Strata Lot 2) Bourke Street, Leederville, and as shown on plans stamp-dated 14 March 2003, subject to:*

- (i) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the first floor level southern side elevation being setback in accordance with the requirement of the Residential Design Codes;*
  - (b) the garage door being setback a minimum of 4.1 metres from the western survey strata lot boundary;*
  - (c) no physical obstructions within the entrance area of the garage between the access leg and the garage door; and*
  - (d) the garage door being a full width door to a minimum width of 6.4 metres.*
- The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (ii) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (v) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (vi) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vii) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (viii) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (ix) subject to first obtaining the consent of the owners of Survey Strata Lot 1 of No. 86 Bourke Street and No. 88 Bourke Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Survey Strata Lot 1 of No. 86 Bourke Street and No. 88 Bourke Street in a good and clean condition;*

*to the satisfaction of the Chief Executive Officer.*

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*Mayor Catania departed the Chamber at 6.33pm.*

*Deputy Mayor, Cr Drewett assumed the Chair.*

*Moved Cr Cohen, Seconded Cr Chester*

*That the recommendation be adopted.*

*Moved Cr Ker, Seconded Cr Hall*

*That Standing Orders be suspended to allow speakers to address the Council as they had arrived at the meeting after the close of public question time.*

*CARRIED (8-0)*

*(Mayor Catania was absent from the Chamber and did not vote).*

*Mr Paul Hawkins of 196 Harbourne Street, Wembley on behalf of the owner of 86 Bourke Street addressed the Council. Mr Hawkins advised that every elevation of the proposed building does not comply with the current R-Code requirements. The application has not addressed the required carparking requirements and the finished roof height requires clarification.*

*M/s Vicki Chapman, landowner, 86A Bourke Street, Leederville advised that she had shown the plans to all of the surrounding neighbours who have given her their support and have no objection. M/s Chapman has spoken to the neighbour on the southern side on a couple of occasions and was of the opinion that all issues had been resolved. It is her intention to comply with the R-Codes.*

*Moved Cr Piper, Seconded Cr Hall*

*That Standing Orders be resumed.*

*CARRIED (8-0)*

*(Mayor Catania was absent from the Chamber and did not vote).*

*COUNCIL DECISION ITEM 10.1.7*

*Moved Cr Franchina, Seconded Cr Hall*

*That the item LIE ON THE TABLE to allow the relevant parties to meet and address any concerns.*

*CARRIED (8-0)*

*(Mayor Catania was absent from the Chamber and did not vote).*

*Mayor Catania returned to the Chamber at 6.44pm.*

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<i>LANDOWNER:</i>	<i>V Chapman</i>
<i>APPLICANT:</i>	<i>As above</i>
<i>ZONING:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R40</i>
<i>EXISTING LAND USE:</i>	<i>Grouped Dwelling</i>

*COMPLIANCE:*

<i>Use Class</i>	<i>Grouped Dwelling</i>
<i>Use Classification</i>	<i>"P"</i>
<i>Lot Area</i>	<i>279 square metres</i>

<i>Requirement</i>	<i>Required</i>	<i>Proposed</i>
<i>Setbacks</i>		
<i>Eastern side - upper level</i>	<i>2.1 metres</i>	<i>2.063 metres</i>
<i>Western side - ground level</i>	<i>1.5 metres</i>	<i>Minimum Nil</i>
<i>Western side - upper level</i>	<i>4.2 metres</i>	<i>Minimum nil</i>
<i>Southern side - ground level</i>	<i>1.5 metres</i>	<i>Minimum nil</i>
<i>Southern side - upper level</i>	<i>1.6 metres</i>	<i>1.1 metres</i>
<i>Northern side – upper level</i>	<i>1.5 metres</i>	<i>1.208 metres</i>
<i>Car Parking</i>	<i>Compliance with the Town's Policy relating to Parking and Access for minimum manoeuvring distances</i>	<i>The applicant has agreed to modify the garage layout to address adequate manoeuvrability</i>

*SITE HISTORY:*

*The site is currently a vacant lot created via a survey strata application under reference 217-01. A previous application for two additional single storey grouped dwellings for the two newly created vacant lots was conditionally approved by the Town on 23 August 2001.*

*DETAILS:*

*The applicant seeks to construct a two storey grouped dwelling on the site.*

*CONSULTATION/ADVERTISING:*

*The proposal was advertised in accordance with the Town's Community Consultation Policy. Prior to the submission of the application, an objection to the proposed development was provided to the Town and received on 27 December 2002. This objection is from the southern neighbour who raises concerns in relation to the proposed two storey high southern wall proposed for the dwelling. Although the applicant has modified the proposal and this wall is no longer a parapet wall, the objector has renewed their concerns with respect to the impact of such a wall with respect to overshadowing, impact on light and the impact on the amenity of their dwelling, including a courtyard space located adjacent to this common boundary. The objector is comfortable with the single storey parapet wall on the boundary, however would like the upper level setback in accordance with the provisions of the Residential Design Codes (R Codes).*

*The applicant has provided letters of consent from the resident and owner of numbers 88 and 86B Bourke Street respectively, which states they have no objection to the proposal.*

*COMMENTS:*

*Setbacks*

*Eastern Side - Upper Level Setback*

*The R Codes require a setback of 2.1 metres to be provided whereas the proposal achieves a setback of 2.063 metres. This elevation faces the access arrangements for Strata Lots 2 and 3 with all upper level openings being minor in nature. On this basis, the proposal is not considered to represent any undue impact on the access legs of the development and the minor alteration in setback is considered acceptable.*

*Western Side - Ground Level Setback*

*The R Codes promote a setback provision of 1.5 metres. A reduced setback to nil is sought by the applicant to accommodate a store structure, however the dominant setbacks increase to 2.176 metres through to 3.409 metres from this boundary. This relaxation to accommodate the store is supported by the owner and resident of the affected adjacent property.*

*Western Side - Upper Level Setback*

*Similarly to the ground level, a small portion of the upper level is proposed with a nil setback to the western boundary, with the setback then increasing to 2.176 metres and predominantly 3.409 metres. Again the affected neighbour has consented to the plans and taking into account the limited impact this parapet wall will have on the amenity of the neighbouring property, it is considered suitable.*

*Southern Side - Ground Level Setback*

*The applicant seeks a nil setback to this boundary to accommodate the garage structure. The R Codes permit a wall to a maximum height of 3.5 metres with an average height of 3.0 metres for 2/3 of the length of one side boundary of the property. The proposed wall exceeds these limits, however has been supported by the affected neighbour to the south. The wall will have an overshadowing impact on the southern neighbour, due to their location directly south of this wall. However, consideration should be given to the fact that the Town's Fencing Local Laws allows a maximum wall height of 2.4 metres. Taking this into account, a proposal for a 3.0 metres high wall is only a marginal increase that will not significantly increase the impacts on this neighbour. Taking these factors into account, coupled with the fact that the proposal is within the overshadowing limits of the R Codes, the relaxation is considered acceptable.*

*Southern Side - Upper Level Setback*

*The applicant has sought to set back the upper level element of this wall to 1.1 metres. The applicant was of the understanding that this setback was in accordance with the R Codes, as the applicant was also aware of the neighbour's objection. The actual requirement for the setback is 1.6 metres from this boundary. In order to take into account the neighbours concerns with respect to overshadowing and resulting impact on light and amenity, the proposal should be conditioned accordingly.*

*Northern Side - Upper Level Setback*

*The applicant seeks a relaxation from the required 1.5 metres setback down to 1.208 metres. There are no major openings to the upper level which creates privacy concerns, and no overshadowing occurs as the affected lot is located on the northern side of this property. In addition, the northern neighbour of Strata Lot 3 has provided their consent to the proposal. On this basis, the reduced setback is considered acceptable.*

*Car Parking*

*The currently proposed configuration of the garage parking does not allow adequate manoeuvring room for the vehicles in accordance with the Town's requirements.*

*In order to address this, it has been suggested to the applicant that the garage door/entrance would need to be drawn westwards in order to provide adequate reversing room. In addition to drawing the entrance back, there would have to be no physical obstructions within this space to assist in maximising manoeuvrability.*

*Taking into account the Engineering Design Services suggested design to allow the garage to be functional, it is also recognised that it is not an ideal situation and that it requires specific car parking locations within the garage. These have been demonstrated on the attached plans.*

*The applicant is fully aware that the parking situation and manoeuvring room is not ideal, however functional and is prepared to accept it on this basis, so that the proposal can be supported.*

*It is considered that the proposal will generally have no unreasonable detrimental impact on the amenity and streetscape of the area. Accordingly, the proposal is recommended for approval, subject to standard conditions and conditions to address the above matters."*

Mayor Catania had declared a financial interest in this item and remained outside the Chamber. He did not speak or vote on the matter. Cr Ker remained in the Chair.

### 10.3.1 Investment Report

Ward:		Date:	04 June 2003
Precinct:		File Ref:	FIN0033
Reporting Officer(s):	C Liddelow		
Checked/Endorsed by:	N Russell		
Amended by:			

**OFFICER RECOMMENDATION:**

*That the Investment Report for the month ended 31 May 2003 be received.*

### COUNCIL DECISION ITEM 10.3.1

**Moved Cr Lake, Seconded Cr Doran-Wu**

*That the recommendation be adopted.*

**CARRIED (5-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence. Mayor Catania was absent from the Chamber and did not vote.)**

**BACKGROUND:**

The purpose of this report is to advise the Council of the level of funds available, the distribution of surplus funds in the short term money market and the interest earned to date. Details are attached. Interest from investments is a significant source of funds for the Town, where surplus funds are deposited in the short term money market for various terms.

Council's Investment Portfolio is spread across several Financial Institutions in accordance with Policy Number 1.3.8.

**DETAILS:**

Total Investments for the period ended 31 May 2003 were \$11,121,708 compared with \$12,621,580 at 30 April 2003. At 31 May 2002, \$10,913,191 was invested.

Total accrued interest earned on Investments as at 31 May 2003:

	Budget	Actual	%
	\$	\$	
Municipal	300,000	264,682	88.23
Reserve	355,100	310,847	87.54

**COMMENT:**

As the Town performs only a custodial role in respect of monies held in Trust Fund Investments these monies cannot be used for Council purposes, and are excluded from the Financial Statements.

Mayor Catania returned to the Chamber at 7.46pm and resumed the Chair. He was advised that Items 10.1.2 and 10.3.1 were each carried (5-0).

**10.1.4 No. 49 (Lot 2) Woodville Street, North Perth - Proposed Survey Strata Subdivision**

<b>Ward:</b>	North	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Smith's Lake, P6	<b>File Ref:</b>	438-03
<b>Reporting Officer(s):</b>	J Barton		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Residential Design Codes the Council RECOMMENDS to the Western Australian Planning Commission that the application submitted by Oracle Surveys Licensed Surveyors on behalf of the owner NR Barber , for the proposed survey strata subdivision of No. 49 (Lot 2) Woodville Street, North Perth and as shown on the plan stamp-dated 24 April 2003 (Survey Strata 438-03 ) be APPROVED, subject to the following conditions:*

- (i) all buildings and effluent disposal systems, having the necessary clearance from the new boundaries as required under the relevant legislation;*
- (ii) support of the subdivision is not to be construed as support of the demolition of the existing building(s) and/or any development on the proposed lots;*
- (iii) if any portion of the existing building(s) is to be demolished to facilitate the proposed subdivision, Planning Approval and/or Demolition Licence is to be obtained from the Town for the demolition of the existing building(s) prior to the clearance of the Diagram or Plan of Survey by the Town;*
- (iv) all structures on the proposed rear lot and all buildings and structures that have been granted Planning Approval and/or Demolition Licence for demolition being demolished, and associated materials removed from the site and the site made good. A separate Planning Approval and/or Demolition Licence is required from the Town prior to the commencement of any demolition works;*
- (v) the land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost;*
- (vi) prior to the clearance of the diagram of survey for the proposed rear lot, which has an area less than 200 square metres, the following criteria shall be met to the satisfaction of the Town of Vincent;*
  - (a) the Town of Vincent has approved a Planning Approval and/ or Building Licence for the development of dwelling(s) on the rear lot; and*
  - (b) the perimeter walls of the approved dwelling(s), including the garage walls and carport walls/ pillars, have been constructed to plate height;*

- (vii) *trees of significance on the land, two Canary Island Date Palms (Phoenix canariensis) located within the frontage of the property, being retained and measures being taken to ensure their identification and protection to the satisfaction of the Town prior to commencement of site works;*
- (viii) *the street verge tree(s) on Woodville Street adjacent to the subject land being retained and measures being taken to ensure their identification and protection to the satisfaction of the Town prior to commencement of site works;*
- (ix) *prior to the clearance of the Diagram or Plan of Survey by the Town, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town.*
- (x) *a pedestrian accessway of a minimum width of 1.5 metres being provided and constructed from Woodville Street to the proposed rear lot;*
- (xi) *the existing residence to comply with the requirements of the Residential Design Codes pertaining to grouped housing development to the satisfaction of the Town, including;*
  - (a) *the provision and construction of two (2) on site car parking bays and associated driveway and crossover;*
  - (b) *the provision of a permanent enclosed storage area and adequate provision for the storage of garbage;*
  - (c) *the provision of a 24 square metres courtyard, with minimum dimensions of 4 metres; and*
  - (d) *the provision of 45 per cent of site area for open space; and*
- (xii) *a Management Statement being prepared and submitted in accordance with section 5C of the Strata Titles Act 1985, to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act:*
  - (a) *development or redevelopment on the survey strata lots must comply with an existing development approval issued by the Town of Vincent, or such alternative development approval as the Council may grant, which complies with the grouped dwelling requirements of the Town of Vincent Town Planning Scheme; and*
  - (b) *amendment to or repeal of the above provision cannot be effected without the Commission's agreement;*

*to the satisfaction of the Chief Executive Officer.*

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#### **COUNCIL DECISION ITEM 10.1.4**

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted.*

*Debate ensued.*

**LOST (0-6)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**Reasons:**

1. Not a battle axe site so 3.1.2A2(ii) of the Residential Design Codes 2002 does not apply.
2. The lot is too small.
3. Adverse impact on the amenity of the area.
4. Incompatible with the standards of the area as in the Locality Guide.

**COUNCIL DECISION ITEM 10.1.4**

**ALTERNATIVE MOTION**

**Moved Cr Ker, Seconded Cr Lake**

*That in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Residential Design Codes the Council RECOMMENDS to the Western Australian Planning Commission that the application submitted by Oracle Surveys Licensed Surveyors on behalf of the owner NR Barber, for the proposed survey strata subdivision of No. 49 (Lot 2) Woodville Street, North Perth and as shown on the plan stamp-dated 24 April 2003 (Survey Strata 438-03 ) be REFUSED, on the grounds that:*

- (i) *it is not a battle axe site so 3.1.2A2(ii) of the Residential Design Codes 2002 does not apply;*
- (ii) *the lot is too small;*
- (iii) *there would be an adverse impact on the amenity of the area; and*
- (iv) *it is incompatible with the standards of the area as in the Locality Guide.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**LANDOWNER:** NR Barber  
**APPLICANT:** Oracle Surveys Licensed Surveyors  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Single House  
**COMPLIANCE:**

Use Class	Grouped Dwellings
Use Classification	“P”
Lot Area	450 square metres

**SITE HISTORY:**

The subject site is occupied by a single storey single house with its primary street frontage to Woodville Street. A shed is located on the proposed rear lot, however, a demolition application is not required for such a structure.

A 3.5 metres wide, privately owned unsealed right of way (ROW) abuts the northern boundary of the subject land, providing primary access to the rear lot.

### **CONSULTATION/ADVERTISING:**

Advertising is not required for subdivision applications.

### **DETAILS:**

An application has been received for the subdivision of the subject property into two survey strata lots, one having a lot area of 232 square metres, fronting Woodville Street and accommodating the existing house, and the other having an area of 185 square metres, vacant and fronting the ROW.

### **COMMENTS:**

#### **Site Area**

The proposal complies with the average site area requirement of 440 square metres under the Residential Design Codes 2002, and the proposed front lot complies with the required minimum site area requirements of 200 square metres. However, the proposed rear survey strata lot does not comply with the minimum lot area requirements of 200 square metres.

Clause 3.1.2 A2 (ii) of the R-Codes stipulates the following for battleaxe lots abutting ROW:-

*"in the case of a rear battleaxe site, the site area inclusive of access leg where such an access leg contributes no more than 20 per cent of the site area as required by Table 1. Where the lot (excluding access leg) adjoins or abuts a right-of-way or public reserve for open space, pedestrian access, school site or equivalent, half the width (up to a maximum depth of two metres) may be added to the site area".*

After adding half the width of the adjacent ROW to the rear lot, the proposal complies with the minimum lot area requirements of the R-Codes.

Notwithstanding that the abovementioned clause only applies to battleaxe sites for single houses, the proposed survey strata lot configuration is considered to be effectively the same as a single house, minus the access leg, and it would still result in the same effective lot area and sense of openness.

Given the above, it is considered appropriate in this instance to apply half of the width of the adjacent ROW to the rear survey strata lot, in order to satisfy the minimum lot area requirements of the R-Codes.

#### **Conclusion**

The proposed subdivision is not considered to unduly adversely affect the amenity of the adjoining neighbours, or the area generally. As such, it is recommended that advice be returned to the Western Australian Planning Commission recommending approval for the proposed survey strata subdivision, subject to standard conditions.

**10.1.7 No. 17 (Lots 319 and 320) The Boulevarde, Mount Hawthorn - Proposed Alterations and Additions to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO 2014; 00/33/1642
<b>Reporting Officer(s):</b>	J Barton		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application dated 16 May 2003 submitted by D Fiorucci on behalf of the owners A and D Fiorucci, for proposed alterations and additions to existing single house at No. 17 (Lots 319 and 320) The Boulevarde, Mount Hawthorn, as shown on plans stamp dated 19 July 2002, subject to:*

- (i) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ii) prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) a footpath security deposit bond and/or bank guarantee of \$220.00 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing; and*
- (iv) compliance with all relevant Environmental Health, Engineering and Building requirements;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Ker, Seconded Cr Doran-Wu**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Ker, Seconded Cr Franchina**

*That clause (ii) be deleted and replaced with a new clause (ii) as follows;*

*"(ii) the applicant be advised that should any substantial redevelopment of the property be proposed in the future, that amalgamation of the Titles occur;"*

**AMENDMENT CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**MOTION AS AMENDED CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

**COUNCIL DECISION ITEM 10.1.7**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application dated 16 May 2003 submitted by D Fiorucci on behalf of the owners A and D Fiorucci, for proposed alterations and additions to existing single house at No. 17 (Lots 319 and 320) The Boulevard, Mount Hawthorn, as shown on plans stamp dated 19 July 2002, subject to:*

- (i) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ii) the applicant be advised that should any substantial redevelopment of the property be proposed in the future, that amalgamation of the Titles occur;*
- (iii) a footpath security deposit bond and/or bank guarantee of \$220.00 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing; and*
- (iv) compliance with all relevant Environmental Health, Engineering and Building requirements;*

*to the satisfaction of the Chief Executive Officer.*

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**LANDOWNER:** A and D Fiorucci  
**APPLICANT:** D Fiorucci  
**ZONING:** Metropolitan Region Scheme - Urban  
Town Planning Scheme No. 1 - Residential R30  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	'P'
Lot Area	946 square metres

### **SITE HISTORY:**

20 May 2002 The Town issued approval for a similar application under delegated authority, subject to the following conditions:

- "(i) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ii) *prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) *a footpath security deposit bond and/or bank guarantee of \$220.00 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing; and*
- (iv) *compliance with all relevant Environmental Health, Engineering and Building requirements;"*

On 25 July 2002, the applicant lodged a new application with the Town requesting that the Council consider supporting the application without inclusion of condition (ii) requiring that the lots to be amalgamated. The applicants advised that due to the minor nature of the proposal, they should not have to pay the costs involved in amalgamating the lots. The landowners also advised that they have no intentions of selling off one block at this stage, as this would require demolition of their existing house. The application was considered by Council at its Ordinary Meeting held on 13 August 2002, however, Council resolved not to remove the amalgamation condition.

On 16 May 2003, the applicant lodged another request for reconsideration of condition (ii), for the same reasons as mentioned above.

### **DETAILS:**

The proposal involves the addition of a patio at the front of the existing house. The patio will be within the front setback area of the subject lot.

In a letter of justification for the proposed patio, the applicant/ landowner advised that the proposal addition will provide "a *closed entry to our home allowing us to keep the elements at bay*".

### **CONSULTATION/ADVERTISING:**

This application was not referred to neighbours for comment, as a similar application was advertised in May 2002, and no submissions were received at that time.

**COMMENTS:**

The proposed patio is supported as the structure is open on three sides and The Boulevard does not have a uniform street setback. Therefore, the potential impact on the streetscape is considered to be negligible.

The R-Codes provides the following definition:

*"a single house means an independently constructed dwelling standing wholly on its own lot created pursuant to the Town Planning and Development Act".*

It considered appropriate that the condition (ii) of the previous conditional approval for the subject proposal, requiring the amalgamation of the lots, should still be imposed as it is inappropriate for the Town to approve a structure that is not contained wholly within a lot.

In addition, Part 3.7.1.3 of the Building Code of Australia (BCA) stipulates that any external walls or openings within 900 millimetres of an allotment boundary are required to be of fire resisting construction. Therefore, to achieve full compliance with the requirements of the BCA the allotments are required to be amalgamated or alternatively provide a compliant fire resisting wall in accordance with the BCA.

Accordingly, it is recommended that the application be approved, subject to standard and appropriate conditions to address the above.

**10.2.2 Proposed Taking of Privately Owned Right of Way Bounded by Thompson, Loftus, Richmond and Barnet Streets, North Perth**

<b>Ward:</b>	North	<b>Date:</b>	3 June 2003
<b>Precinct:</b>	Smith's Lake Precinct P6	<b>File Ref:</b>	TES0198
<b>Reporting Officer(s):</b>	A. Munyard		
<b>Checked/Endorsed by:</b>	R. Lotznicher		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *receives the report on the proposed TAKING of the right of way bounded by Thompson, Loftus, Richmond and Barnet Streets, North Perth, as illustrated on attached Plan 2167-RP-1; and*
- (ii) *APPROVES the commencement of the TAKING process in accordance with section 52 of the Land Administration Act 1997, subject to the owner of Lot 18 Richmond Street providing a bond or bank guarantee of \$17,500 for the upgrade of the right of way, from the boundary of Lot 18 to the nearest dedicated street, to the Town's specifications.*

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**COUNCIL DECISION ITEM 10.2.2**

**Moved Cr Ker Seconded Cr Farrell**

*That the recommendation be adopted.*

*Debate ensued.*

**Cr Farrell departed the Chamber at 8.00pm.**

*Debate ensued.*

**Cr Farrell returned to the Chamber at 8.02pm.**

*Debate ensued.*

**CARRIED (6-0)**

**(Councillors Chester, Cohen and Torre on approved leave of absence.)**

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**BACKGROUND:**

The owners of Lot 18, No. 38 Richmond Street have become aware that there is no legal right of access from the right of way (ROW) in favour of that lot, and therefore no future development of the property can be undertaken where there is reliance on ROW access. They have asked the Town to proceed with the "Taking" of the ROW, therefore rendering it available for public use. Once a public ROW, there will be no impediment to its use by all adjacent owners.

### **DETAILS:**

The ROW, held on title Volume 108 Folio 105, and on Deposited Plan 1777, is privately owned. The "T" shaped ROW is 3.0 metres wide and unsealed. An implied right of access is accorded to all those lots adjacent to the ROW, and created on the same Deposited Plan. The applicants' property, Lot 18, No. 38 Richmond Street, is adjacent to the eastern boundary of the ROW, however, was not created on the same Deposited Plan.

As a result of the way in which the ROW was created, although physical access is available to No. 38 Richmond Street, no legal right to its use exists. The Town cannot, therefore, approve any proposal for improvement or redevelopment of the lot that necessitates the use of the ROW.

#### **Right of Access**

Under section 167A of the Transfer of Land Act, only those registered proprietors of the original Lots or Lots subdivided from those original Lots, which were created on the Plan or Diagram of Survey on which the ROW was also created, along with their guests and invitees, have an implied right to upgrade, seal, drain and *use* the ROW for vehicular and pedestrian access.

There is some argument that where proprietors of Lots have historically used the ROW, though not in possession of an implied or expressed right, they may after many years acquire a common law right of access. Each claim to a right of this nature needs to be tried by the court, and is frequently prohibitively expensive for the applicant to prove.

#### **Taking**

"TAKING" is the term used under the Land Administration Act 1997 in lieu of "resumption" or "compulsory acquisition". When a ROW is "taken", it reverts from private land with an access easement conferred on certain parties (those with an implied or expressed right), to Crown Land, vested in the Local Authority for the purposes of accessway. The ROW is then available to be used by the public for this purpose, however, it differs from being a minor public road in that it is not dedicated.

Once the subject ROW is in the care and control of the Town, it will become necessary to list it for upgrade. Approximately 50 other ROWs were transferred into the Town's ownership in 2002 and these must now be given a priority in the Upgrade Program. The upgrade of these alone will take at least five (5) years at the current allocated funding level. Bearing in mind the Town's existing obligation, together with the fact that the application has been made with a view to future development, it is recommended that the "taking" proceed subject to the applicant funding the full upgrade of this ROW.

### **CONSULTATION/ADVERTISING:**

Should the Council approve the "taking" of the ROW, the process will be carried out in accordance with the Land Administration Act 1997. Section 52(3) requires the Town to give 30 days notice to all suppliers of public utilities, all adjacent property owners and, if possible, the owner of the freehold of the ROW. Any comments or objections received within that period must be presented to the Minister together with the application to resume.

### **STRATEGIC IMPLICATIONS:**

N/A

**FINANCIAL/BUDGET IMPLICATIONS:**

The costs involved in the "taking" process are minimal, the requirement to place an advertisement in the *West Australian* having been lifted by the Land Administration Amendment Act 2000.

**COMMENTS:**

"Taking" of the ROW will remove any impediment to the development potential of the applicants, lot, without any detriment to those who currently have an implied right of access. The "taking" of the ROW is therefore recommended, subject to the applicant funding its upgrade.

**11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES**

Nil

**13. URGENT BUSINESS**

Nil

**14. CLOSURE**

Presiding Member, Mayor Nick Catania JP, declared the Meeting closed at 8.05pm.

**Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Basil Franchina	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Rick Lotznicher	Executive Manager, Technical Services
Mike Rootsey	Executive Manager, Corporate Services
Debbie Winfield	Minutes Secretary
Alia Bath	Journalist – Voice News
Ryan Sturman	Journalist – Guardian Express

4 Members of the Public

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 10 June 2003.

Signed: .....Presiding Member  
Mayor Nick Catania, JP

Dated this ..... day of ..... 2003