



TOWN OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

11 MAY 2010

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 11 May 2010, commencing at 6.00pm.

1. DECLARATION OF OPENING

The Presiding Member, Mayor Nick Catania, declared the meeting open at 6.05pm.

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

Nil.

(b) Present:

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward
Cr Sally Lake (<i>Deputy Mayor</i>)	South Ward
Cr Warren McGrath	South Ward
Cr Dudley Maier	North Ward
Cr Joshua Topelberg	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary)
Greg Stewart	Recipient of Employee of the Month (until approximately 7.10pm)
Ross McRae	Journalist – “ <i>The Guardian Express</i> ” (until approximately 8.55pm)
David Bell	Journalist – “ <i>The Perth Voice</i> ” (until approximately 7.40pm)

Approximately 42 Members of the Public

(c) Members on Approved Leave of Absence:

Cr Anka Burns – due to personal reasons.

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

The following submissions were made by persons in the Public Gallery:

1. Daniel Paterson of 15 Waterford Drive, Hillarys – Item 9.1.1. Thanked the Planning Officers for their assistance and support. Referred to an email sent earlier today to all from Domination Homes Managing Director, Domenic Minnetti. Referred to clause (ix)(i)(3) where it states a minimum bay width of 2.7m and an end bay width of 2.9m. Stated that the Claus System is a tried and proven German product that has been used for some 60 years which has a standard 2.5m wide platform width between the wheel guard and an extra 0.1m either side providing a bay width of 2.7m when installed side by side, which can be increased to a maximum of 2.8m on installation and the stacking platforms are only produced in the extended dimensions as proposed. Referred to clause (ix)(i)(8) – stated that a UPS system required to run the car stacking system would be of a size that would require a large amount of space reducing the total parking area. Advised that the backup generator system would also be quite large and the development could not accommodate the unit. Stated that the Claus System provides an ongoing after purchase service that involves emergency assistance by way of a mobile hydraulic unit in the event of a power outage and has a recover time of 30-45 minutes from call up for vehicles, which is what they are proposing. Noted that a UPS is not supplied on passenger lifts in

many buildings where human lives are involved. Therefore, he questioned the need for such a system that is only concerned with the transport and stacking of vehicles.

2. Alex Whisson of the Friends of Palestine (address withheld for privacy reasons – address has been provided to the Town) – Item 5.1. Considered it deeply unfortunate that the matter of the production of “Seven Jewish Children” has been brought before the Council. Believed in a putatively civilised, open and democratic society free speech and artistic liberty ought to be rights that can be taken for granted and that are not only legally protected but are “*woven into the very fabric of our social being*”. Stated that they have been forced to use all resources available to them to defend a basic right to express their views without fear or favour and free of intimidation and thinly veiled threats. Stated that it is unfortunate that they have been placed in a position where they have been forced to campaign for this basic right. Believed that they are to be viewed with an open mind by detractors, as the Play could act as a tremendously useful role in establishing a platform of an open and civil dialogue between supporters of Israel and advocates of the Palestinians right to self determination. Advised that even the most forensic examination of the Play’s contents would not unearth even a “*skerrick*” of racist sentiment, on the contrary, it would reveal that the Play not only provides a deeply heartfelt and sensitive rendering of the current privations of the Palestinian people, but also illuminates the terrible legacy of trauma associated with the holocaust. Stated a deep irony of the criticism the Play has attracted, is that it is in fact a deeply sensitive, compassionate and heartfelt rendering of not only the suffering of the Palestinian people, but also the suffering of the Jewish people. Urged the Council to remain steadfast in upholding the principles of free speech and artistic liberty. Commended the Chief Executive Officer, John Giorgi for his courageous stance in maintaining the principles of free speech. Believed that in acting in the correct way in this matter, the Town will not only stand itself in good stead to residents, but also for the whole Perth community. Believed the Town will set an important bench mark for the rights to free speech and artistic liberty. Requested the Council reject the demand placed by the Petition issued by the Jewish Community.
3. Paul Rumble of 8 Euston Street, Wembley Downs – Item 9.1.4. Thanked the Town for reconsidering this Item and the Councillors for their patience and interest during mediation. Believed the most critical component of open space is the portion used solely for the residents and, by logical commonsense design they have shown that the main private open space component will be well catered for. Stated the front unit, despite having a deficiency of 11% in overall open space, has a private open space of 18% surplus. Advised that the required 1.5m access leg to the rear unit down the side of the front unit will assist in giving the impression from the street of open space and, furthermore, the R-Codes suggest a 20% concession if the access is communal (they would be happy to make this concession). Stated that despite the rear unit having a 7% deficiency in overall open space it has doubled the minimum amount surplus of private open space – “*where it really counts*”. Stated that the land is zoned R80 and the proposal is R62-which they consider a reasonable compromise between the single R31 currently present in the street and R80. Believed that the continued singled residential use and/or renewal of smaller lots so close to a City centre can overburden the City’s infrastructure and new developments must respect this. Believed that any development less than R60 in an R80 area is simply not sustainable however, some may argue that less than R80 is not sustainable. Stated another smaller but important element of the sustainability issue involves the energy start rating and he confirmed that the design, construction method and materials proposed to use will be state of the art and will easily achieve at least the 6 star rating that the Building Code demands possibility even 7/8. Stated they are looking forward to the prospect of living in a compact but nonetheless more than adequate townhouse. Believed their proposal is a logical solution to inner city living and a reasonable compromise between the single dwellings in the immediate vicinity and what the Planners had in mind when it was zoned high density.

4. Tony Tate, President of the Jewish Community Council of WA – Item 5.1. Read out the following:

“The Jewish Community Council of Western Australia is the representative body of the Perth Jewish community of approximately 8,000 people.

The Jewish Community Council of Western Australia encourages constructive debate about the Israel-Palestinian conflict. . It respects the right of interest groups, including the Friends of Palestine to discuss their views and advocate their position. Within the Jewish community itself there are differing opinions regarding the Israeli-Palestinian conflict. However it is unacceptable to use racially offensive imagery in any form of expression to put forward a viewpoint regarding this conflict.

In Australia, citizens regard it as their birthright to live peacefully and in dignity, free from all forms of harassment, including the harassment that arises if one is vilified in public either individually or collectively on arbitrary grounds, such as one’s ethnic or ethno-religious identity. Australians also regard it as their right to speak their minds freely and openly. Free speech is considered to be an indispensable pre-condition for social and scientific progress, even if some people find it offensive.”

During Mr Tate’s speech, the Presiding Member, Mayor Catania halted proceedings, as it was brought to his attention that a male member of the public gallery was covertly filming the meeting. He requested the filming to cease and asked the person to leave the public gallery and erase the recording, in the presence of one of the Town’s Directors.

Mr Tate continued as follows:

“Like all freedoms, the proper limits of free speech are exceeded when its exercise becomes an occasion for causing harm to others. The public vilification of an entire ethnic group of people is harmful to members of that group, not because it offends their sensibilities, but because it undermines, and can ultimately destroy, the sense of safety and security with which they go about their daily lives.

The assertions, tone and context of the play “Seven Jewish Children” which is scheduled to be publicly staged by the Friends of Palestine at the North Perth Town Hall, crosses the line from political commentary to racial vilification. In the guise of a political statement it makes derogatory generalizations about Jews as a group. That is racism. The play is a modern parallel to the Passion Play of medieval times, a supposedly religious play that was regularly used to incite hatred and violence against Jews.

The Jewish Community Council of Western Australia considers that it is inappropriate that the civic facilities of the ratepayers of the Town of Vincent are to be used for this purpose. The Jewish community supports the values of the Town of Vincent which envision a sustainable and caring community built with vibrancy and diversity. We seek to support the guiding values of the Town that call for “caring and empathy” and cause us to “celebrate cultural and social diversity”. We do not consider either the motives or the content of the play “Seven Jewish Children” to be consistent with those values.

The presentation of this play on community owned facilities sets a precedent within our State and across Australia which lowers the bar of tolerance within our nation.

To evidence the level of feeling within the community, the Jewish Community Council has presented the Town of Vincent with an online petition that has been circulating for approximately one week. The petition has more than 600 signatories, of which approx. 85% are from residents of metropolitan Perth. The majority of signatories are from members of the local Jewish community, amongst whom the petition has been circulated.

The Jewish Community Council thanks the Town of Vincent for receiving our representation. The Perth Jewish community remains committed towards working in partnership with all the communities of Western Australia as we work together to build a harmonious, tolerant, and prosperous society, in which all law-abiding citizens can go about their lives free of the evils of racism.”

5. Amanda Thackray of 337 Oxford Street, Leederville – Item 9.1.2. Stated that until recently receiving notice of this Meeting, they understood that an objection had been lodged by the Strata Management of their complex as well as to a number of previous proposals made by the same developer however, they are unable to ascertain from the Agenda whether or not the Council has received any objection. Stated that she and her neighbours are very strongly opposed to the plans and concerned that the details of objections have not been addressed. Concerned that the developer has suggested that it is ok for him to build a 3 storey complex as their property is also 3 storey however, that is incorrect (page 19) – none of the townhouses in their complex are 3 storey (the front unit is only 1 level above Oxford Street and they live in one of the 2 highest units at the back of the complex which also slopes deeply away from Oxford Street and they step down to enter their property). Believed it would be wrong to approve this on this suggestion. Referred to the advice from Planning Officers that this does not comply with the considerable number of Town Planning requirements. Stated when they moved to Leederville, they assumed that these requirements would be complied with unless there was a special circumstance and as far as they can see, this is designed only to maximise the value of the development site at the expensive of the neighbours and will not add anything to the amenity of Oxford Street or the Town. Concerned that, although the setback requirement is 1.5m there is nil setback from the northern boundary and the developer believes this is justified as their property is only 0.4m (their measurements indicate 900mm). Stated that the developer also states that “*there will be no unreasonable undue impact in respect to ventilation and overshadowing on their property*” – which they do not accept. Believed as a bare minimum they should be expected to have a setback as large as their complex. Stated that they are not opposed to development per se however, this is non-compliant and at the expense of their amenity. Requested the application be deferred pending a more detailed report in light of objections.
6. Angie Lionetto-Civa of Fairfield Street, Mt Hawthorn. Read out the following:
“On my left I have Anne and Jenny. We have all lived in Fairfield Street, Mt Hawthorn for many, many years. We were fortunate to receive a letter from the Town of Vincent notifying us about a proposal to install an Optus telecommunications facility at The Mezz Shopping Centre in Mt Hawthorn. We are here because we are very concerned if this proposal goes ahead. I quote from the Town of Vincent letter written by Mr Adam Dyson the Planning Officer dated the 21 April 2010: “It is noted that the proposal is a telecommunications low-impact facility and as such does not require a Planning Approval or Building Licence.” Not only is Optus planning to install the 3 panels but they are also planning to erect an equipment room a few metres from these three panels. We are all ratepayers in the Town of Vincent and if one of us wanted to build a toilet in our own backyard, we need to submit a cover letter, a plan, plus pay a submission fee. Secondly, I quote again from the Town of Vincent letter: “I wish to advise that the Town’s Telecommunications facilities Policy 3.5.6 states part as follows... “In relation to telecommunications low impact facilities, immediately the Town of Vincent is notified by telecommunications companies of the intention to erect low impact facilities adjoining residential properties, those adjoining residents, local community or precinct groups and ward Councillors are also NOTIFIED.”” Yesterday I visited 21 families that live in Flinders Street right next to the Shopping Centre and not one resident was aware of this proposal nor did they receive a letter from the Town of Vincent. One resident sold his home in North Perth because they were installing a mobile network near his back yard. They have a young baby. They were worried. When I told him yesterday about this proposal, he was furious with the town of Vincent for not being notified. They were all upset for not being told.

Our question is, why?

Above all we are CONCERNED and WORRIED about the Electromagnetic energy fields. We have two main Primary Schools in our area, Mt Hawthorn Primary School and Aranmore Catholic Primary School. We also have two out of school centres, Mulberry Trees and Gum Trees, all with young children.

What about the employees that work at The Mezz? They will receive most of the Electromagnetic energy transmissions at least 8 hours of their working day?

What about the Mt Hawthorn community that visit the Mezz Shopping Centre for their daily needs.

What about the families that have chosen to live in Mt Hawthorn?

I quote from the Daly International Optus letter written by Maria Engelbrecht that was attached to the Town of Vincent's letter. The letter states that:

"The maximum Electro magnetic energy fields from the Mezz Shopping Centre to the Hawthorn Hospital in Woodstock St is 0.016%."

They state that this is within the Electro magnetic energy fields of the Health Standard Regulations.

We live in Mt Hawthorn and the only acceptable Electro magnetic energy fields for our children and the whole Mt Hawthorn community is 0%.

If this proposal is accepted, it will be an invitation for other carriers like Telstra and 3 to come and install their networks.

What will the reading be for the Electro Magnetic energy fields then?

This ONE proposal by Optus to install their network, and the Town of Vincent and the owners of The Mezz Shopping Centre, The Hawaiian Group in St George's Terrace to even consider this proposal is just NOT acceptable.

To this end we believe that the Council has a duty of care to residents when considering applications for a telecommunications tower and to also keep in mind previous applications going back to 1996 and more recently 2001 when similar applications were declined by the Town of Vincent. Residents concerns have far from changed – in fact today we have even greater concerns.

Thanks you"

The Presiding Officer, Mayor Catania advised that he is personally totally against towers. Stated that there is a Telecommunication Act that overrides Local Governments and believed it was important to immediately receive a response from the Director Development Services.

The Director Development Services stated that the Town has a limited role with regard to the installation of telecommunication facilities and in this particular case, the proposed telecommunication facility at the Mezz Shopping Centre is classified as a low impact installation under Federal Legislation. As a consequence, Optus are not required to submit a Planning Application to the Town. The Town is merely notified as a matter of courtesy by the Carrier that they intend to proceed with this proposal. Stated in accordance with the Town's Policy in relation to Telecommunication Facilities, the Town's Officers have carried out the necessary consultation with the Council Members, Local Members of Parliament and the community. Advised that he is aware of concerns of the community that have been raised. Stated that there is an existing Telstra telecommunication installation at the Mezz Shopping Centre, as well as at the Paddington Ale House – all classified as "low impact". Advised that the Town can lodge its concerns in relation to such installation however it is governed by the Federal Australia Telecommunication Ombudsman and the Town has no authority in these matters. Stated that the Town's Officers would gladly meet and discussed the issues raised this evening.

The Presiding Officer, Mayor Catania stated the residents should contact their Federal Member, State Member etc. should be approached voicing concerns/views.

7. James Concannon of 337 Oxford Street, Leederville – Item 9.1.2. Stated that the outlook from their property is a very “*light in area*” place, which is the main reason they purchased it. Advised that the southern side of their house is entirely glass with an open outlook to blue sky and trees. Stated that they only received the drawings for this development late last week therefore they have not had much time to get advice on them however, they have spoken to a structural engineer who was very concerned from their point of view about the light that would be obscured. Concerned about how close the proposed balcony is to their property, as it is much closer than would be permitted under usual Town Planning requirements. Asked where any air conditioning units would be as this is not shown on the plans. Stated that the recommendation of approval is conditional that the air conditioning unit is not seen from Oxford Street however, they also do not want to be able to see it and hear it from their outdoor area every day.
8. Ben Peterson of 11 Hammond Street, West Perth – Item 9.1.4. Advised that he lives next door (to the west) of the proposal with his wife and children and they support the recommendation for refusal. Stated that they would prefer that the codes for density, minimum lot size, open space requirements and setback were upheld by any development in their neighbourhood, especially next door. Advised that the 320m² lot is too small to split and still meet the minimum requirement of 180m² per dwelling. Stated that 9 Hammond Street is the exact centre of 20 identically sized lots on Hammond and Janet Streets and none of these lots a split. Agreed with Officer that to allow this development would set an undesirable precedent for the area. Stated that open space plans suffer as a result of the land being too small to split. Objected to the large number of west facing windows on the rear unit and feel that this is to make up for lack of open green space by overlooking theirs. Stated to “*shoehorn*” 2 dwellings into the property, it must be filled right to the edges and they object to nil setback along their side of the property – this ignores the Building Code requirements. Requested that the Council uphold the Town’s Codes and Zoning requirement and refuse the application to split the lot.
9. Vincent Sammut of 14 Franklin Street, Leederville – Item 5.1. Advised that there is a precedent of the Play being performed in Australia (Melbourne). Stated the Play has never been deemed unlawful in Australia and this is of fundamental importance in consideration of the issue before the Council. Asked if the Council shall declare itself a disrespector of the law and elect itself as a censoring agency, in so doing, “*quash*” lawful expression of opinion. Stated, should it “*pander*” to the intimidating protestation of self interested pressure groups, if so, a problematic and dangerous precedent will be created as how will the Council deal with members of other ethnic, cultural and religious groups who, ceasing upon the precedent created by the Council, would wish to likewise voice their protestation of offence. Believed this to be a “*pandora’s box*”. Stated that in this democratic society, we have grown to trust that the law protects us, giving us assurances of our rights and limits therefore, in spite of our laws, must we be subject of denial of these rights based on the special pleadings of organisations with private agendas, sentiments and protocols? Stated the principle of the law being paramount is bedrock of our democratic society therefore, let us not surrender our principles to the “*noisy and insistent blowtorch*” of recurrent and diverse sectional interests. Requested that they have certainty and let principle prevail.
10. Sarah Haynes, Member of Friends of Palestine of 12 Wright Street, Highgate – Item 5.1. Advised that they are a community group with all members being volunteers although, not everyone agrees with their perspective however, they are part of a vibrant community. Stated that they are a “Not for Profit Organisation” with one objective being to raise funds and the Play was to be a fund raising for medical aid for Palestinian. Unfortunately, donations received are unlikely to cover their costs which have escalated. Advised that the Play is an opportunity for local actors, local residents and the Jewish community to engage. Stated that a resident in the Gallery

advised that he “*just wanted to see the play*”. Stated that there are 8,000 local Jewish residents and 500 signatures represents less than 10% of those view points therefore, believes that there are other members of the Jewish community who want to see this beautiful Play. Advised that as a community group, it is very important to engage and have confidence and stability, they need to be able to book venues and assume that once they are paid them and meet the requirements for that booking that they can go ahead and expect that to happen as planned. Advised that they have advertised extensively, incurred costs, distributed flyers and emailed several groups and are expecting a full house therefore, it would be very difficult and an impost on them as a community group if the Play is cancelled on the basis of the Petition.

11. Don Morison of 60 Raglan Road, Mt Lawley – Item 9.1.3. Advised that the report states that on 27 April 2004 the Council approved a change of usage from a shop to a licensed restaurant however, there has been an omission as in 2007 they applied to the Council for a 20% Extended Trading Permit (ETP). Stated the permit was prior to the recently past Liquor Reform Act which allows for a restaurant to nominate 20% of its seated area to be used for patrons to have liquor without a meal and this had to be a clearly defined area. Advised that their restaurant is 55 seats and that constituted 11. Stated after a lot of going backwards and forwards with the Council as, up to that point, the Council had never received the ETP, they were granted the licence which may have been done under Delegated Authority. Stated that initially the licence lasted 3 years and they were subsequently contacted by Liquor Licensing in December who advised that the licence had expired and that they had fallen into a “*bureaucratic black hole*” as, due to the Liquor Reforms, the 20% no long exists therefore, they had no choice but to apply for 100%. Advised that they contacted Planning in January to apply for 100% ETP and were told that this may be a matter Delegated Authority. Stated that they went through the Liquor Licensing Act in terms of public interest assessment etc. which have all been done. Stated that they also have support from the local clergy. Stated that a couple of weeks ago they were advised that this would be past however, they received a letter recently stating it was to go to the Council. Requested the Council’s approval and advised that they have not change in relation to the seating, capacity or operating hours.
12. Alex Bainbridge of 117 Glendower Street, Perth – Item 5.1. Thanked the Council for reinstating the booking for the North Perth Town Hall this coming Saturday. Believed this to be the correct decision and he is especially pleased by the comments of the Town’s CEO that the Local Government does not have the role of censoring free speech. Regarding concerns over the Play being racist, he stated racism is something that the Friends of Palestine, as an organisation, takes a very strong stand against. Advised that everyone who signs a membership Form for Friends of Palestine, signs above the point on the Form that states that Friends of Palestine is opposed to all forms of racism. Stated many members (himself included) have a very long history of activism in an anti-racist capacity on a whole range of issues and this organisation is not the type that would want to put on a racist play. Believed that anybody who takes the time to read through the script would see this to be the case.

There being no further speakers, public question time closed at approx. 6.46pm.

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS

- 5.1 A petition was received from Mr T. Tate of the Jewish Community Council of WA (Inc), North Perth, along with 613 signatures, opposing the staging of the play "Seven Jewish Children" at the North Perth Town Hall on 15 May 2010.

The Chief Executive Officer recommended that this petition be received and referred to the Chief Executive Officer for investigation of appropriate action.

Moved Cr Maier, Seconded Cr Farrell

That the petition be received as recommended.

CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Ordinary Meeting of Council held on 27 April 2010.

Moved Cr Maier, Seconded Cr Topelberg

That the Minutes of the Ordinary Meeting of Council held 27 April 2010 be confirmed as a true and correct record.

CARRIED (8-0)

(Cr Burns was 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 May 2010

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. The recipients receive a \$100 voucher, kindly donated by the North Perth Community Bank, and a Certificate.

For MAY 2010, the award is presented to Greg Stewart, Ranger in the Town's Ranger and Community Safety Services. Greg was nominated by the Senior Ranger, Simon Giles, for the following reasons;

On 15 January 2010, the Town was successful in carrying out a prosecution for a serious dog attack which occurred in Mount Hawthorn.

Ranger Greg Stewart was the Officer involved in this case and provided an exemplary brief of events that took place. Greg spent many hours (much of it in his own time) collating the necessary information and it is considered that his professional investigation of this matter greatly assisted in the successful prosecution.

Greg was also recently involved in another matter relating to a lost dog which resulted in one of the Town's ratepayers contacting the Town to commend Greg on his excellent level of service in locating the owner of this lost dog.

Greg has been with the Town for approximately two years and in that time he has adapted well to his position and as such, is a valuable and integral member of the Ranger Services team.

The Manager Ranger and Community Safety Services, Jim MacLean, also endorsed these comments.

Greg is a worthy recipient of the Employee of the Month Award.

Congratulations Greg and well done.

Received with Acclamation!

7.2 Town of Vincent Parking and Parking Facilities Local Law 2007 – Amendment 2010

Pursuant to Section 3.12 of the Local Government Act, the Town of Vincent hereby gives notice of its intention to amend its Local Law Relating to Parking and Parking Facilities - Item 9.1.6 on tonight's Agenda.

The purpose of this Amendment is to introduce new times, fees and additional locations for ticket machines.

This matter will be advertised for six (6) weeks on a state-wide basis for public comment.

7.3 Urgent Business

I have approved of an Urgent Business item for inclusion onto tonight's Agenda, relating to the approval of a Deed of Licence for a Concert to be held on 10 December 2010 at ME Bank Stadium.

The Concert promoter has requested the Town to urgently consider the matter, as he needs to confirm the booking of this world renown international Group and also to announce the Tour.

Unfortunately, the name of the Group is "commercial in confidence" until the Council approves of the Deed of Licence.

7.4 Hire of North Perth Town Hall

Tonight, as you have heard, we have had a particular item which was the subject of a petition that has come to the Council. Let me state that the Town of Vincent was put between "*a rock and a hard place*" with this issue.

It is a play called "*Seven Jewish Children*". The booking was made and cancelled for the reasons given by the Officer who actually did the cancellation. Investigations into the cancellation was overturned by the Chief Executive Officer.

Whilst the Town appreciates that there is much impassioned sentiment around the content of the play/film to be performed, it is not the role of the Town to judge the artistic, political or moral merits of the work. Let me state that there are other jurisdictions at both State and Federal that can deal with such matters.

The Town cannot make its facilities available for unlawful purposes that is those actions or purposes that may be dealt with in State, Federal and International laws/agreements/protocols. The Town's facilities are hired out based on compliance with the relevant policies, terms and conditions of hire.

We are a Local Government and the Local Government traditionally has the mandate of rates, roads and relevant and unfortunately rubbish. These days, we take the responsibility that has been passed onto us by both State and Federal jurisdictions with other matters as well but, essentially we are a Local Government.

The Town's decision to hire the venue is based on the fact that the booking at the hall is valid and in no way implies endorsement or condemnation of the performance to be staged.

The Town of Vincent is committed to celebrating our diverse community and respects the rights of all to express their views free of vilification.

The matter of racial vilification or offensive material to a person/group is covered by the Racial Discrimination Act 1975- specifically Section 18C.

However, Section 18D - "Exemptions" - states; *"Section 18C does not render unlawful anything said or done reasonably and in good faith:*

(a) in the performance, exhibition or distribution of an artistic work ..."

I trust that this clarifies the situation. The Town, has been put in a very difficult position and it does not endorse or condemn the performance but is very sensitive and recognises the sensitivity of both sides of this. I have allowed the debate from the Gallery this evening on the basis of each side receiving and able to express their particular view.

The Town has consented to the hiring of the hall under that basis and that basis alone.

8. DECLARATIONS OF INTERESTS

- 8.1 Mayor Catania declared a Financial interest in Item 9.3.1 – Investment Report. The extent of his interest being that he is the chairperson of the North Perth Community Bank in which the Town has investment shares.
- 8.2 Cr Harvey declared an interest affecting Impartiality in Item 9.2.2 – Further Report: Hyde Park Universally Accessible Playground Upgrade. The extent of her interest being that she has a professional association with the Consultant advising the Town on this item (E-Qual).
- 8.3 Cr Topelberg declared an interest affecting Impartiality in Item 9.1.1 – Nos. 440 and 444 (Lot 6, D/P 613; Lot 5, D/P 613) William Street, Perth - Proposed Four-Storey Commercial Building Comprising Four (4) Shops, Ten (10) Offices and Associated Car Parking. The extent of his interest being that his family own a property at 346 William Street and he also works from these premises.

Both Councillors Harvey and Topelberg stated that as a consequence there may be a perception that their impartiality in the matter may be affected. They declared that they would consider the matter on its merits and vote accordingly.

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

Nil.

10. REPORTS

The Presiding Member, Mayor Nick Catania, requested that the Chief Executive Officer 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 9.1.1, 9.1.4, 9.1.2 and 9.1.3.

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

Items 9.1.6, 9.2.2 and 9.4.2.

10.3 Items which Council Members/Officers have declared a financial or proximity interest and the following was advised:

Item 9.3.1.

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

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

Cr Farrell	Nil.
Cr Topelberg	Nil.
Cr Buckels	Nil.
Cr McGrath	Item 9.4.2.
Cr Harvey	Nil.
Cr Lake	Item 9.1.6.
Cr Maier	Items 9.2.1 and 9.2.2.
Mayor Catania	Nil.

Cr Farrell departed the Chamber at 7.00pm.

The Presiding Member, Mayor Nick Catania, requested that the Chief Executive Officer advise the meeting of:

Cr Farrell returned to the Chamber at 7.01pm.

10.5 Unopposed items which will be moved "En Bloc" and the following was advised:

Items 9.2.3, 9.4.1, 9.4.3 and 13.1.

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

Items 14.1 and 14.2.

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

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

Items 9.2.3, 9.4.1, 9.4.3 and 13.1.

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

Items 9.1.1, 9.1.4, 9.1.2 and 9.1.3.

The remaining Items identified for discussion were considered in numerical order in which they appeared in the Agenda.

Moved Cr Harvey, Seconded Cr Topelberg

That the following unopposed items be approved "En Bloc", as recommended;

Items 9.2.3, 9.4.1, 9.4.3 and 13.1.

CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

9.2.3 Proposed Introduction of Two (2) Hour Parking Restrictions – Raglan Road, North Perth

Ward:	South	Date:	5 May 2010
Precinct:	Hyde Park (P12)	File Ref:	PKG0034
Attachments:	001		
Reporting Officer:	C Wilson, Manager Asset & Design Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council APPROVES the introduction of a two (2) hour parking restriction in Raglan Road, North Perth, adjacent to and opposite Bell's Drive-in Pharmacy, corner Fitzgerald Street, from 8.00am to 5.30pm Monday to Friday, and 8.00am to 12 Noon Saturday, as shown on attached Plan No. 2702-PP-01.

COUNCIL DECISION ITEM 9.2.3

Moved Cr Harvey, Seconded Cr Topelberg

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Cr Burns was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to inform the Council of a request for the Town to consider installing a two (2) hour parking restriction in the on-road parking bays on both sides of Raglan Road, between Fitzgerald Street and the Right of Way at the rear of the commercial properties (fronting Fitzgerald Street) and seek approval to implement the changes.

BACKGROUND:

On 22 April 2010, the Town received a written request from "Bells Drive-in Pharmacy", located at 372-380 Fitzgerald Street, North Perth, corner Raglan Road, for the Town to re-consider the current parking restrictions in the immediate area.

The Pharmacy is reliant upon regular cliental as well as passing pedestrian and vehicle traffic. While the on-road parking bays in Fitzgerald Street are subject to Clearway and time restrictions, the bays in Raglan Road, immediately adjacent the premises are not, and as a consequence it is common for cars to park there all day.

DETAILS:

Raglan Road, west of Fitzgerald Street, has a mix of parking restrictions but is in the main covered by a 2P parking restriction, which ensures that parking spaces are generally available.

However, Raglan Road, east of Fitzgerald Street, is currently unrestricted. The pharmacy's customers, as are those of the medical clinic at 364-366 Fitzgerald Street on the southern side of Raglan Road, are most likely to park in either Fitzgerald Street or Raglan Road, adjacent their premises. However, these parking spaces, which are currently unrestricted, are normally occupied from early in the day and not vacated until the evening.

The Town's officers have investigated the matter and concur that for reasons of consistency and amenity, it would be appropriate to impose a 2P parking restriction, to operate from 8.00am to 5.30pm Monday to Friday and 8.00am to 12 Noon Saturday, in the aforementioned on-road parking bays.

CONSULTATION/ADVERTISING:

The applicant will be informed of the Council's decision.

LEGAL/POLICY:

There is no legal consequence of the recommendation.

The Town's Rangers will place a moratorium on issuing infringement notices for a period of two (2) weeks from the installation of the new parking restriction signs.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2009-2014 – 1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“(a) implement adopted annual infrastructure upgrade programs, including streetscape enhancements, footpaths, rights of way, car parking and roads.”*

SUSTAINABILITY IMPLICATIONS:

N/A

FINANCIAL/BUDGET IMPLICATIONS:

Implementing the new restrictions will require the purchase and installation of four (4) new signs and poles costing approximately \$400.00.

COMMENTS:

The current situation in Raglan Road, east of Fitzgerald Street, would suggest that some motorists are taking advantage of an anomaly in the Town's parking restrictions to the detriment of the adjacent business. The problem is easily rectified by imposing a 2P restriction which affords not the only Bell's Drive-in Pharmacy with some surety of customer parking but also other nearby businesses.

9.4.1 Use of the Council's Common Seal

Ward:	-	Date:	3 May 2010
Precinct:	-	File Ref:	ADM0042
Attachments:	-		
Reporting Officer:	M McKahey, Personal Assistant		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council NOTES the use of the Council's Common Seal on the documents listed in the report, for the month of April 2010.

COUNCIL DECISION ITEM 9.4.1

Moved Cr Harvey, Seconded Cr Topelberg

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Cr Burns was on approved leave of absence.)

BACKGROUND:

The Chief Executive Officer is responsible for the day-to-day management of the Town and other responsibilities and functions in accordance with Section 5.41 of the Local Government Act. This includes the signing of documents and use of the Council's Common Seal for legal documents. The Town of Vincent Local Law relating to Standing Orders Clause 5.8 prescribes the use of the Council's Common Seal. The CEO is to record in a register and report to Council the details of the use of the Common Seal.

At the Ordinary Meeting of Council held on 14 May 2002, the Council authorised the Chief Executive Officer to use the Common Seal, in accordance with Clause 5.8 of the Town of Vincent Local Law relating to Standing Orders, subject to a report being submitted to Council each month (or bi-monthly if necessary) detailing the documents which have been affixed with the Council's Common Seal.

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

Date	Document	No of copies	Details
07/04/2010	Transfer of Land	1	Town of Vincent and The Perth Diocesan Trustees formally The Diocesan Trustees of the Church of England in Western Australia (<i>evidence of change of name is contained in Section 11 of the Anglican Church of Australia Diocesan Trustees and Lands Act 1918</i>) relating to a right of carriageway appurtenant to Lots on Plan 1416, pursuant to Section 167A of the Transfer of Land Act 1893 (<i>Lot 68 (ROW) on Plan 1416 - running off Church Street, corner of Palmerston Street, Perth</i>)

Date	Document	No of copies	Details
13/04/2010	Deed of Licence	1	Town of Vincent, Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: Alliance Function - 20 April 2010 (Gareth Naven Room and ME Bank Lounge)
19/04/2010	Application to Remove Caveat	1	Town of Vincent and the Perth Diocesan Trustees, c/o Complex Land Solutions Pty Ltd of PO Box 613, Joondalup WA 6947 re: Purchase of Right of Way (ROW) TES 0134 by Town of Vincent - Title Volume 642 Folio 115 (<i>running off Church Street, corner of Palmerston Street, Perth</i>).
22/04/2010	Deed of Licence	1	Town of Vincent, Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: UDIA Meeting - 27 April 2010 (Gareth Naven Room and Change Room 1 and 2)
23/04/2010	Easement in Gross	4	Town of Vincent and D Di Florio of 387 Nicholson Road, Forrestdale, Lega 2 Pty Ltd and F Mulic of 20 Redunca Way, Mirrabooka and O Bulatovic of 120 Berkley Road, Marangaroo re: No. 511-513 Beaufort Street, Highgate - <i>To satisfy Clause (ix) of Conditional Approval of Ordinary Meeting of Council held on 21 October 2008 for Proposed Change of Use from Shop to Unlisted Use (Small Bar) and Associated Alterations and Additions</i>
27/04/2010	Contract Documents	2	Town of Vincent and Leederville Gardens Retirement Estate, 37 Britannia Road, Leederville and Mrs E L Dawson re: Unit 64, Leederville Gardens
29/04/2010	Withdrawal of Caveat	1	Town of Vincent and M Stone and R Nguyen both of 21 Waugh Street, North Perth re: No. 21 (Lot 17) Waugh Street, North Perth
29/04/2010	Deed	2	Town of Vincent and M Stone and R Nguyen both of 21 Waugh Street, North Perth re: Deed in Relation to Conservation of Existing Dwelling at No. 21 (Lot 17) Waugh Street, North Perth
30/04/2010	Deed of Variation	3	Town of Vincent and Department for Communities, for Leederville Early Childhood Centre of Level 7, Dumas House, 2 Havelock Street, West Perth re: Leederville Early Childhood Centre, 246 Vincent Street, Leederville WA 6007 - <i>Variation of Lease Agreement</i>
30/04/2010	Indemnity Form	1	Town of Vincent and Australian Securities & Investments Commission (ASIC) on behalf of the Perth (WA) Estate Company Ltd, C/o Complex Land Solutions of PO Box 613, Joondalup WA 6947 re: Transfers of Rights of Way to Town of Vincent - <i>Portion of Swan Locations A4 and A5, being the balance of the ROWs comprised in Certificate of Title Volume 395, Folio 176</i>

9.4.3 Information Bulletin

Ward:	-	Date:	5 May 2010
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer:	A Radici, Executive Assistant		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council RECEIVES the Information Bulletin dated 11 May 2010, as distributed with the Agenda.

COUNCIL DECISION ITEM 9.4.3

Moved Cr Harvey, Seconded Cr Topelberg

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr Burns was on approved leave of absence.)

DETAILS:

The items included in the Information Bulletin dated 11 May 2010 are as follows:

ITEM	DESCRIPTION
IB01	Letter from the WA Local Government Association regarding Alcohol and Crime Management Project
IB02	Letter of Appreciation from Mrs J. Bowles regarding New “Wheelie Bin”
IB03	Summary Minutes of the Western Australian Local Government Association State Council Meeting held on 7 April 2010
IB04	Abridged Minutes of the Ordinary Meeting of the Mindarie Regional Council held on 22 April 2010 (Note: Full Minutes can be viewed at www.mrc.wa.gov.au/About-MRC/MRC-Minutes.aspx)
IB05	Unconfirmed Minutes of Sustainability Advisory Group Meeting held on Monday 19 April 2010
IB06	Register of Petitions - Progress Report - May 2010
IB07	Register of Notices of Motion - Progress Report - May 2010
IB08	Register of Reports to be Actioned - Progress Report - May 2010
IB09	Register of Legal Action (Confidential – Council Members Only) - Progress Report - May 2010
IB10	Register of State Administrative Tribunal Appeals - Progress Report - May 2010
IB11	Forum Notes - 20 April 2010
IB12	Notice of Forum - 18 May 2010

13.1 URGENT BUSINESS: Approval of Deed of Licence for Concert at ME Bank Stadium - 10 December 2010

OFFICER RECOMMENDATION:

That the Council APPROVE of the Deed of Licence submitted by Frontier Touring Co. Pty Ltd for a Concert to be held at ME Bank Stadium on Friday 10 December 2010, subject to compliance with the Council Policy No. 3.8.3 Concerts and Events.

COUNCIL DECISION ITEM 13.1

Moved Cr Harvey, Seconded Cr Topelberg

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr Burns was on approved leave of absence.)

PURPOSE OF REPORT:

To obtain the Council’s approval for the Deed of Licence submitted by Frontier Touring Co. Pty Ltd for a Concert to be held at ME Bank Stadium on Friday 10 December 2010, subject to compliance with the Council Policy No. 3.8.3 Concerts and Events.

BACKGROUND:

A Deed of Licence has been received from Frontier Touring Co. Pty Ltd for a Concert to be held at ME Bank Stadium on Friday 10 December 2010. The artist is an internationally well known group who play “70’s and 80’s music”. The name of the group is “*commercial in confidence*”, until approved by the Council and thereafter announced by the promoter.

Deed of Licences are normally approved by the Town’s Administration and the Stadium Committee. The Council’s Policy No. 3.8.3 Concerts and Events specifies that a maximum of two (2) concerts per month are permitted unless approved by the Council. However, two (2) separate concerts are already approved for Saturday 4 and 18 December 2010.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Policy No. 3.8.3 Concerts and Events Clause 3.2.2:

“3.2.2 A maximum of two (2) concerts per month are permitted during the summer months of November to March, unless expressly approved by the Council. A concert is counted as one calendar day/date event”.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

This Deed of Licence is supported as it is considered that the artist will not cause undue nuisance to the surrounding area, due to it being *“70’s and 80’s music”*. A sell-out concert is expected. The Council’s approval will enable the promoter to announce the tour and commence promotion of the event.

9.1.1 Nos. 440 and 444 (Lot 6, D/P 613; Lot 5, D/P 613) William Street, Perth - Proposed Four-Storey Commercial Building Comprising Four (4) Shops, Ten (10) Offices and Associated Car Parking

Ward:	South	Date:	3 May 2010
Precinct:	Beaufort, P13	File Ref:	PRO0893; 5.2010.70.1
Attachments:	001		
Reporting Officer:	R Narroo, Senior Planning Officer (Statutory)		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Carrisa Pty Ltd on behalf of the owner Perfect Time Pty Ltd for the proposed Four-Storey Commercial Building Comprising Four (4) Shops, Ten (10) Offices and Associated Car Parking at Nos. 440 and 444 (Lot 6, D/P 613; Lot 5, D/P 613) William Street, Perth, and as shown on plans stamp-dated 18 February 2010 and 24 February 2010, subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from William Street;*
- (ii) the maximum gross floor area for the commercial development shall be limited to 2018 square metres of office space and 278 square metres of shop area. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
- (iii) first obtaining the consent of the owners of Nos. 434-438 and Nos.446-448 William Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 434-438 and Nos. 446-448 William Street in a good and clean condition;*
- (iv) all signage that does not comply with the Town's Policy No. 3.5.2 relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (v) the doors, windows and adjacent floor areas on the ground floor fronting William Street shall maintain an active and interactive relationship with this street. All the openings on the ground floor fronting William Street are to be recessed by 0.5 metre;*
- (vi) the car parking area shown shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*

- (vii) *the relocation of street trees and other road reserve infrastructure is at the absolute discretion of the Town's Director Technical Services. Any costs associated with relocation to the Town's requirements shall be borne by the applicant;*
- (viii) *the owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:*
- (a) *within twenty eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash-in-Lieu Percent for Public Art Contribution, of \$35,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$ 3,500,000); and*
- (b) *in conjunction with the above chosen option;*
1. *Option 1 –
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and
prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work;*
- OR**
2. *Option 2 –
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;*
- (ix) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:**
- (a) **Acoustic Report**
- An Acoustic Report in accordance with the Town's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*
- (b) **Refuse and Recycling Management**
- A Refuse and Recycling Management Plan shall be submitted and approved by the Town prior to commencement of any works. The Plan shall include details of refuse bin location, number of rubbish and recycling receptacles, vehicle access and manoeuvring.*

Revised plans and details shall be submitted demonstrating a bin compound being provided in accordance with the Town's Health Services Specifications, Commercial:

*1 x mobile garbage bin per unit; and
1 x paper recycle bin per unit, or per 200 square metres of floor space;*

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

(c) Landscape and Reticulation Plan

1. A detailed landscape and reticulation plan for the development site and adjoining road verge shall be submitted to the Town's Parks and Property Services Section for assessment and approval.

For the purpose of this condition, a detailed landscape and irrigation plan shall be drawn to a scale of 1:100 and show the following:

- A. the location and type of existing and proposed trees and plants;*
- B. all vegetation including lawns;*
- C. areas to be irrigated or reticulated;*
- D. proposed watering system to ensure the establishment of species and their survival during the hot and dry months; and*
- E. separate soft and hard landscaping plans (indicating details of plant species and materials to be used).*

The Council encourages landscaping methods and species selection which do not rely on reticulation.

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 Town.

2. A minimum landscaping area of 92.7 square metres is to be provided;

(d) Schedule of External Finishes

A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted;

(e) Construction Management Plan

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

- 1. public safety, amenity and site security;*
- 2. contact details of essential site personnel;*
- 3. construction operating hours;*
- 4. noise control and vibration management;*
- 5. Dilapidation Reports of nearby properties;*

6. *air and dust management;*
7. *stormwater and sediment control;*
8. *soil excavation method (if applicable);*
9. *waste management and materials re-use;*
10. *traffic and access management;*
11. *parking arrangements for contractors and subcontractors;*
12. *Consultation Plan with nearby properties; and*
13. *any other matters deemed appropriate by the Town;*

(f) Site Management – Archaeological Information

1. *A statement regarding the management of the site in the event that any archaeological information is found shall be submitted; and*
2. *The applicant shall consult a qualified archaeologist regarding the potential of the site to yield information regarding the early residential development of this area prior to any new site works;*

(g) Heritage Management

Details of an interpretation proposal, which incorporates explicit recognition of the heritage values of the places at Nos. 440 and 444 William Street, Perth, shall be submitted. The approved interpretation proposal shall be installed prior to the first occupation of the new development;

(h) Amalgamation of Lots

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);

(i) Car Stacking Layout

The proposed 'car stacking' layout and location within the development shall be revised in accordance with the requirements, and to the satisfaction of, the Town's Director Technical Services in compliance with, but not limited to, the following;

1. *the proposed car stackers are to have a minimum overhead clearance of no less than 2 metres at ground level with overhead clearance on all the other vertical storage bays to comply with the manufacturer's specifications and in accordance with AS/NZ 2890.1:2004;*
2. *the weight limitation for cars within the car stacker shall be no more than 2,500 kilograms unless the car stacker is fitted with an appropriate mechanism to restrict its use should a vehicle heavier than 2,500 kilograms enter the stacker. In addition, appropriate highly visible signage shall be installed at the entrance of all car stackers specifying the maximum weight of vehicle allowed to use the car stacking system;*

3. *the car stacker bay platform width shall be an absolute minimum of 2.7 metres and the end bay platform width shall be a minimum of 2.9 metres. The bay entry opening width shall be no less than 2.5 metres per car stacker unit. The design shall be referred to the manufacturer for exact dimensions required to comply with the Town's requirements;*
4. *circulation areas width surrounding all stackers shall be an absolute minimum of 7.0 metres in accordance with AS/NZ 2890.1:2004;*
5. *rubber inserts shall be installed on all platforms on both the drivers and passengers side;*
6. *the walls for mounting shall be as per manufacturer's specification; supporting floors and walls shall be made of concrete designed and certified by a Structural Engineer;*
7. *stacker sliding doors shall be automatic with all operation under remote control;*
8. *an uninterrupted Power System (UPS) or an emergency power generator shall be installed;*
9. *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services Authority (FESA) prior to the issue of a Building Licence; and*
10. *if feasible, without reducing the overall number of car bays required, to reduce the incidence of bay loss in the event of a mechanical failure, the car stackers shall have no more than four bays per mechanical unit; and*

(j) Bond

A Road and Verge security bond of \$7,000 shall be lodged by the applicant with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and damage to Town infrastructure, including the removal of street tree, has been reinstated to the satisfaction of the Town Technical Services Division. An application for the refund of the security bond must be made in writing;

~~*In keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land are to be upgraded by the Applicant to a paved specification and standard, as prescribed in the Town's Policy 2.2.4 "Verge Treatments, Plantings and Beautification". A refundable footpath upgrading bond of \$7,170 shall be lodged and be held until all works have been completed and damage to the existing facilities have been reinstated to the satisfaction of the Town's Director Technical Services. An application to the Town for the refund of the bond must be made in writing;*~~

(xi) ***PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT, the following shall be completed to the satisfaction of the Town:***

(a) **Bicycle Parking Facilities**

A minimum of 11 class one or two bicycle parking facilities and 2 class 3 bicycle parking facilities, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;

(b) **Car Parking**

1. *The car parking area(s) 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 owner(s)/occupier(s) to the satisfaction of the Town;*

2. *The car parking spaces provided for the offices and shops component of the development shall be clearly marked and signposted;*

(c) **Vehicular Entry Gates**

Any proposed vehicular entry gates shall be a minimum 50 per cent visually permeable, and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors at all times. Details of the management measures shall be submitted; and

(d) **Legal Agreement – Car Stacking System**

The applicant/owner of the property shall enter into a Legal Agreement with the Town, which is secured by a caveat on the certificate(s) of title of the subject land, in regard to the car stacker system and to address the following to the satisfaction of the Town;

1. *all maintenance agreements/contracts to be current for the life of the building and renewed annually;*

2. *a copy of updated and current maintenance agreements/contracts to be available to the Town on demand;*

3. *that the Town may act to ensure compliance with the car stacker conditions of approval at the Applicant/Owner's cost, in the event that the Applicant/Owner fails to ensure that the car stacker is in good working order and maintained as such, and the conditions of approval are compliant;*

4. *the Applicant/Owner undertakes to provide, maintain and ensure the car stacker system is operable and in good working order at all times, for the life of the building, to the satisfaction of the Town;*

5. *the Applicant/Owner agrees to indemnify the Town for any claims, actions or litigation arising from the car stacker system; and*

6. *the Legal Agreement shall be prepared by the Applicant/owner(s) and approved by the Town, or alternatively, the Applicant/owner(s) may request the Town's solicitor to prepare the Legal Agreement and associated caveat. All costs associated with this condition, including the Town's cost for checking the legal documents and caveat if prepared by the applicant's/owner's solicitor, shall be borne by the applicant/owner(s).*

***Note: The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.**

Moved Cr Maier, Seconded Cr Topelberg

That the recommendation be adopted.

Debate ensued.

AMENDMENT NO 1

Moved Cr Maier, Seconded Cr Farrell

That clause (ix)(i)3. be amended to read as follows:

“(ix)(i)3. the car stacker bay platform width shall be an absolute minimum of ~~2.7~~ 2.5 metres and the end bay platform width shall be a minimum of ~~2.9~~ 2.8 metres. The bay entry opening width shall be no less than 2.5 metres per car stacker unit. The design shall be referred to the manufacturer for exact dimensions required to comply with the Town's requirements;”

AMENDMENT NO 1 PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

AMENDMENT NO 2

Moved Cr Maier, Seconded Cr Lake

That clause (ix)(i)8. be deleted.

Debate ensued.

AMENDMENT NO 2 PUT AND LOST (1-7)

For: Cr Maier

Against: Mayor Catania, Cr Buckels, Cr Farrell, Cr Harvey, Cr Lake, Cr McGrath,
Cr Topelberg

(Cr Burns was on approved leave of absence.)

Debate ensued.

AMENDMENT NO 3

Moved Cr Topelberg, Seconded Cr McGrath

That clause (ix)(i)8. be amended to read as follows:

“(ix)(i)8. an uninterrupted Power System (UPS) or an emergency power generator shall be installed or a power management plan to the satisfaction of the Town’s Director Technical Services be agreed;”

AMENDMENT NO 3 PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

COUNCIL DECISION ITEM 9.1.1

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Carrisa Pty Ltd on behalf of the owner Perfect Time Pty Ltd for the proposed Four-Storey Commercial Building Comprising Four (4) Shops, Ten (10) Offices and Associated Car Parking at Nos. 440 and 444 (Lot 6, D/P 613; Lot 5, D/P 613) William Street, Perth, and as shown on plans stamp-dated 18 February 2010 and 24 February 2010, subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from William Street;*
- (ii) the maximum gross floor area for the commercial development shall be limited to 2018 square metres of office space and 278 square metres of shop area. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
- (iii) first obtaining the consent of the owners of Nos. 434-438 and Nos.446-448 William Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 434-438 and Nos. 446-448 William Street in a good and clean condition;*
- (iv) all signage that does not comply with the Town's Policy No. 3.5.2 relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (v) the doors, windows and adjacent floor areas on the ground floor fronting William Street shall maintain an active and interactive relationship with this street. All the openings on the ground floor fronting William Street are to be recessed by 0.5 metre;*

- (vi) *the car parking area shown shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (vii) *the relocation of street trees and other road reserve infrastructure is at the absolute discretion of the Town's Director Technical Services. Any costs associated with relocation to the Town's requirements shall be borne by the applicant;*
- (viii) *the owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:*
- (a) *within twenty eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash-in-Lieu Percent for Public Art Contribution, of \$35,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$ 3,500,000); and*
- (b) *in conjunction with the above chosen option;*
1. *Option 1 –
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and
prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work;*
- OR**
2. *Option 2 –
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;*
- (ix) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:**
- (a) **Acoustic Report**
- An Acoustic Report in accordance with the Town's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*
- (b) **Refuse and Recycling Management**
- A Refuse and Recycling Management Plan shall be submitted and approved by the Town prior to commencement of any works. The Plan shall include details of refuse bin location, number of rubbish and recycling receptacles, vehicle access and manoeuvring.*

Revised plans and details shall be submitted demonstrating a bin compound being provided in accordance with the Town's Health Services Specifications, Commercial:

*1 x mobile garbage bin per unit; and
1 x paper recycle bin per unit, or per 200 square metres of floor space;*

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

(c) **Landscape and Reticulation Plan**

1. *A detailed landscape and reticulation plan for the development site and adjoining road verge shall be submitted to the Town's Parks and Property Services Section for assessment and approval.*

For the purpose of this condition, a detailed landscape and irrigation plan shall be drawn to a scale of 1:100 and show the following:

- A. *the location and type of existing and proposed trees and plants;*
- B. *all vegetation including lawns;*
- C. *areas to be irrigated or reticulated;*
- D. *proposed watering system to ensure the establishment of species and their survival during the hot and dry months; and*
- E. *separate soft and hard landscaping plans (indicating details of plant species and materials to be used).*

The Council encourages landscaping methods and species selection which do not rely on reticulation.

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 Town.

2. *A minimum landscaping area of 92.7 square metres is to be provided;*

(d) **Schedule of External Finishes**

A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted;

(e) **Construction Management Plan**

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

- 1. *public safety, amenity and site security;*
- 2. *contact details of essential site personnel;*
- 3. *construction operating hours;*
- 4. *noise control and vibration management;*
- 5. *Dilapidation Reports of nearby properties;*
- 6. *air and dust management;*

7. *stormwater and sediment control;*
8. *soil excavation method (if applicable);*
9. *waste management and materials re-use;*
10. *traffic and access management;*
11. *parking arrangements for contractors and subcontractors;*
12. *Consultation Plan with nearby properties; and*
13. *any other matters deemed appropriate by the Town;*

(f) **Site Management – Archaeological Information**

1. *A statement regarding the management of the site in the event that any archaeological information is found shall be submitted; and*
2. *The applicant shall consult a qualified archaeologist regarding the potential of the site to yield information regarding the early residential development of this area prior to any new site works;*

(g) **Heritage Management**

Details of an interpretation proposal, which incorporates explicit recognition of the heritage values of the places at Nos. 440 and 444 William Street, Perth, shall be submitted. The approved interpretation proposal shall be installed prior to the first occupation of the new development;

(h) **Amalgamation of Lots**

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);

(i) **Car Stacking Layout**

The proposed 'car stacking' layout and location within the development shall be revised in accordance with the requirements, and to the satisfaction of, the Town's Director Technical Services in compliance with, but not limited to, the following;

1. *the proposed car stackers are to have a minimum overhead clearance of no less than 2 metres at ground level with overhead clearance on all the other vertical storage bays to comply with the manufacturer's specifications and in accordance with AS/NZ 2890.1:2004;*
2. *the weight limitation for cars within the car stacker shall be no more than 2,500 kilograms unless the car stacker is fitted with an appropriate mechanism to restrict its use should a vehicle heavier than 2,500 kilograms enter the stacker. In addition, appropriate highly visible signage shall be installed at the entrance of all car stackers specifying the maximum weight of vehicle allowed to use the car stacking system;*

3. *the car stacker bay platform width shall be an absolute minimum of 2.5 metres and the end bay platform width shall be a minimum of 2.8 metres. The bay entry opening width shall be no less than 2.5 metres per car stacker unit. The design shall be referred to the manufacturer for exact dimensions required to comply with the Town's requirements;*
4. *circulation areas width surrounding all stackers shall be an absolute minimum of 7.0 metres in accordance with AS/NZ 2890.1:2004;*
5. *rubber inserts shall be installed on all platforms on both the drivers and passengers side;*
6. *the walls for mounting shall be as per manufacturer's specification; supporting floors and walls shall be made of concrete designed and certified by a Structural Engineer;*
7. *stacker sliding doors shall be automatic with all operation under remote control;*
8. *an uninterrupted Power System (UPS) or an emergency power generator shall be installed or a power management plan to the satisfaction of the Town's Director Technical Services be agreed;*
9. *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services Authority (FESA) prior to the issue of a Building Licence; and*
10. *if feasible, without reducing the overall number of car bays required, to reduce the incidence of bay loss in the event of a mechanical failure, the car stackers shall have no more than four bays per mechanical unit; and*

(j) **Bond**

A Road and Verge security bond of \$7,000 shall be lodged by the applicant with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and damage to Town infrastructure, including the removal of street tree, has been reinstated to the satisfaction of the Town Technical Services Division. An application for the refund of the security bond must be made in writing;

- (xi) **PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT, the following shall be completed to the satisfaction of the Town:**

(a) **Bicycle Parking Facilities**

A minimum of 11 class one or two bicycle parking facilities and 2 class 3 bicycle parking facilities, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;

(b) Car Parking

1. *The car parking area(s) 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 owner(s)/occupier(s) to the satisfaction of the Town;*
2. *The car parking spaces provided for the offices and shops component of the development shall be clearly marked and signposted;*

(c) Vehicular Entry Gates

Any proposed vehicular entry gates shall be a minimum 50 per cent visually permeable, and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors at all times. Details of the management measures shall be submitted; and

(d) Legal Agreement – Car Stacking System

The applicant/owner of the property shall enter into a Legal Agreement with the Town, which is secured by a caveat on the certificate(s) of title of the subject land, in regard to the car stacker system and to address the following to the satisfaction of the Town;

1. *all maintenance agreements/contracts to be current for the life of the building and renewed annually;*
 2. *a copy of updated and current maintenance agreements/contracts to be available to the Town on demand;*
 3. *that the Town may act to ensure compliance with the car stacker conditions of approval at the Applicant/Owner's cost, in the event that the Applicant/Owner fails to ensure that the car stacker is in good working order and maintained as such, and the conditions of approval are compliant;*
 4. *the Applicant/Owner undertakes to provide, maintain and ensure the car stacker system is operable and in good working order at all times, for the life of the building, to the satisfaction of the Town;*
 5. *the Applicant/Owner agrees to indemnify the Town for any claims, actions or litigation arising from the car stacker system; and*
 6. *the Legal Agreement shall be prepared by the Applicant/owner(s) and approved by the Town, or alternatively, the Applicant/owner(s) may request the Town's solicitor to prepare the Legal Agreement and associated caveat. All costs associated with this condition, including the Town's cost for checking the legal documents and caveat if prepared by the applicant's/owner's solicitor, shall be borne by the applicant/owner(s).*
-

Landowner:	Perfect Time Pty Ltd
Applicant:	Carrisa Pty Ltd
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
Existing Land Use:	Vacant
Use Class:	Office Building
Use Classification:	"P"
Lot Area:	Lot 5= 486 square metres and Lot 6= 486 square metres, Total= 972 square metres
Access to Right of Way	Not applicable

BACKGROUND:

- 13 July 1998 The Council at its Ordinary Meeting resolved to conditionally approve an Institutional Building (Needle and Syringe Exchange Programme/Drop-in- Centre) at No. 440 (Lot 6) William Street, Perth.
- 12 April 1999 The Council at its Ordinary Meeting resolved to conditionally approve an Institutional Building (Needle and Syringe Exchange Programme/Drop-in- Centre) at No. 444 (Lot 5) William Street, Perth.
- 26 February 2008 The Council at its Ordinary Meeting conditionally approved the demolition of two existing institutional buildings and construction of a four-storey development, comprising six offices and two shops.
- 12 June 2008 The Town issued a demolition licence for the existing buildings on No. 440 and No. 444 William Street, Perth.
- 11 December 2008 The Western Australian Planning Commission conditionally approved the amalgamation of No. 440 (Lot 5) and No. 444 (Lot 6) William Street, Perth.

DETAILS:

The proposal involves the construction of a four-storey commercial development comprising four shops, ten offices and associated car parking.

Previous Council Decision

On 26 February 2008, the Council at its Ordinary Meeting approved the demolition of two existing institutional buildings and construction of a four-storey development comprising six offices and two shops. The planning approval expired on 26 February 2010; the applicant has now submitted a new application.

Generally, the new proposal is the same as the one approved in February 2008 with the exception of the following changes:

- The two previous shops have been divided into four shops at the ground level;
- The previous six offices have been divided into ten offices with a slight increase in the floor area;
- A change to the front elevation;
- The new plans propose car stackers on the ground floor; and
- The overall height has changed from 13 metres to 15.335 metres which has resulted from a need to provide headroom for car stackers and air conditioning.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
No. of Storeys	Buildings with two storeys are strongly encouraged. A third storey can be considered.	4 storeys	Supported-Refer to "Comments" below.
Building Height	Two storeys- 7 metres Three storeys- 10 metres	4 storeys- 15.335 metres	Supported- Refer to "Comments" below.
Building Setbacks: East- Ground Floor/First/Second Floors	Non-residential/residential interface= 6 metres	Ground Floor= Nil First and Second Floors= 4.5 metres	Supported-The ground floor will be at a lower level relative to the adjoining eastern boundary, and on the first and second floors, the building is setback 4.5 metres. Therefore, there will be no unreasonable undue impact on the adjoining property in terms of visual impact, ventilation and overshadowing.
Landscaping	Ten per cent of site area =97.2 square metres	6.6 per cent=63.81 square metres-deck on first floor	Not Supported- The applicant is required to comply with the landscaping requirement.
Elevation	Continuous elevation fronting William Street	Non-continuous elevation fronting William Street on the upper floors	Supported-It is considered that the perforated metal screen provided between the offices will provide this continuity in the elevation along William Street; this design is supported.
Consultation Submissions			
Support		Nil.	Noted
Objection		Nil.	Noted.

Department of Planning (DOP)	The application was referred to the Department of Planning as the proposed development fronts William Street which is an Other Regional Road Reservation and is subject to future road widening.	DOP responded by stating that Lots 5 and 6 are not affected by the ORR reservation widening requirements for William Street. Moreover, DPI considers that the additional transport and traffic information submitted by the applicant is satisfactory.
Other Implications		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Financial/Budget Implications		Nil

* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

Car Parking

Requirements as per Parking and Access Policy	Required
Total car parking required before adjustment factor (nearest whole number)	
Shop- 1 car bay per 15 square metres gross floor area (proposed 278 square metres)= 18.53 car bays	
Office-1 car bay per 50 square metres gross floor area (proposed 2018 square metres) = 40.36 car bays.	
Total= 58.89= 59 car bays	59 car bays
Apply the parking adjustment factors.	(0.6141)
<ul style="list-style-type: none"> ▪ 0.85 (the proposed development is within 800 metres of a rail station) ▪ 0.85 (within 400 metres of a bus stop) ▪ 0.85 (within 400 metres of an existing public car parking place(s) with in excess of a total of 75 car parking spaces) 	36.23 car bays
Car parking provided on-site	33 car bays
Minus the most recently approved on-site parking shortfall	8.29 car bays
The Council at its Ordinary Meeting held on 26 February 2008 approved a shortfall of 8.29 car bays. The cash-in-lieu has been paid.	
Resultant Surplus	5.06 bays

Bicycle Parking

Requirements	Required	Provided
Office 1 per 200 square metres gross floor area for employees (proposed 2018 square metres) (class 1 or 2).	10 spaces	
1 per 750 square metres over 1000 square metres gross floor area (proposed 2018 square metres) for visitors(class 3)	1 space	
Shop 1 space per 300 (278 square metres) square metres over 1000 square metres for employees (class 1 or 2).	1 space	
1 per 200 (proposed 278 square metres) (square metres for visitors(class 3)	1 space	
	Total class 1 or 2= 11 spaces	12 bicycle spaces for class 2
	Total class 3=2 spaces	4 bicycle spaces for class 3

COMMENTS:

Number of Storeys and Height

The fourth storey is setback 5.396 metres from William Street and 6.005 metres from the rear boundary and the proposed design makes this floor quite concealed. With regard to the 15.335 metres height, it is taken at the lowest point; however, the height will generally be less than 15 metres from the natural ground level. The building will not overshadow any residential building and due to its design, is not considered to have an undue visual impact on the adjoining properties.

The height and overall design of the proposal is considered not to create an unacceptable bulk and scale issue. Furthermore, there is a vacant lot at the corner of William Street and Newcastle Street, which is located within the East Perth Redevelopment Authority (EPRA) jurisdiction. As per the Design Guidelines prepared by EPRA, this lot may be developed to a maximum height of three storeys up to 12 metres, with a four storey component up to 15 metres at the intersection of William and Newcastle Streets. Therefore, the proposed building is consistent in scale and height with other proposals along William Street whilst satisfying the intent of the William Street Design Guidelines.

Given that the fourth storey is concealed from the street level and the building form incorporates a contemporary design element, with cantilevered awnings, which are characteristic of developments along William Street, the variation to the number of storeys and height is supported in this instance.

William Street Design Guidelines

The William Street Design Guidelines (WSDG) specifies shops, offices, restaurants and residential uses are to be encouraged between Newcastle Street and Brisbane Street.

With regard to height and massing, as outlined above, the proposal satisfies the intent of the Guidelines. In addition, the storeys are staggered at the rear, and the fourth storey is setback a minimum of 5 metres from William Street which is also in line with the Guidelines.

In relation to street front openings, the applicant will be required to have all the ground floor openings facing William Street, recessed by 0.5 metre in accordance with the William Street Design Guidelines.

The application is considered acceptable and it is considered that development of this site will significantly contribute to the revitalisation of William Street. The application is therefore supported, subject to standard and appropriate conditions to address the above matters.

9.1.4 No. 9 (Lot 17; D/P 785) Hammond Street, West Perth - Proposed Demolition of Existing Single House and Construction of Two (2), Two-Storey Grouped Dwellings – State Administrative Tribunal (SAT) Review Matter No. DR 87 of 2010

Ward:	South	Date:	4 May 2010
Precinct:	Cleaver; P05	File Ref:	PRO4729; 5.2009.545.1
Attachments:	001 ; 002 ; 003		
Reporting Officer:	D Pirone, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES the application submitted by P Rumble on behalf of the landowners P & J Rumble for proposed Demolition of Existing Single House and Construction of Two (2) Two-Storey Grouped Dwellings – State Administrative Tribunal (SAT) Review Matter No. DR87 of 2010, at No. 9 (Lot 17; D/P 785) Hammond Street, West Perth, and as shown on plans stamp-dated 2 December 2009 and 29 December 2009, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the density, minimum lot size and open space requirements of the Residential Design Codes, and the Town's Residential Design Elements Policy respectively;*
- (iii) results in an undesirable precedent for the area; and*
- (iv) consideration of the objections received.*

Moved Cr Farrell, Seconded Cr McGrath

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND LOST (0-8)

(Cr Burns was on approved leave of absence.)

Reasons:

- 1. Further investigation into the Performance Criteria of the development in regards to open space has revealed this to be acceptable;**
- 2. Concessions on density; and**
- 3. Considered to have a minimal affect on the amenity of the area.**

ALTERNATIVE RECOMMENDATION - COUNCIL DECISION ITEM 9.1.4

Moved Cr Farrell, Seconded Cr McGrath

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES BY AN ABSOLUTE MAJORITY the application submitted by P Rumble on behalf of the landowners P & J Rumble for proposed Demolition of Existing Single House and Construction of Two (2) Two-Storey Grouped Dwellings – State Administrative Tribunal (SAT) Review Matter No. DR 87 of 2010, at No. 9 (Lot 17; D/P 785) Hammond Street, West Perth, and as shown on plans stamp-dated 2 December 2009 and 29 December 2009, subject to the following conditions:

- (i) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (ii) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Hammond Street;*
- (iii) *first obtaining the consent of the owners of Nos. 7 and 11 Hammond Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 7 and 11 Hammond Street in a good and clean condition; and*
- (iv) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:**

(a) **Construction Management Plan**

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

1. *site security;*
2. *contact details of essential site personnel;*
3. *noise control and vibration management;*
4. *Dilapidation Reports of nearby properties;*
5. *air and dust management;*
6. *waste management;*
7. *traffic and access management;*
8. *parking arrangements for contractors and subcontractors;*
9. *Consultation Plan with nearby properties; and*
10. *any other matters deemed appropriate by the Town;*

(b) **Landscaping Plan**

A detailed landscape and irrigation plan for the development site and adjoining road verge shall be submitted to the Town's Parks and Property Services for assessment and approval.

For the purpose of this condition, a detailed landscape and irrigation plan shall be drawn to a scale of 1:100 and show the following:

- A. the location and type of existing and proposed trees and plants;*
- B. all vegetation including lawns;*
- C. areas to be irrigated or reticulated and such method; and*
- D. separate soft and hard landscaping plans (indicating details of materials to be used).*

The landscaping plan shall also include details of the proposed watering system to ensure the establishment of species and their survival during the hot, dry summer months. The Council encourages landscaping methods and species selection which do not rely on reticulation.

All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and

(c) Street Walls and Fences:

- 1. the proposed solid portion of fence to unit 1 facing Hammond Street to be reduced to a maximum height of 1.2 metres above the footpath level; and*
- 2. the proposed gate to unit 2 being a minimum of 50 percent visually permeable;*

(d) Design Features

A minimum of two (2) appropriate significant design features being incorporated into the vehicular door of the proposed garage of unit 2.

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

AMENDMENT

Moved Cr McGrath, Seconded Cr Farrell

That a new clause (iv)(e) be inserted as follows:

“(iv)(e) revised plans that show:

- 1. the rubbish bin enclosure for unit 1 moved from the front car park to the drying court at the rear of the lot;*
- 2. the inclusion of a gate on the eastern fence of the rear drying court of unit 1 providing access to the side access leg from Hammond Street to unit 2; and*
- 3. an increase in the area of the front outdoor living area for unit 1 that can be made as a result of the changes as per (1) and (2) above.”*

Debate ensued.

AMENDMENT PUT AND LOST (3-5)

For: Cr Lake, Cr McGrath, Cr Maier

Against: Mayor Catania, Cr Buckels, Cr Farrell, Cr Harvey, Cr Topelberg

(Cr Burns was on approved leave of absence.)

**ALTERNATIVE MOTION PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (8-0)**

(Cr Burns was on approved leave of absence.)

Landowner:	P L & J Rumble
Applicant:	P L Rumble
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R80
Existing Land Use:	Single House
Use Class:	Grouped Dwellings
Use Classification:	"P"
Lot Area:	324 square metres
Access to Right of Way	South side, 6 metres wide, sealed, Town owned

BACKGROUND:

9 June 2009 The Town confirmed at the request of the applicant, that a Planning Application for Two (2), Two Storey Grouped Dwellings with basement received on 22 June 2009, is withdrawn.

23 February 2010 The Council at its Ordinary Meeting resolved to refuse a planning application for demolition of existing single house and construction of two, two-storey grouped dwellings for the following reasons:

"1. Non-compliance with open space and minimum lot size requirements.

2. Non-compliance with density."

25 March 2010 The Town received a SAT application to review the decision made by the Council at its Ordinary Meeting held on 23 February 2010.

9 April 2010 Directions Hearing at the SAT.

19 April 2010 Mediation at the Town of Vincent Administration and Civic Centre.

DETAILS:

The proposal involved the demolition of the existing single house and the construction of two, two-storey grouped dwellings.

Under section 252 (1) of the Planning and Development Act 2005, the owner of the subject property submitted an application for review, to the SAT, regarding the decision of the Council to refuse the demolition of the existing single house and the construction of two, two-storey grouped dwellings at its Ordinary Meeting held on 23 February 2010.

The applicant has submitted further information and justification as a result of the Mediation held at the Town's Administration and Civic Centre on 19 April 2010. This is outlined below:

“OPEN SPACE

- *Reduced open space is a direct consequence of increased density, but with well considered design, particularly to ensure adequate “private” open space, any deficiency can be satisfactorily managed.*
- *This proposal demonstrates that by thoughtful design, a grouped dwelling can be successful.*
- *The rear unit's access leg provides ‘effective’ open space beside the front unit, which maintains a more than adequate setback from the adjoining property.*

DENSITY

- *The land is zoned high density R80 and the proposed development will achieve a medium density of R62.*
- *While R62 is a little higher than a suggested guideline standard, it is much lower than the land's ultimate capacity, and will therefore result in a more beneficial outcome.*
- *The land owners have a reasonable expectation that they can build up to the zoned density.*

SUSTAINABILITY

- *The two dwelling proposal is an environmentally sustainable use for land so close to the CBD.*

PLANNING LOGIC

- *Following a thorough assessment process, planning officers concluded that the proposal is consistent with sound planning principals, and recommended council approval.”*

It is noted that the plans that were refused by the Council at its Ordinary Meeting held on 23 February 2010, remain unchanged.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density:	1.8 dwellings at R60	2 dwellings (11.11 percent density bonus).	Not supported – As per the Council's decision at its Ordinary Meeting held on 23 February 2010.
Minimum Site Area:	160 square metres	Unit 1 = 138 square metres (13.75 per cent minimum site area bonus.)	Not supported – As per Council's decision at its Ordinary Meeting held on 23 February 2010.
Building Setbacks: Unit 1 Ground Floor -West	1.5 metres	Nil	Supported – The proposed walls on the western boundary are compliant with the requirements of the R Codes in that the maximum

<p>Upper Floor -North (Hammond Street)</p>	<p>2 metres behind the ground floor main building line.</p>	<p>In line to 1 metre in front of the ground floor main building line.</p>	<p>height is 3.5 metres, the average height is less than 3 metres and the length is less than 2/3 of the length of the boundary.</p> <p>Supported - The proposed street setbacks are considered to be compliant with the Performance Criteria for this standard, in that the contemporary façade is staggered, comprises of a select range of attractive external wall surface treatments that will provide articulation and interest to Hammond Street, and that the setback of the upper floor and balcony will assist in the passive surveillance of the street.</p>
<p>-West Unit 2 Ground Floor -South (Right of Way)</p>	<p>1.5 metres 2 metres</p>	<p>1.2 metres – 2.9 metres Nil – 2.7 metres</p>	<p>Supported – Not considered to have an undue impact on the neighbouring property as the elevation is considered to achieve the objectives of articulation as varying setbacks and materials have been proposed in this elevation.</p> <p>Supported – The proposed garage has a nil setback to the right of way boundary, which allows for a 6 metre manoeuvring distance which is compliant with the Town’s Residential Design Elements Policy. Whilst the ground floor is required to be setback 2 metres, a nil setback to the ground floor, which is therefore in line with the garage, is considered appropriate as it reduces the impact of the garage on the right of way streetscape.</p>

-East	1.5 metres	1.2 metres – 4.1 metres	Supported – Not considered to have an undue impact on the neighbouring property as the elevation is considered to achieve the objectives of articulation as varying setbacks and materials have been proposed in this elevation. Furthermore, no objections were received from the affected land owner.
-West	1.5 metres	Nil	Supported – The proposed walls on the western boundary are compliant with the requirements of the R Codes in that the maximum height is 3.5 metres, the average height is less than 3 metres and the length is less than 2/3 of the length of the boundary.
Upper Floor -South (Right of Way)	1 metre behind the ground floor main building line.	In line to 1.26 metres behind the ground floor main building line.	Supported – The proposed garage has a nil setback to the right of way boundary, which allows for a 6 metre manoeuvring distance which is compliant with the Town’s Residential Design Elements Policy. Whilst the upper floor is required to be setback 1 metre behind the ground floor, a nil setback to the upper floor, which is therefore in line with the garage, is considered appropriate as it reduces the impact of the garage on the right of way streetscape.
-East	2.1 metres	1.2 metres – 1.7 metres	Supported – Not considered to have an undue impact on the neighbouring property as the elevation is considered to achieve the objectives of articulation as vary setbacks and materials have been proposed in this elevation. Furthermore, no objections were received from the affected land owner.

-West	1.5 metres	1.2 metres	Supported – Not considered to have an undue impact on the neighbouring property as the elevation is considered to achieve the objectives of articulation as varying setbacks and materials have been proposed in this elevation.
Buildings on Boundary:	Walls not higher than 3.5 metres with average of 3 metres for 2/3 (26.82 metres) of the length of the balance of the boundary behind the front setback, to one side boundary.	<p>-East (Unit 2) Wall Height – 3.1 metres – 4.15 metres (average height = 3.68 metres); Wall Length = 12 metres</p> <p>-West (Unit 1) Wall Height – 2.7 metres – 3.5 metres (average height = 2.95 metres); Wall Length = 11.2 metres</p> <p>-West (Unit 2) Wall Height – 2.65 metres – 3 metres (average height = 2.83 metres); Wall Length = 12 metres</p> <p>Total wall length on western boundary = 23.2 metres</p>	<p>Supported – No objections received from affected land owner.</p> <p>Supported – The proposed walls on the western boundary are compliant with the requirements of the R Codes in that the maximum height is 3.5 metres, the average height is less than 3 metres and the length is less than 2/3 of the length of the boundary.</p>
Open Space:	45 per cent of the site area.	<p>Unit 1 = 40 per cent of the site area.</p> <p>Unit 2 = 42 per cent of the site area.</p>	<p>Not supported – As per Council’s decision at its Ordinary Meeting held on 23 February 2010.</p> <p>Not supported – As per Council’s decision at its Ordinary Meeting held on 23 February 2010.</p>

Outdoor Living Area:	To be provided behind the street setback area.	Unit 1 – provided within the street setback area.	Supported – Not considered to have an undue impact on the amenity of the area as the open courtyard in the front setback area allows for surveillance of the street and continuity in the streetscape.
Building Height:	Maximum height of 7 metres to the top of the roof.	Maximum height proposed = 8.3 metres.	Supported – The proposed height variation exists in the highlight windows only. The vast majority of the dwelling is less than 7 metres across all elevations, which is demonstrated on the plans via a 7 metre height line.
Roof Forms:	The roof form shall be compatible with the existing streetscape.	Concealed roof proposed.	<p>The Residential Design Elements Policy states that: <i>'the Town recognises that in some residential areas there may be more opportunity for innovative design and architectural styles and, in these instances, the Town may consider alternative roof forms to a pitch roof style'</i>.</p> <p>In this instance, the proposal illustrates an innovative and contemporary design that is appropriate for the evolving Hammond Street streetscape.</p> <p>The application proposes variations to the Acceptable Development standards of the Residential Design Elements Policy; however, the proposal satisfies the Performance Criteria for each of these variations. The development is not considered to compromise the streetscape, but rather contribute to its emerging range of styles and built form.</p>
Street Walls and Fences:	Maximum height of solid portion of wall is 1.2 metres.	-North Maximum height of solid portion is 1.3 metres.	Not supported – In the event of an approval, a condition will be applied to be reduced to 1.2 metres.

	<p>Posts and piers are to have a maximum width of 355 millimetres.</p> <p>The portion of fence above 1.2 metres shall be 50 percent visually permeable.</p>	<p>“9a” Post width = 1.2 metres</p> <p>“9b” Post width = 550 millimetres</p> <p>Proposed gate to unit 2 is solid to a height of 1.7 metres.</p>	<p>Supported – The “9a” post is located on an angle to comply with visual truncations and, therefore, will not have an undue impact on the streetscape. The width of the “9b” post is also supported in order to contain a larger mail box.</p> <p>Not supported – In the event of an approval, a condition will be applied for fence to be a minimum of 50 percent visually permeable.</p>
Essential Facilities:	<p>An enclosed, lockable storage area, constructed in a design and material matching the dwelling, accessible from outside the dwelling, with a minimum dimension of 1.5 metres with an internal area of at least 4 square metres, for each grouped dwelling.</p>	<p>The proposed store room for unit 2 has a dimension of 1 metre and an aggregate area of 5.94 square metres.</p>	<p>Supported – As the total area of the store is greater than the required 4 square metres.</p>
Consultation Submissions			
Support	Nil.	Noted.	
Objections (5)	<ul style="list-style-type: none"> • Setbacks to western boundary. • Overshadowing. • Lack of car parking bays and congestion. 	<ul style="list-style-type: none"> • Not supported – Not considered to have an undue impact on the neighbouring property, as the elevation is considered to achieve the objectives of articulation as varying setbacks and materials have been proposed in this elevation. Furthermore, the proposed boundary wall is compliant with the requirements of the R Codes. • Not supported – The proposal is compliant with the overshadowing requirements of the R Codes. • Not supported – The proposal is compliant with the car parking requirements of the R Codes. 	
	<ul style="list-style-type: none"> • The land area does not support two dwellings. • Two-storey dwellings amongst single storey dwellings. 	<ul style="list-style-type: none"> • Supported – As per Council’s decision at its Ordinary Meeting held on 23 February 2010. • Not supported – The Town’s Residential Design Element’s Policy allows for a two-storey height limit. 	

	<ul style="list-style-type: none"> • Concealed roof design. • Street setbacks. • Building height. 	<ul style="list-style-type: none"> • Not supported – see comments above. • Not supported – see comments above. • Not supported – see comments above.
Other Implications		
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Results in other undersized lots being capable of being redeveloped.	
Financial/Budget Implications	Nil	
Sustainability Implications	Nil	

* The representative R Coding and density bonus calculations are provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

COMMENTS:

State Administrative Tribunal Act 2004

Section 31 states as follows:

“31. *Tribunal may invite decision-maker to reconsider*

- (1) *At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision-maker to reconsider the decision.*
- (2) *Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may –*
 - (a) *affirm the decision;*
 - (b) *vary the decision; or*
 - (c) *set aside the decision and substitute its new decision.*
- (3) *If the decision-maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.”*

Under Section 31 of the SAT Act 2004, the Town has been invited to determine the subject application; that is, to (a) affirm the decision; (b) vary the decision; or (c) set aside the decision and substitute its new decision. After the Ordinary Meeting of Council to be held on 11 May 2010, the Town’s Officers and the Applicant are to attend a further Directions Hearing at the SAT on 21 May 2010. If the Applicant is satisfied with the favourable determination made by the Council at its Ordinary Meeting scheduled to be held on 11 May 2010, the applicant will consider withdrawing their current Review application with the State Administrative Tribunal.

Previous Officer’s Comments

“Demolition

The subject place is a single storey timber and iron house in the Interwar Cottage style constructed circa 1925. The dwelling has a double room street frontage set underneath a hipped corrugated iron roof, with a gable frontage.

The Wise's Post Office Directories first document the subject place in 1926, with David Hannah as the first resident. Since then the subject dwelling has been transferred several times to new owners and occupiers.

A full heritage assessment was undertaken for No. 9 Hammond Street, West Perth in June 2009, which indicates that the place has little aesthetic, historic, scientific or social heritage significance. In accordance with the Town's Policy relating to Heritage Management – Assessment, the place does not meet the threshold for entry on the Town's Municipal Heritage Inventory.

Density and Minimum Site Area:

The zoning of the subject site and the surrounding area is Residential R80; however, the Town of Vincent Town Planning Scheme No. 1 states that multiple dwellings are not permitted in the Cleaver Precinct. The Town's Officers are currently in consultation with the community in respect of an amendment to remove this and other clauses affected by the restriction from the Scheme. In the event the amendment receives approval by the Minister for Planning, the subject site would be able to accommodate two multiple dwellings that would comply with the density requirements of the R Codes. It is considered that a grouped dwelling development will result in a better outcome for the street in terms of building bulk and scale, than a multiple dwelling development in this instance.

The total area of the lot is 324 square metres and divided evenly, would allow for 162 square metres per dwelling, which would comply with the requirements of the R Codes; however, an average site area of 180m² per dwelling is required also. The variation to the minimum site area for unit 1 exists mainly because of the pedestrian access way that leads to unit 2, that is for the exclusive use of unit 2 which results in a site area of 186 square metres for unit 2.

Open Space:

The proposed open space for the site is 40 percent for unit 1 and 42 percent for unit 2; approximately 12.5 square metres less than the required 45 percent for the entire site. This is not considered to have an undue impact on the surrounding area and the amenity of the residents as the proposal demonstrates significant compliance with the performance criteria for open space provision as stated in the R Codes. The R Codes suggest that a variation to open space can be considered if there is sufficient open space around buildings to complement the building, to allow attractive streetscapes and to suit the future needs of residents, having regard to the type and density of the dwelling. In this instance, the proposed open space complements the building, and allows for the continuation of an attractive streetscape, given the outdoor living area is located within the front setback and is much larger than the required 16 square metres for both dwellings. In addition, the site is within close proximity to several parks, including Beatty Park Reserve and Dorrien Gardens.”

Redevelopment

The Council at its Ordinary Meeting held on 23 February 2010 resolved to refuse the application for the demolition of the existing single house and the construction of two (2), two-storey grouped dwellings, contrary to the Officer Recommendation for approval. As the applicant has not provided amended plans that attempt to address the concerns of the Council and the reasons for refusal, the Town's Officers are not in a position to support the proposal, and have recommended refusal based on the Council's previous decision of refusal, determined at the it's Ordinary Meeting held on 23 February 2010.

In light of the applicant not providing any amendments to the previously refused plans, it is recommended that the Council refuse the application for the reasons stated in the Officer Recommendation.

9.1.2 No. 335 (Lots 10 and 11;D/P 2554) Oxford Street, Leederville - Proposed Partial Demolition of and Alterations and Additions to Existing Single House to Create Two (2) Multiple Dwellings, One (1) Grouped Dwelling and Associated Basement Car Parking

Ward:	North	Date:	3 May 2010
Precinct:	Leederville, P 3	File Ref:	PRO0050; 5.2010.85.1
Attachments:	001		
Reporting Officer:	R Narroo, Senior Planning Officer (Statutory)		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by J Spaseski on behalf of the owner V & J Spaseski for Proposed Partial Demolition of and Alterations and Additions to Existing Single House to Create Two (2) Multiple Dwellings, One (1) Grouped Dwelling and Associated Basement Car Parking, at No. 335 (Lots 10 and 11) Oxford Street, Leederville, and as shown on plans stamp-dated 29 April 2010 , subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Oxford Street;*
- (ii) *first obtaining the consent of owners of No. 333 and No. 337 Oxford Street, Leederville for entry onto their land, the owners of the subject land shall finish and maintain the surface of the retaining walls/boundary (parapet) walls facing No. 333 and No. 337 Oxford Street, Leederville, in a good and clean condition;*
- (iii) *any new street/front wall, fence and gate within the Oxford Street setback area, including along the side boundaries within this street setback area, shall comply with the Town's Policy provisions relating to Street Walls and Fences.*
- (iv) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:**

(a) **Screening**

The balconies to Units A and B on the ground and first floors, on the northern and southern elevations being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the respective finished floor level. A permanent obscure material does not include a self-adhesive material that is easily removed. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of Nos. 333 and 337 Oxford Street, Leederville, stating no objection to the respective proposed privacy encroachment.

All screens provided shall comply with the definition of the Residential Design Codes 2008.

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

(b) **Refuse and Recycling Management**

A Refuse and Recycling Management Plan shall be submitted and approved by the Town prior to commencement of any works. The Plan shall include details of refuse bin location, number of rubbish and recycling receptacles, vehicle access and manoeuvring.

Revised plans and details shall be submitted demonstrating a bin compound being provided in accordance with the Town's Health Services Specifications, Commercial:

General Waste: One (1) mobile garbage bin or equal to 240 litres per unit (collected weekly); and

Recycle Waste: One (1) mobile recycle bin or equal to 240 litres per unit (collected fortnightly);

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

(c) **Store**

A store with minimum dimension of 1.5 metres and minimum area of 4 square metres being provided for the existing building (grouped dwelling).

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

(d) **Construction Management Plan**

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

- 1. public safety, amenity and site security;*
- 2. contact details of essential site personnel;*
- 3. construction operating hours;*
- 4. noise control and vibration management;*
- 5. Dilapidation Reports of nearby properties;*
- 6. air and dust management;*
- 7. stormwater and sediment control;*
- 8. soil excavation method (if applicable);*
- 9. waste management and materials re-use;*
- 10. traffic and access management;*
- 11. parking arrangements for contractors and subcontractors;*
- 12. Consultation Plan with nearby properties; and*
- 13. any other matters deemed appropriate by the Town;*

(e) **Amalgamation of the Lot**

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);

(f) Transfer of Land Act – Section 70A

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 of the following:

1. *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; and*
2. *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the units. 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.*

This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;

(g) Heritage Management

An interpretative plaque or another appropriate form of interpretation medium that recognises the former use and history of the site, and is visible to the public along the Oxford Street frontage, shall be installed prior to the occupation of the development. The design and wording on the plaque or the interpretative medium shall be submitted;

(h) Landscape and Reticulation Plan

A detailed landscape and reticulation plan for the development site and adjoining road verge shall be submitted to the Town's Parks and Property Services Section for assessment and approval.

For the purpose of this condition, a detailed landscape and irrigation plan shall be drawn to a scale of 1:100 and show the following:

1. *the location and type of existing and proposed trees and plants;*
2. *all vegetation including lawns;*
3. *areas to be irrigated or reticulated;*
4. *proposed watering system to ensure the establishment of species and their survival during the hot and dry months; and*
5. *separate soft and hard landscaping plans (indicating details of plant species and materials to be used).*

The Council encourages landscaping methods and species selection which do not rely on reticulation.

All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s).

(v) **PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT, the following shall be completed to the satisfaction of the Town:**

- (a) *each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer.*

Moved Cr Topelberg, Seconded Cr Farrell

That the recommendation be adopted.

Debate ensued.

Cr Topelberg foreshadowed a Procedural Motion to DEFER the item, to clarify the objections received and consultation process.

MOTION PUT AND CARRIED (5-3)

For: Mayor Catania, Cr Buckels, Cr Farrell, Cr Lake, Cr Maier

Against: Cr Harvey, Cr McGrath, Cr Topelberg

(Cr Burns was on approved leave of absence.)

Due to Cr Topelberg foreshadowing a Motion to Defer the item during debate, the Presiding Member, Mayor Nick Catania requested the Item be recommitted.

PROCEDURAL MOTION

Moved Cr Farrell, Seconded Cr Topelberg

That Item 9.1.2 be recommitted.

PROCEDURAL MOTION PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

PROCEDURAL MOTION - COUNCIL DECISION ITEM 9.1.2

Moved Cr Topelberg, Seconded Cr Farrell

That the item be DEFERRED to allow for the Town's Officers to investigate the objections received during Public Question/Speaking Time and the extent of the consultation.

PROCEDURAL MOTION PUT AND CARRIED (5-3)

For: Cr Buckels, Cr Farrell, Cr Harvey, Cr McGrath, Cr Topelberg

Against: Mayor Catania, Cr Lake, Cr Maier

Landowner:	V & J Spaseski
Applicant:	J Spaseski
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R60
Existing Land Use:	Single House
Use Class:	Multiple Dwelling, Grouped Dwellings
Use Classification:	"P"
Lot Area:	Lot 10= 564 square metres; Lot 11= 124 square metres Total Area= 688 square metres
Access to Right of Way	Western side, 5 metres wide, sealed, Town owned

BACKGROUND:

- 14 September 2004 The Council at its Ordinary Meeting resolved to conditionally approve the partial demolition of and alterations and additions to existing office and incidental showroom, and additional four (4), three storey multiple dwellings and associated undercroft car parking, at No. 335 (Lots 10 and 11) Oxford Street, Leederville.
- 11 October 2005 The Council at its Ordinary Meeting resolved to conditionally approve change of use and partial demolition of and alterations and additions to existing office and incidental showroom to create two (2) two-storey multiple dwellings and construction of additional four (4) three-storey multiple dwellings and associated undercroft car parking at No. 335 (Lots 10 and 11) Oxford Street, Leederville.
- 13 March 2007 The Council at its Ordinary Meeting resolved to conditionally approve demolition of existing single house, and construction of mixed use development comprising one (1) grouped dwelling, two (2) single bedroom and eight (8) multiple bedroom, multiple dwellings, office building and associated basement car parking and associated facilities at Nos. 333 and 335 Oxford Street, Leederville.
- 8 April 2008 The Council at its Ordinary Meeting resolved to conditionally approve demolition of existing single house and construction of two-three storey mixed use development comprising one (1) office, two (2), two-storey multiple dwellings, two (2) single bedroom multiple dwellings and associated basement car parking at No. 333 Oxford Street, Leederville.
- 18 November 2008 The Council at its Ordinary Meeting resolved to conditionally approve demolition of and alterations and additions to existing single house to create four (4) multiple dwellings, one grouped dwelling and associated basement car parking.
- 6 February 2009 The Western Australian Planning Commission conditionally approved the amalgamation of Lots 10 and 11, Oxford Street, Leederville.
- 23 June 2009 The Council at its Ordinary Meeting resolved to conditionally approve additions to the existing single house to create one single-storey and one two-storey multiple dwelling.

DETAILS:

The proposal involves the partial demolition of, and alterations and additions to the existing single house, to create two multiple dwellings, one grouped dwelling and associated car parking.

This application is generally the same as the previous application conditionally approved by the Council at its Ordinary Meeting held on 18 November 2008, with the exception of the following:

- Previously 4 multiple dwellings were approved, whereas this application is proposing two multiple dwellings; and
- New alterations and additions to the existing single house.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	4 multiple dwellings or one grouped dwelling and 3 multiple dwellings (R60)	2 multiple dwellings and one grouped dwelling (R 43)	Noted.
Plot Ratio	Multiple Dwellings-0.7 (481.6 square metres)	Multiple Dwellings-1 (688 square metres)	Supported- The proposal conserves the existing building (single house). Plot ratio variations were approved by the Council at its Ordinary Meetings held on 14 September 2004 (0.73) and 11 October 2005 (1.18).
Building Setbacks:			
Multiple Dwellings:			
<u>Basement</u>			
North	1.5 metres	Nil	Supported- The building on the adjoining northern property is setback only 0.4 metre to the boundary. It is considered that no unreasonable undue impact will result in respect of ventilation and overshadowing on the northern property.
South	1.5 metres	Nil	Supported- A three storey development with nil setback was approved on the adjoining southern property. It is considered that no unreasonable undue impact will result in respect of visual impact and ventilation on the adjoining property. No objection was received from the neighbours.

West	1.5 metres	0.5 metre	Supported- It is considered that the variation will not have any undue impact as the wall will face the right of way. Moreover, the existing building on No. 337 Oxford Street has a nil setback with the right of way and the development approved for No. 333 Oxford Street, was approved at 0.5 metre from the right of way; therefore, the variation will not unduly impact on the streetscape.
<u>Ground Floor</u>			
North	5.1metres	Nil to 1.2 metres	Supported- As above.
South	3.7 metres	Nil to 1.2 metres	Supported- As above.
West	2 metres	0.5 metre	Supported- As above.
<u>First Floor</u>			
North and South	5.1 metres	Nil to 1.2 metres	Supported- As above.
West	Balcony= 2.5 metres	0.5 metre	Supported- As above.
Existing Grouped Dwelling			
<u>First Floor</u>			
Front East	A minimum of two metres behind each portion of the ground floor setback	Nil	Supported- No impact on the streetscape and no objections from the surrounding neighbours.
South	1.3 metres	1 metre	Supported- No undue impact on the adjoining neighbour. No objection was received and in this instance, the variation is supported.

Boundary Wall	Average Height= 3 metres Maximum Height= 3.5 metres Boundary wall on one side boundary only	North Average Height= 5.85 metres Maximum Height= 8.3 metres South Average Height= 5.45 metres Maximum Height= 8.4 metres Boundary walls on both sides of boundaries	Supported- A three storey development with nil setbacks was approved on the adjoining southern property. It is considered that no unreasonable impact will result in respect of visual impact and ventilation on the southern adjoining property. With regard to the northern property, no unreasonable impact will result in respect of ventilation and overshadowing on the adjoining site. No objection was received from the adjoining neighbours relating to the boundary walls.
Overshadowing	50 per cent= 282.5 square metres	71 per cent= 401square metres	Supported- A three storey development was approved by the Council on the adjoining lot at No. 333 Oxford Street. Accordingly, in the event the development goes ahead, the overshadowing will not have an undue impact. Moreover, given the adjoining southern site is a narrow east-west oriented site and of a similar topography to the subject site, and the southern site slopes steeply; in such a case, even a relatively low building may cast overshadowing over a greater proportion of a site. No objection was received from the adjoining southern neighbour.
Number of Storeys	A general height limit of two storeys	Two storeys plus basement. Building is two storeys from Oxford Street; however, effectively three storeys (including basement) from the rear right of way.	Supported- A building approved for No. 333 Oxford Street and an existing building to the north of the development at No. 337 Oxford Street is of three storeys of similar height and bulk. No objections from adjoining neighbours relating to the number of storeys.

<p>Building Height</p>	<p>Multiple Dwellings</p> <p>Maximum Pitched Roof Height= 9 metres</p> <p>Wall Height= 7 metres</p> <p>Existing Dwelling</p> <p>Feature Wall= 7 metres</p>	<p>10.2 metres</p> <p>8.4 metres</p> <p>8.9 metres</p>	<p>Supported- The proposed pitched roof height of the multiple dwellings at the rear will be less than the height of the front existing building as shown on the northern and southern elevations. Moreover, given the steep slope of the land it is difficult to comply with the required height. No objections received from the adjoining neighbours relating to the height.</p> <p>Supported- It is considered that no unreasonable undue impact in respect of visual amenity on the surrounding area.</p>
<p>Open Space</p>	<p>Grouped Dwelling=45 per cent</p> <p>Multiple Dwelling=50 per cent</p>	<p>Overall open space= 47 per cent</p>	<p>Supported- As previously determined at the OMC held on 11 October 2005, a variation of 39 per cent was supported.</p>
<p>Privacy Setbacks</p>	<p>Balcony and the like= 7.5 metres</p>	<p>Balconies to Multiple Dwellings (ground and first floors)= 1.2 metres to north and south boundaries</p>	<p>Not supported- Privacy screen is required.</p>
<p>Store</p>	<p>Minimum dimension= 1.5 metres</p> <p>Minimum Area= 4 square metres</p>	<p>Not provided for the proposed grouped dwelling (existing building)</p>	<p>Not supported- A store is required to be provided.</p>
<p>Pedestrian Access/ Service Corridor</p>	<p>Minimum width of 1.5 metres</p>	<p>1 metre</p>	<p>Supported- Given it is an existing building, the Town's Technical Services support the 1 metre width.</p>
<p>Consultation Submissions</p>			
<p>Support(3)</p>	<p>Nil</p> <p><i>"No objections in principle, except for the use of street parking throughout the construction phase."</i></p>		<p>Noted- The applicant is required to submit a Construction Management Plan at Building Licence stage, which requires matters of parking and traffic to be addressed.</p>
<p>Objection</p>	<p>Nil</p>		<p>Noted.</p>

Other Implications	
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications	Nil
Sustainability Implications	Nil
Financial/Budget Implications	Nil

* The representative R Coding and density bonus calculations are provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

COMMENTS:

A similar type of development was approved for the subject site and adjoining lot at No. 333 Oxford Street, Leederville. It is considered that this proposed development will be consistent with the evolving character of Oxford Street and the surrounding area.

The Council has previously approved variations to density and plot ratio for the subject site because the development retains the former RSL building. This proposal still conserves the former RSL building and the variations in the "Assessment Table" are supportable.

The application is considered generally acceptable and would not result in any undue impact on the amenity of the surrounding area. The application is therefore supported, subject to standard and appropriate conditions to address the above matters.

9.1.3 No. 484 (Lot 51; D/P 29193) Beaufort Street, Highgate – Application for a Liquor Control Act Section 40 Certificate for “100 percent Liquor Without a Meal Permit”

Ward:	South	Date:	4 May 2010
Precinct:	Mount Lawley Centre; P11	File Ref:	PRO1151; 5.2004.2152.1
Attachments:	-		
Reporting Officer:	D Pirone, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *APPROVES the issue of a Liquor Control Act Section 40 Certificate for a “100 percent Liquor Without a Meal Permit” to the premises known as “Veritas Restaurant & Espresso Bar” at No. 484 (Lot 51; D/P 29193) Beaufort Street, Highgate; and*
- (ii) *NOTES that a report will be submitted to the Council detailing the recent amendments to the Liquor Control Act 1988.*

COUNCIL DECISION ITEM 9.1.3

Moved Cr Farrell, Seconded Cr Lake

That the recommendation be adopted.

MOTION PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

ADDITIONAL INFORMATION:

It has come to the attention of the Town’s Officers that an error has been made in the Agenda Report for Item 9.1.3. The ‘Background’ information indicates that on 9 March 2010, the Chief Executive Officer issued a Section 40 Certificate in accordance with the previous requirements, which allowed for only 20 percent of the patrons to consume liquor without a meal. A Section 40 for 20 percent of the patrons to consume liquor was actually issued on 11 December 2006 (prior to the new liquor reforms coming into effect). Due to the new liquor reforms implemented on 7 May 2007, on 14 February 2010, the applicant applied to the Town for a Section 40 for a 100 percent Liquor Without a Meal Permit. The Town issued a Section 40 on 9 March 2010; however, because the Section 40 did not specifically state for “100 percent Liquor Without a Meal”, the Department of Racing, Gaming and Liquor were unable to issue the Licence.

PURPOSE OF REPORT:

The purpose of this report is to advise the Council that the Town has received an application for the issue of a Section 40 Certificate for a “100 percent Liquor Without a Meal Permit”.

BACKGROUND:

- 27 April 2004 The Council at its Ordinary Meeting conditionally approved an application for change of use from shop to eating house at No. 484 Beaufort Street, Highgate.
- 9 March 2010 The Chief Executive Officer issued a Section 40 Certificate in accordance with the previous requirements, which allowed for only 20 percent of the patrons to consume liquor without a meal.

DETAILS:

In 2006, the State Government initiated the most significant package of reforms to liquor licensing in more than 100 years.

The reforms focus on providing more choice for consumers, but not necessarily more licensed venues; promoting greater levels of innovation within the liquor and hospitality industries; providing opportunity to the small business sector; assisting the tourism sector cater for thousands of visitors to Western Australia; focussing on and promoting harm minimisation principles; and creating a safer liquor environment.

Some of these reforms included:

- Sunday trading for metropolitan liquor stores;
- Small bar licence; and
- Liquor without a meal permit.

An important aspect of the key reforms allows restaurant licensees to apply to serve liquor without a meal to 100 percent of their patrons. This is a significant shift from the constraints of the previous permit, which only allowed licensees to serve liquor without a meal to 20 percent of their customers.

The Liquor Without a Meal Permit allows a restaurateur to supply liquor without a meal to 100 percent of their customers, subject to a list of strict conditions. These include, but are not limited to, the following:

- The restaurant must always be set up and presented for dining;
- Tables can not be removed or shifted in order to create dance floors;
- The kitchen must be open and operating at all times liquor is available and the restaurant's regular full menu must be available at all times;
- Liquor may only be consumed by patrons seated at a dining table;
- Table service only by restaurant staff, no bar service; and
- The venue can not be advertised as anything but a restaurant.

This permit basically allows more choice for consumers, in that they can enter the restaurant, and, for example, have a glass of wine without a meal, without having to go to a loud and busy tavern.

It is noted that the intent of this permit is not to create a bar or tavern atmosphere, but to provide restaurateurs and patrons with more choice in licensed venues.

CONSULTATION/ADVERTISING:

No advertising is required by the Town of Vincent as a "*Liquor Without a Meal Permit*" is an extension of a restaurant liquor licence application and falls with the approved use of the site for an eating house.

"*Liquor Without a Meal Permits*" are subject to a public interest test, which is completed by the applicant as a part of the application to the Department of Racing, Gaming and Liquor.

LEGAL/POLICY:

Liquor Control Act 1988.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The purpose of this report is to ensure that the Council are aware of the changes made in the Liquor Reforms and to obtain the Council's approval for the Chief Executive Officer to issue a Section 40 Certificate for a "*100 percent Liquor Without a Meal Permit*", for the subject site, given the Council has issued Planning Approval for a Change of Use from Shop to Eating House at its Ordinary Meeting held on 27 April 2004.

In light of the recent amendments to the Liquor Control Act, in relation to "*100 percent Liquor Without a Meal Permits*", a report will be submitted to the Council at its second meeting scheduled for May 2010. The report will consider aspects relating to the impact of the amendments to Local Authorities, and a draft policy/practice to be referred to by the Town's Officers when considering these requests.

9.1.5 No. 52 (Lot 3; STR 28487) Forrest Street, Mount Lawley- Proposed Home Occupation (Hairdresser) (Application for Retrospective Approval)

Ward:	South	Date:	4 May 2010
Precinct:	Norfolk Precinct; P10	File Ref:	PRO4788; 5.2010.27.2
Attachments:	001;002		
Reporting Officer:	A Dyson, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES the application submitted by Peter D Webb & Associates on behalf of the owner J & L Muia for proposed Home Occupation (Hairdresser) (Application for Retrospective Approval), at No. 52 (Lot 3; STR: 28487) Forrest Street, Mount Lawley, and as shown on plans stamped 25 January 2010, for the following reasons:*
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
 - (b) *the development does not comply with the Town's home occupation requirements as outlined in the Town's Policy No. 3.5.1 relating to Minor Nature Development, specifically:*
 - (1) *the hairdressing salon will attract customers on a regular and frequent basis to the dwelling;*
 - (2) *the hairdressing salon will result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling; and*
 - (3) *the presence of non-compliant parking bays at the front of the converted carport within the property boundary;*
 - (c) *approval of the proposed development would create an undesirable precedent for other similar developments to encroach into Residential areas;*
 - (d) *the non compliance with the objectives of the Town's Economic Development Strategy; and*
 - (e) *consideration of the objections received;*
- (ii) *ADVISES the applicant that;*
- (a) *the bathroom, laundry and salon shall be removed and the carport reinstated as per the City of Perth Planning Approval dated 26 April 1994. These works shall be completed within twenty-eight (28) days of the issue date of the refusal notification; OR*

- (b) *within twenty days (28) days of the issue date of the refusal notification, a Building Approval Certificate Application, structural details certified by a Practising Structural Engineer, including plans and specifications of the subject unauthorised works (enclosure of the carport), shall be submitted to and approved by the Town of Vincent Building Services as required under section 374 AA of the Local Government (Miscellaneous Provisions) Act 1960, and Regulation 11A of the Building Regulations 1989. The plans are to document the provision of two car parking bays, which are compliant with AS2890.1; and*
- (iii) *AUTHORISES the Chief Executive Officer to proceed with legal proceedings should the above options not be complied with, within this twenty-eight (28) day period.*

The Presiding Member, Mayor Catania advised the Council that the Applicant had submitted a letter, advising that he was unable to attend the meeting and requesting the item be Deferred.

COUNCIL DECISION ITEM 9.1.5

Moved Cr McGrath, **Seconded** Cr Lake

That the item be DEFERRED at the request of the applicant.

**MOTION PUT AND CARRIED ON THE
CASTING VOTE OF THE PRESIDING MEMBER (5-4)**

For: Presiding Member, Mayor Nick Catania (two votes – deliberative and casting vote), Cr Buckels, Cr Lake, Cr McGrath

Against: Cr Farrell, Cr Harvey, Cr Maier, Cr Topelberg

(Cr Burns was on approved leave of absence.)

Landowner:	J & L Muia
Applicant:	Peter D Webb & Associates
Zoning:	Metropolitan Region Scheme: (MRS) Town Planning Scheme No. 1 (TPS 1): Residential R40
Existing Land Use:	Grouped Dwelling
Use Class:	Home Occupation
Use Classification:	"P"
Lot Area:	1012 square metres
Access to Right of Way	N/A

BACKGROUND:

26 April 1994 The City of Perth granted approval for the construction of two grouped dwellings to the rear of the existing dwelling.

8 September 2009 The Council at its Ordinary Meeting resolved to refuse an application for proposed Home Occupation (Hairdresser) (Application for Retrospective Approval) for the following reasons:

“(a) *the development will unduly adversely affect the orderly and proper planning and the preservation of the amenities of the locality;*

- (b) *does not comply with the Town's Home Occupation requirements as outlined in the Town's Policy No. 3.5.1 relating to Minor Nature Development, specifically:*
 - (1) *the hairdresser salon will attract customers on a regular and frequent basis to the dwelling;*
 - (2) *the hairdresser salon will result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling;*
 - (3) *the hairdressing salon will occupy an area greater than 20 square metres;*
- (c) *approval of the proposed development would create an undesirable precedent for other similar developments encroaching into established residential areas; and*
- (d) *consideration of the objections received."*

15 December 2009

The Council at its Ordinary Meeting resolved to refuse an application for proposed Home Occupation (Hairdresser) (Application for Retrospective Approval) for the following reasons:

- "(a) the development will unduly adversely affect the orderly and proper planning and the preservation of the amenities of the locality;*
- (b) *does not comply with the Town's Home Occupation requirements as outlined in the Town's Policy No. 3.5.1 relating to Minor Nature Development, specifically:*
 - (1) *the hairdresser salon will attract customers on a regular and frequent basis to the dwelling;*
 - (2) *the hairdresser salon will result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling;*
 - (3) *the hairdressing salon will occupy an area greater than 20 square metres;*
- (c) *approval of the proposed development would create an undesirable precedent for other similar developments encroaching into established residential areas; and*
- (d) *consideration of the objections received.*

Advises the applicant that:

- (a) *the bathroom, laundry and salon shall be removed and the carport reinstated as per the City of Perth Planning Approval dated 26 April 1994. These works shall be completed within twenty-eight (28) days of the issue date of the refusal notification; OR*

- (b) *within twenty eight (28) days of the issue date of the refusal notification, a Building Approval Certificate Application, structural details certified by a Practising Structural Engineer, including plans and specifications of the subject unauthorised works (enclosure of the carport), shall be submitted to and approved by Town of Vincent Building Services as required under section 374 AA of the Local Government (Miscellaneous Provisions) Act 1960, and Regulation 11A of the Building Regulations 1989. The plans are to document the provision of two car parking bays, which are compliant with AS2890.1; and*
- (iii) *Authorises the Chief Executive Officer to proceed with legal proceedings should the above options not be complied with this twenty-eight (28) day period.”*

DETAILS:

The proposal is for reconsideration of the Council’s decision made at its Ordinary Meeting held on 15 December 2009, for a proposed Home Occupation (Hairdresser) (Application for Retrospective Approval).

Following the Ordinary Meeting of Council held on 15 December 2009, the applicant has reapplied for the Home Occupation use and engaged the services of a Planning Consultant (Peter Webb & Associates) to submit amended plans and justification for the proposal on their behalf.

The applicant has provided the following information and justification for the proposed use:

“This application seeks approval for a Home (hairdressing) Occupation from a converted carport on the subject property. Planning approval is retrospectively sought for this Home Occupation, pursuant to Clause 34 of TPS 1. On site parking is accommodated on the brick paved driveway in front of the enclosed carport. The driveway is a sufficient width for two vehicles to be parked side by side within the property boundaries. The driveway has an approximate length of 6.0 metres (measured from the carport to the driveway gates) and a width of 5.5m. One (1) hairdresser works from the Home Occupation, being the resident and owner of the subject property. No staff are employed. The owner (Mrs Muia) operates the hairdressing service from Wednesday to Saturday (inclusive) generally (but not consistently) between the hours of 10:00am and 4:00pm.

The hairdressing appointments are scheduled and appropriately spaced during the stated hours of operation to ensure that only one client is present at the business at any given time. (Occasionally, members of the owners’ family may have their hair done outside of these hours, but these are non paying ‘clients’ and therefore don’t (and can’t) be considered as part of the Home Occupation business.

In the previous application lodged, the assessments undertaken by the Town raised concern regarding the extent and scale of the business. This concern appears to be largely due to the fit-out of the converted carport, which suggests to a larger scale hairdressing option being undertaken, than what is proposed.

In this regard the applicant advises that the resident in the past operated a successful hairdressing salon from a shop located at 5/400 Fitzgerald Street, North Perth. This salon has now closed. The fittings from the salon including the chairs and wash basins were all owned by the resident of this property. These fittings have simply been installed in the converted carport. Only a single station will be used at one time. The applicant simply wanted to retain this furniture and had room to install all into the converted carport.

Notwithstanding this, rather than the Town speculating about the scale of this operation, it is considered to be a far more reasonable and justified approach of the Town to impose a condition on the retrospective use approval to restrict the home occupation to one hairdresser being permitted to operate a single client at any one time."

The applicant has further argued that the proposal meets the Home Occupation requirements and will not detrimentally affect the existing character of the area. To further illustrate this, the applicant has outlined and responded to each point of the Home Occupation requirements and justified how each point is satisfied.

On 15 April 2010, the applicant, in response to the objections received during the Community Consultation, has noted the following:

- *"The area used for the Home Occupation (hairdressing service) is 19m². The two rooms at the rear of the converted garage are not associated with the Home Occupation Use. The storeroom and the shower room are for the private use of the residents, as noted on the floor plan submitted with the application.*
- *There are two wash basins and two chairs provided.*
- *Only one hairdresser (the landowner) works from the Home Occupation.*
- *There is adequate area for two required car bays on the property. Both of the residents park their vehicles on the brick paved driveway within the property boundaries. The paved verge is for visitors to the property (as is the case for visitors to the property).*
- *The Home Occupation operates outside of peak traffic times, from Wednesday to Saturday between the hours of 10am to 4pm. The only people leaving the premises outside of these hours are visitors or family members of the residents of the dwelling.*
- *The two residents comfortably park their vehicles on the brick paved driveway of the residence within the property boundaries. The Home Occupation on average attracts one vehicle at any one time which can more than comfortably be parked on the verge for the short time within which the visiting client will be present at the home. Alternatively, visiting clients are able to park on the property if one of the owner's is away, or is parked on the verge, themselves."*

The applicant's full submission is "*Laid on the Table and as attachment 002*".

The applicant has also stated the presence of a number of commercial activities within the residential zone. These include a hairdresser operating in Forrest Street, a child care centre located in Forrest Street, Deering MJ Travel Consultants in Forrest Street, and a Marriage Counselling Service in Hyde Street.

A site inspection of the property was undertaken in May 2010 with the following points noted:

- One chair available in the Salon for use by clients;
- One wash basin available with one wash basin not in service; and
- One small car parked within the property with the entry gates open.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Minor Nature Development Policy No. 3.5.1 (xvii) Home Occupations	Does not attract customers or regular and frequent deliveries of goods or equipment to the site.	Proposed Hours of Operation: Wednesday to Saturday- 10am – 4pm	Not Supported – The proposal would attract customers on an hourly basis during the proposed hours of operation.

	Does not entail the retail sale, display or hire of goods of any nature.	The provision of (hairdressing) services (1 hairdresser proposed at any time)	Not Supported – The TOV Town Planning Scheme No. 1 defines ‘retail’ as the sale or hire of products, goods and services to the public generally. The provision of hairdressing is essentially a service which is not considered appropriate for this residential area and does not meet the intent of a Home Occupation.
	Will not result in the requirement for a greater number of parking facilities.	2 car bays provided on-site in front of converted carport.	Not Supported – This site accommodates 2 non compliant car bays (Technical Services has stipulated that these must comply with the Australian Standards). Clients would be required to utilise on-street car parking, which would restrict visitor car parking for the other two dwellings on the lot.
Building Setback	Eastern Boundary Wall (Retrospective)	Carport bricked in at eastern boundary.	Supported – The enclosure of the carport and the structure itself is not considered to impact on the adjoining property owner by virtue of restricting light or ventilation.

Consultation Submissions

Support (0)		Noted.
Objection (4)	<ul style="list-style-type: none"> Issues with correct size of the premises- and whether the 2 rooms to the rear are included in the area used. 	Not Supported - The two rooms are not included in the calculation of area of the Home Occupation. The applicant has stated in their submission that the owners are willing, as part of any approval, to remove any access into the storage areas to ensure compliance. A condition would be imposed in the event of approval.

	<ul style="list-style-type: none"> • Number of Work Stations and wash basins proposed. • Whether the applicant received Approval for bathroom/laundry and salon. • How many persons employed on-site – Owner + employee? • Availability of Parking Space on-site and whether there is adequate area to site car bays within the property. • Hours of Operation- 24 hours per week from 10am – 4pm and issues with people leaving after these allocated times. • Parking- Lack of on-site parking forces owners and clients to park on street. 	<p>Not Supported – Two wash basins and two chairs are proposed. The applicant has stated they are willing, as a condition of approval, for one hairdresser to operate with one client, at any one time. Therefore, a condition would be imposed in the event of approval.</p> <p>Supported - The application is for a Retrospective Approval of a (Hairdressing) Home Occupation, and therefore no approval has been granted for the use.</p> <p>Not Supported - The applicant has stated that only one employee works on the premises. Where that employee is not available, another owner can takeover if required.</p> <p>Supported – The proposed parking does not comply with the Australian Standards for Parking, with the requirement for two compliant bays being available in front of the converted carport.</p> <p>Noted. In the event that the use is approved, should the Town receive a complaint, that the applicant is not complying with the conditions of Planning Approval, the Town can take legal action under the Planning and Development Act 2005.</p> <p>Supported – Non-compliance with on-site car parking can result in visitors to the site using on-street parking.</p>
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	<ul style="list-style-type: none"> Traffic disruption on-site and in area. Issues with the provision of Hairdressing services in a Residential Area attracting additional patronage to area and operating more like a Commercial business. 	<p>Supported – The lack of on-site parking, together with clients coming to the premises will marginally increase the numbers of cars in the area.</p> <p>Supported – The Town’s Economic Development Strategy 2005- 2010 discourages commercial type uses in Residential areas.</p>
Other Implications		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Sustainability Implications		Nil
Financial/Budget Implications		Nil

* The representative R Coding and density bonus calculations are provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

* The plot ratio calculation is provided in accordance with the Notice of Motion (Item 11.1) resolved at the Ordinary Meeting of Council held on 23 March 2004.

COMMENTS:

Retrospective Works

As previously noted in the agenda report to the Ordinary Meeting of Council held on the 15 December 2009, the structure whereby the Home Occupation is proposed, is located in an enclosed former carport.

The applicants have enclosed the former carport to create an area for a hairdressing salon, which includes a bathroom, a laundry, work stations and two hair wash basins. A search of the City of Perth and Town of Vincent Building Licence archives was previously undertaken which revealed that no Planning Approval or Building Licence, had been issued for the works, to enclose the carport, or for the internal salon fit-out. The enclosure of the carport to create the Hair dressing salon has resulted in there being no car parking bays on- site, which comply with AS2890.1.

In addition, Building Services have identified that in the event that the application is approved, a Form 8 Retrospective Building Approval would be required to ensure that the works were undertaken in accordance with the Building Code of Australia.

Home Occupation

The intent of Home Occupations, as per the Town’s Policy, is to seek a balance between a normal Residential precinct that is quiet, attractive and aesthetically pleasing, whilst giving owners the opportunity to undertake small non-intrusive uses within their properties. However when the scale of a business does not achieve this balance, and becomes more of a commercial entity, it does not meet the intent of the Policy.

As has been previously discussed in the Assessment Table, the subject development proposes significant variations to the Town’s Home Occupation requirements as outlined in the Town’s Policy 3.5.1 relating to Minor Nature Development. The regular attendance of clients to the site and the associated non-compliance with the Parking requirements for the proposal is not considered appropriate for a residential area.

In light of the above, it is recommended that the application be refused, as per the Officer Recommendation.

9.1.6 Car Parking Strategy Implementation Plan 2010 - 2018

Ward:	Both Wards	Date:	3 May 2010
Precinct:	All Precincts	File Ref:	PLA0084 & LEG0047
Attachments:	001 002 003 004 005 006 007 008		
Reporting Officer:	T Woodhouse, Co-ordinator Strategic Planning J MacLean, Manager Ranger and Community Safety Services		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report relating to the Car Parking Strategy Implementation Plan 2010 - 2018;*
- (ii) *ADOPTS the Car Parking Strategy Implementation Plan 2010 - 2018, as shown in Attachment 001 as a key guiding document to action the recommendations within the Car Parking Strategy 2010 and the associated Precinct Parking Management Plans and to inform budgetary considerations as they relate to the actions within the Car Parking Strategy Implementation Plan 2010 - 2018;*
- (iii) *NOTES the indicative pricing provided by Luxmoore Parking Consultants on 30 April 2010, for assisting in the Car Parking Strategy Implementation Plan 2010 - 2018 as follows:*
 - (a) *Undertaking updated surveys of parking demand in key high activity areas (\$20,000);*
 - (b) *Assisting in the preparation and assessment of tender documentation for the supply, installation and maintenance of the proposed new ticketing machines (\$17,000);*
 - (c) *Preparation of a “Way Finding” Package including concept design, detailed graphics schedule and a signage style manual for manufacturers (\$50,000); and*
 - (d) *On-going professional advice as required by the Town during the 2010 - 2011 Budget period (\$290 per hour); and*
- (iv) *NOTES that the Town's Officers will prepare a Car Parking Publicity Strategy to guide the implementation of the key actions of the Car Parking Strategy Implementation Plan 2010 - 2018 including, but not limited to:*
 - (a) *The installation of new ticketing machines; and*
 - (b) *Amendments to the Town's existing car parking regimes and car parking fee structures;*
- (v) *RECEIVES the five (5) x maps illustrating; the existing areas of parking restrictions; the existing location of ticketing machines; and the proposed location of new ticketing machines, as shown in the Appendix of this report;*

- (vi) *APPROVES BY AN ABSOLUTE MAJORITY an amendment to the Parking and Parking Facilities Local Law (2007), to include the areas, specified in the Town of Vincent Car Parking Strategy 2010 and associated Precinct Parking Management Plans, as paid parking areas as follows;*

Under the powers conferred by the Local Government Act 1995 and all other powers enabling it, the Council of the Town of Vincent resolve on 2010 to make the Parking and Parking Facilities Amendment Local Law No. 1, (2010).

**“LOCAL GOVERNMENT ACT 1995 (as amended)
TOWN OF VINCENT PARKING AND PARKING FACILITIES LOCAL LAW
AMENDMENT LOCAL LAW NO. 1, 2010**

AMENDS the Town of Vincent Parking and Parking Facilities Local Law (2007) as follows:

- (a) *The existing Schedule 6 be deleted and replaced by Schedule 6, as shown at Attachment 002, to this report; and*
- (b) *The existing Schedule 7 be deleted and replaced by Schedule 7, as shown at Attachment 003, to this report;”*
- (vii) *in accordance with the provisions of Section 3.12 of the Local Government Act 1995, the Council gives a Statewide advertisement for a period of six (6) weeks, indicating where and when the proposed amendment may be viewed and seeking public comment on the proposed amendments to the Town of Vincent Parking Facilities Local Law (2007); and*
- (viii) *NOTES that a further report will be submitted to the Council after the expiry of the statutory consultation period.*

COUNCIL DECISION ITEM 9.1.6

Moved Cr Topelberg, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

Cr Topelberg departed the Chamber at 7.55pm.

Debate ensued.

Cr Topelberg returned to the Chamber at 7.57pm.

Debate ensued.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Cr McGrath

That the item be DEFERRED for the Town’s Officers to submit a further report to the Council at the Ordinary Meeting of Council to be held 25 May 2010 outlining timelines by ‘financial quarter’ for all “High Priority” 2010-2012 items.

PROCEDURAL MOTION PUT AND CARRIED (6-2)

For: Cr Buckels, Cr Harvey, Cr Lake, Cr McGrath, Cr Maier, Cr Topelberg

Against: Mayor Catania, Cr Farrell

(Cr Burns was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to present to the Council, the proposed Car Parking Strategy Implementation Plan 2010 - 2018, for endorsement as a key guiding document to action the recommendations within the Town's Car Parking Strategy 2010 and associated Precinct Parking Management Plans, in the short term (2010-2012), medium term (2013 - 2017) and long term (2018+) and to obtain the Council's approval on the proposed amendments to the Parking and Parking Facilities Local Law (2007), to include the areas, specified in the Town of Vincent Car Parking Strategy 2010 and associated Precinct Parking Management Plans as "paid parking areas."

BACKGROUND:

At the Ordinary Meeting of the Council held on 9 March 2010, the Council considered a report relating to the Town's Car Parking Strategy 2010 and associated Precinct Parking Management Plans. At this meeting, the Council resolved as follows:

"That the Council;

- (i) RECEIVES the report relating to the review of the Town's Car Parking Strategy 2010 and preparation of associated Precinct Parking Management Plans 2010 (PPMPs);*
- (ii) CONSIDERS the nine (9) written submissions in relation to the Draft Car Parking Strategy 2010 received by the Town during the Community Consultation Period, as shown in Attachment 001;*
- (iii) ADOPTS the Draft Car Parking Strategy 2010 and associated Precinct Parking Management Plans 2010 and their respective recommendations as shown in Attachment 002 and Attachment 003 respectively, as key guiding documents in the approach to parking management in the Town;*
- (iv) RECEIVES the:*
 - (a) High Density Residential Parking Survey 2010, as shown in Attachment 004;*
 - (b) Draft Parking Survey Report 2010, as shown in Attachment 005, as a working document to be amended on a regular basis; and*
 - (c) report dated 10 September 2009 submitted by Luxmoore Parking Consultants on the replacement program for all existing ticket machines and the identification of the most suitable machines for installation, as shown in Attachment 006.*
- (v) LISTS for consideration in the DRAFT 2010-2011 Budget appropriate resources to implement a selection of "high priority" recommendations outlined in the Draft Car Parking Strategy 2010 and associated Precinct Parking Management Plans 2010, including:*
 - (a) installation of new ticketing machines as outlined in Appendix C of the Precinct Parking Management Plans (\$1,728,000);*
 - (b) undertake surveys of current parking ratios to inform review of the Town's Policy No. 3.7.1 relating to Parking and Access (\$25,000);*

- (c) *replacement of existing ticket parking machines with new technology (\$126,000); and*
- (d) *preparation of Wayfinding Signage Strategy and installation of new Wayfinding Signage (\$40,000); and*
- (e) *preparation and distribution of promotional material to educate the need for and benefits of managing parking demand (\$5,000);*
- (vi) *AUTHORISES the Chief Executive Officer to prepare an Implementation Plan comprising; Short term recommendations (2010 to 2012), Medium term recommendations (2013 - 2017) and long term recommendations (2018+), outlined within the Draft Car Parking Strategy 2010 and associated Precinct Parking Management Plans 2010, to be reported to the Council by no later than 27 April 2010;*
- (vii) *REQUESTS that the Implementation Plan referred to in clause (vi) above, include alternative models for financing the new ticket machines referred to in clause (v) (a), including finance arrangements whereby the cost of the machine can be amortised over several years and paid for from future income earned by the machines; and*
- (viii) *REQUESTS that the Implementation Plan referred to in clause (vi) include any required staff increases, and reports on the feasibility of introducing dedicated parking inspectors to enforce parking rules."*

DETAILS:

To address clauses (vi), (vii) and (viii) above, a Car Parking Strategy Implementation Plan 2010 - 2018 has been prepared. It is intended that the Car Parking Strategy Implementation Plan 2010 - 2018 is used as a key guiding document to ensure that the recommendations within the Car Parking Strategy 2010, and associated Precinct Parking Management Plans adopted by the Council, at its Ordinary Meeting held on 9 March 2010, are implemented in an effective and timely manner. The Car Parking Strategy Implementation Plan 2010 - 2018 will also assist in planning for appropriate budgetary requirements for each of the actions listed.

1. Structure of Car Parking Strategy Implementation Plan 2010 - 2018

The Car Parking Strategy Implementation Plan 2010 - 2018 has been prepared largely in line with the format of the consolidated recommendations within the Precinct Parking Management Plans and has been divided into short term (2010 - 2012), medium term (2013 - 2017) and long term (2018+) priorities. Essentially, the recommendations within the Car Parking Strategy 2010 and associated Precinct Parking Management Plans have been consolidated into the Car Parking Strategy Implementation Plan 2010 - 2018. The recommendations have been amended where required and condensed to comply with the Town's operating framework. The columns comprise the Action to be taken, the reference section from the Precinct Parking Management Plans and/or the Car Parking Strategy 2010, the Responsible Officer, approximate costs and completion date.

2. Content of Car Parking Strategy Implementation Plan 2010 - 2018

Short Term Priorities (2010 - 2012)

The items listed within this section are anticipated to be commenced in the 2010/2011 and 2011/2012 financial years respectively. The items have been separated into administrative and operational items for ease of reference below.

The key administrative items relate to:

- Updating the Town's Policy No. 3.7.1 relating to Parking and Access and associated research;
- Preparation of a Way Finding Strategy;
- Increasing public access to promotional material relating to car parking at the Town;
- Undertaking surveys that relate to supply and demand of car parking
- Undertaking surveys that relate to current car parking ratios at the Town;
- Reviewing permit arrangements;
- Employing additional enforcement staff; and
- Preparation of documentation to monitor impact of large scale developments and/or special events.

In terms of employing additional enforcement staff as requested in clause (viii) listed in the 'Background' section above, this has been listed in the Car Parking Strategy Implementation Plan 2010 - 2018 as a high priority, to be considered in the 2011/2012 Budget. It has been costed as \$60,000 per enforcement officer. The rationale for consideration of this item in the 2011/2012 Budget is based on the assumption that the proposed installation of the additional ticketing machines and introduction of significant changes to the existing car parking regime and parking fee structure will not be completed until at least the final quarter of the 2010/2011 financial year. As such, it is considered that the Town will be in a better position to determine the feasibility of additional enforcement staff in the proposed 2011/2012 Budget.

The key operational items relate to:

- Installation of Way Finding Signage;
- Installation of new ticketing machines;
- Replacement of existing ticketing machines;
- Introduction of new areas of on-street pay parking and/or time restrictions;
- Amendments to existing pay parking regimes and parking fee structure;
- Commencement of monitoring of the area surrounding the new restrictions; and
- Implementation of measures to address problems that result from these new restrictions.

In terms of the introduction and review of the Town's parking regimes and parking fee structure as detailed in item 16 of the Car Parking Strategy Implementation Plan 2010 - 2018, this is to be guided by the recommendations within the Precinct Parking Management Plans and Car Parking Strategy; however, is worded generically to allow for flexibility as required.

Medium Term Priorities (2013 - 2017)

The items listed within this section are anticipated to be commenced in the 2012/2013, 2013/2014, 2014/2015, 2015/2016 and 2016/2017 financial years, respectively. The items have been separated into administrative and operational items.

The key administrative items relate to:

- Research and discussion paper on shared parking arrangements;
- Further review of the Town's Policy No. 3.7.1 relating to Parking and Access and associated research;
- Research on impact of new high density development;
- Review and monitoring of spill-over effects;
- Undertake updated parking surveys relating to supply and demand of car parking; and
- Research and discussion paper on a system of '*parking benefit districts*'.

In terms of shared parking arrangements and '*parking benefit districts*', it is considered that discussion papers are prepared in the first instance to analyse further, prior to any specific recommendations or commitment to implementation is made.

The key operational items relate to:

- Continue to ensure off-street car parks meet with current standards and adhere to Crime Prevention Through Environmental Design (CPTED) guidelines; and
- Ensure that adequate provision for motorcycles and scooters is provided for both on-street and off-street parking.

Long Term Priorities (2018+)

The items listed within this section are anticipated to be commenced in the 2017/2018 financial year.

The key administrative items relate to:

- Promoting and adopting Transit Orientated Development (TOD) principles for development within 400-800 metres of station and bus interchange, by assuming 80% car use for sites;
- Introducing maximum parking ratios for other non-residential developments in activity centres and along growth corridors; and
- Monitor the impact of new developments with reduced car parking requirements and enforce parking restrictions if required.

There are no operational items in the long term priority actions.

3. Function and Management of Car Parking Strategy Implementation Plan 2010 - 2018

It is considered appropriate that for the effective monitoring of the actions detailed within the Car Parking Strategy Implementation Plan 2010-2018, the following approach is taken.

- *Develop a Car Parking Strategy Implementation Plan Working Group comprising the following Officers:*
 - Manager Ranger and Community Safety Services
 - Manager Design and Asset Management
 - Manager Planning, Building and Heritage Services
 - Co-ordinator Strategic Planning
 - Senior Planning Officer (Strategic).

It is envisaged that the group meet on a monthly basis or as required. It is currently being investigated whether it is appropriate for a representative from Luxmoore Parking Consultants to be engaged to attend meetings where required. Luxmoore Parking consultants have offered their services in this regard, at a cost of \$290 per hour for 2010.

- *Report to the Council on a regular basis*

Progress Reports are to be presented to the Council on a quarterly basis to provide an update on the progression of the key items. Comments from the relevant service areas will be inserted into the Completion Date section of the Car Parking Strategy Implementation Plan to be considered by the Council.

- *Utilise the Car Parking Strategy Implementation Plan to guide consideration of budget items*

It is proposed that the Implementation Plan will be used as a key guiding document to inform and plan for budget items as they relate to car parking.

➤ *Funding arrangements for the installation of new ticketing machines*

In response clause (viii) of the Council resolution detailed in the 'Background' section above, Luxmoore Parking Consultants have advised that there are various options available to the Town with regards to a model for financing the new ticketing machines.

Below is a summary of three possible options to fund the purchase of the new ticketing machines:

Option 1 - An Interest Only Loan to be paid off within say 2 years. The revenue generated from the new ticketing machines to be collected in a reserve fund, specifically to repay the loan for the new ticketing machines. The estimated loan is \$1.8 million.

Option 2 - A Capital and Interest Loan to be paid off over a 5 year period. The loan would be repaid through standard budget surplus. No specific reserve fund would be created. As above, the estimated loan would be an estimated \$1.8 million.

Option 3 - Ticketing Machines acquired through a lease arrangement to be leased under a three year lease agreement.

Option 4 - Ticket machines to be purchased and paid by instalments payments through the implementation period:

- Percentage payment on award of the tender;
- Percentage payment of the installation of the machines; and
- Percentage payment after 12 months of use.

At a meeting held on 29 April 2010, Luxmoore Parking Consultants advised the Town, that a loan of \$1.8 million could be readily paid off through revenue generated from the proposed installation of 132 new ticketing machines in a 1 - 2 year period. Luxmoore Parking Consultants have also advised the Town that the exact model adopted by the Town to fund the ticketing machines should be finalised at the time of selecting the preferred tender.

As such, it is envisaged that on finalisation of the preferred tender, the Car Parking Strategy Implementation Plan 2010 - 2018, will be amended to reflect the preferred financing model.

CONSULTATION/ADVERTISING:

Given the overarching recommendations in the Car Parking Strategy and Precinct Parking Management Plans promote a significant shift in the Town's traditional 'supply and demand' approach to parking, it is recognised that appropriate consultation and publicity will be required to effectively implement the key actions of the Car Parking Strategy Implementation Plan 2010 - 2018.

In addition to the preparation and distribution of promotional material to educate the need for and benefits of managing parking demand and to inform of the location and rationale for the installation of new ticketing machines, the Town's Officers will also prepare a dedicated Car Parking Publicity Strategy. It is anticipated that the dedicated Car Parking Publicity Strategy will provide the framework for the proposed roll-out of the new ticketing machines and any significant changes to the existing parking regimes and car parking fee structures at the Town, together with other general information to assist in the effective management of the key actions within the Car Parking Strategy Implementation Plan 2010-2018. It is envisaged that various methods of publicity will be adopted, such as; the Town's newsletter, local newspapers, signs on site, website portal, information sessions and individual mail outs.

The advertising of the local law amendments is to be carried out on a State wide basis for a period of six (6) weeks.

LEGAL/POLICY:

The Town of Vincent Town Planning Scheme No. 1 and associated Policies;
Parking and Facilities Local Law 2007; and
Clause 3.12 of the Local Government Act 1995.

STRATEGIC IMPLICATIONS:

Strategic Plan 2009-2014– Strategic Objectives: Natural and Built Environment:

"Objective 1.1: Improve and Maintain the Environment and Infrastructure:

1.1.2 Develop and implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision;

1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment"

SUSTAINABILITY IMPLICATIONS:

The long-term sustainability for the Town's current parking operations are questioned in the Car Parking Strategy Review Report that was adopted by the Council at its Ordinary Meeting held on 9 March 2010. The Strategy Review Report details methods in which the Town can affect a paradigm shift in its methods of providing and managing parking throughout the Town, with a view to achieving greater sustainability. These principles are supported further in the recommendations detailed in the Precinct Parking Management Plans and have been consolidated in the Car Parking Strategy Implementation Plan 2010 - 2018.

FINANCIAL/BUDGET IMPLICATIONS:

The items within the Car Parking Strategy Implementation Plan 2010 - 2018 for consideration in the 2011/2012 Budget are detailed in clause (v) of the resolution of the Council at its Ordinary Meeting held on 9 March 2010, and listed in the 'Background' section above.

COMMENTS:

The Car Parking Strategy Review that was adopted by the Council at its Ordinary Meeting held on 9 March 2010 focused on the idea that the Town of Vincent has adopted traditional 'supply and demand' approaches to parking, whereby motorists should nearly always be able to easily find convenient, free parking at every destination. This attitude also appeared prevalent in the *Vincent Vision 2024* workshops. The Car Parking Strategy Review addressed why this current parking strategy is not sustainable, and offers significant recommendations, to ensure that the Town can provide sufficient parking in the long term, to support prosperous and vibrant commercial centres and encourage accessibility to these centres by sustainable transport modes, including walking, cycling and public transport.

It is emphasised that the Car Parking Strategy Review adopted by the Council at its Ordinary Meeting held on 9 March 2010, recommends that a fundamental change in the way the Town manages parking is required, not only to ensure an adequate supply of parking for current and future needs, but also to make certain that the social, environmental and financial impact of parking, is successfully managed.

Recognising that in order to adequately progress a significant number of the Consolidated Recommendations made in the Draft Car Parking Strategy Review, surveys of supply and demand were undertaken in the identified Activity Centres by Luxmoore Parking Consultants in November 2008.

Following the compilation of the survey results, the Town further engaged Luxmoore Parking Consultants to prepare Precinct Parking Management Plans for each of the Activity Centres. Informed by the survey results, the Precinct Parking Management Plans support the information within the Car Parking Strategy Review adopted by the Council at its Ordinary Meeting held on 9 March 2010, and apply best practice principles. The Precinct Parking Management Plans provide both a context for the Town to adopt a new approach to parking management, whilst also drawing on key recommendations, as they relate to each of the Activity Centres. The Precinct Parking Management Plans that were adopted by the Council at its Ordinary Meeting held on 9 March 2010, provide a sound and accessible document to inform the recommended actions in the short, medium and long term, that are detailed within the Car Parking Strategy Implementation Plan 2010 - 2018.

The consolidated actions that are detailed within the Car Parking Strategy Implementation Plan 2010 - 2018 seek to support both the overarching findings and recommendations within the Car Parking Strategy Review and the key recommendations detailed within the Precinct Parking Management Plans. It is considered that the content, structure and anticipated functionality of the Car Parking Strategy Implementation Plan 2010 - 2018 will provide a practical basis to ensure that the actions as they relate to improving the management of car parking at the Town, are implemented in an efficient and timely manner.

In light of the above, it is recommended that the Council endorses the Car Parking Strategy Implementation Plan 2010 - 2018 to assist in facilitating the appropriate management of parking in the Town, in the short, medium and long term.

9.2.1 Storm Occurrence – 22 March 2010

Ward:	Both	Date:	5 May 2010
Precinct:	All	File Ref:	TES0210
Attachments:	001 ; 002		
Reporting Officer:	R Lotznicker, Director Technical Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council;

(i) *NOTES that:*

- (a) *the report contains information regarding the 22 March 2010 storm occurrence (and the affect of previous similar storm events within the Town) refer Appendix 9.2.1A and 9.2.1B);*
- (b) *the Town’s drainage system is generally designed to cater for a safe discharge of storm water runoff for at least a “1 in 5 year return storm”, which is accepted universally as the agreed level of service;*
- (c) *preliminary information from the Water Corporation has indicated that the storm return period for the 22 March Storm was in the order of “1 in 94 years” for the affected areas in and around the Town;*
- (d) *in excess of 220 requests for cleanup and of flooding, damage, trees uprooted/fallen branches have been received as a result of the 22 March Storm (refer appendix 9.2.1C);*
- (e) *in excess of 30 Town owned properties were affected by the 22 March Storm (refer appendix 9.2.1D);*
- (f) *the Town’s operations personnel and contractors have been undertaking cleanups and repairs, tree removals and minor drainage improvements since 22 March 2010;*
- (g) *the Town’s Technical Services officers are progressing through the list of requests (as outlined in appendix 9.2.1A), discussing with residents and preparing/implementing remedial solutions (where practical)in an attempt to minimise the risk of flooding from future such storm events;*
- (h) *in most cases only remedial works will be able to be undertaken to safeguard affected properties for possibly no greater than a future 1 in 10 year return storm;*
- (i) *as in previous severe storm events, a number of properties in the Town re-experienced extensive flooding resulting from the inability of the Water Corporation’s main drainage network to cope with the stormwater; and*

- (j) *following the storm, the Chief Executive Officer wrote to the Hon Dr Jacobs, Minister for Water and Mental Health, requesting an update on the status of the Main Drainage Network upgrade program to enable the Council to be informed and to pass the relevant information to the Town's residents who experienced severe flooding during the March 2010 storm;*
- (k) *to date, the Town has spent approximately \$229,000 on works associated with 'storm damage'; and*
- (l) *on 23 March 2010 the State Government advised that the "Storm Perth Metropolitan (March 2010) 2009-20010" was declared an eligible event under the Western Australia Natural Disaster Relief and Recovery Arrangements and the Town is preparing a report detailing which items can be claimed;*
- (ii) *LISTS for consideration an amount of \$100,000 in the draft 2010/2011 budget to undertake remedial works resulting from the investigations as mentioned in clause (i)(g);*
- (iii) *AUTHORISES the Chief Executive Officer to investigate installing a power generator (for use in times of mains power failure) to the Town Administration and Civic Centre and to provide a further report to the Council concerning costings and installation; and*
- (iv) *WRITES to the:*
- (a) *Water Corporation, requesting that the Water Corporation prepares and implements a program, AS A MATTER OF URGENCY, to assess the condition of the Main Drains throughout the Town, to ensure there is no root intrusions/obstructions etc which may be blocking certain sections of the main drains thus reducing their effective capacity; and*
- (b) *Commissioner Main Roads WA requesting that Main Roads WA prepares and implements a program, AS A MATTER OF URGENCY, to assess the condition of the drainage on Primary Distributor Roads in the Town and, in particular, Charles Street to ensure there is no root intrusions/obstructions etc which may be blocking certain sections of these drains thus reducing their effective capacity.*

Moved Cr Maier, Seconded Cr Buckels

That the recommendation be adopted.

Debate ensued.

Cr Harvey departed the Chamber at 8.16pm.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Buckels

That a new clause (i)(m) be inserted as follows:

“(i)(m) it is predicted that one of the results of global warming induced climate change is that Perth will experience more frequent, intense, short duration storm events like that experienced on 22 March 2010;”

Cr Harvey returned to the Chamber at 8.17pm.

Debate ensued.

Cr McGrath suggested the amendment be changed to read as follows:

“(i)(m) it is possible ~~predieted~~ that one of the results of global warming induced climate change may be ~~is~~ that Perth will experience more ~~frequent~~, intense, short duration storm events like that experienced on 22 March 2010;”

The Mover, Cr Maier and the Seconder, Cr Buckels agreed.

AMENDMENT PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.1

That the Council;

(i) *NOTES that:*

- (a) *the report contains information regarding the 22 March 2010 storm occurrence (and the affect of previous similar storm events within the Town) refer Appendix 9.2.1A and 9.2.1B);*
- (b) *the Town’s drainage system is generally designed to cater for a safe discharge of storm water runoff for at least a “1 in 5 year return storm”, which is accepted universally as the agreed level of service;*
- (c) *preliminary information from the Water Corporation has indicated that the storm return period for the 22 March Storm was in the order of “1 in 94 years” for the affected areas in and around the Town;*
- (d) *in excess of 220 requests for cleanup and of flooding, damage, trees uprooted/fallen branches have been received as a result of the 22 March Storm (refer appendix 9.2.1C);*
- (e) *in excess of 30 Town owned properties were affected by the 22 March Storm (refer appendix 9.2.1D);*
- (f) *the Town’s operations personnel and contractors have been undertaking cleanups and repairs, tree removals and minor drainage improvements since 22 March 2010;*
- (g) *the Town’s Technical Services officers are progressing through the list of requests (as outlined in appendix 9.2.1A), discussing with residents and preparing/implementing remedial solutions (where practical)in an attempt to minimise the risk of flooding from future such storm events;*

- (h) *in most cases only remedial works will be able to be undertaken to safeguard affected properties for possibly no greater than a future 1 in 10 year return storm;*
- (i) *as in previous severe storm events, a number of properties in the Town re-experienced extensive flooding resulting from the inability of the Water Corporation's main drainage network to cope with the stormwater; and*
- (j) *following the storm, the Chief Executive Officer wrote to the Hon Dr Jacobs, Minister for Water and Mental Health, requesting an update on the status of the Main Drainage Network upgrade program to enable the Council to be informed and to pass the relevant information to the Town's residents who experienced severe flooding during the March 2010 storm;*
- (k) *to date, the Town has spent approximately \$229,000 on works associated with 'storm damage';*
- (l) *on 23 March 2010 the State Government advised that the "Storm Perth Metropolitan (March 2010) 2009-2010" was declared an eligible event under the Western Australia Natural Disaster Relief and Recovery Arrangements and the Town is preparing a report detailing which items can be claimed; and*
- (m) *it is possible that one of the results of global warming induced climate change may be that Perth will experience more intense, short duration storm events like that experienced on 22 March 2010;*
- (ii) *LISTS for consideration an amount of \$100,000 in the draft 2010/2011 budget to undertake remedial works resulting from the investigations as mentioned in clause (i)(g);*
- (iii) *AUTHORISES the Chief Executive Officer to investigate installing a power generator (for use in times of mains power failure) to the Town Administration and Civic Centre and to provide a further report to the Council concerning costings and installation; and*
- (iv) *WRITES to the:*
 - (a) *Water Corporation, requesting that the Water Corporation prepares and implements a program, AS A MATTER OF URGENCY, to assess the condition of the Main Drains throughout the Town, to ensure there is no root intrusions/obstructions etc which may be blocking certain sections of the main drains thus reducing their effective capacity; and*
 - (b) *Commissioner Main Roads WA requesting that Main Roads WA prepares and implements a program, AS A MATTER OF URGENCY, to assess the condition of the drainage on Primary Distributor Roads in the Town and, in particular, Charles Street to ensure there is no root intrusions/obstructions etc which may be blocking certain sections of these drains thus reducing their effective capacity.*

PURPOSE:

The purpose of this report is to inform the Council of the affects of the storm that affected the Town and other parts of Perth and Western Australia on 22 March 2010 and the measures being investigated/undertaken to address some of the affected areas.

BACKGROUND:

Since 22 March 2010 the Town has received over 235 calls related to flooding and fallen branches and trees down throughout the Town.

Many of the Town's roads were inundated with stormwater and it is envisaged that many more unreported incidents of road and property flooding occurred as a result of the 22 March 2010 storm events.

In addition, the severe winds and large hail associated with the storm resulted in massive leaf drop with a large number of branches, both large and small, and a number of very large trees uprooted.

DETAILS:

Previous Storm Occurrence - 27 July 1996:

At its Ordinary Meeting of 26 August 1996, the Council was advised of flooding experienced by residents on 27 July 1996, caused by high intensity rainfall following several hours of persistent rain, whereby approximately 20mm of rainfall was recorded over a 15 minute period during the peak of the storm.

The Bureau of Meteorology confirmed the rainfall to have been at least a 1 in 20 year return storm, which means statistically a storm of that intensity would not be expected to occur more frequently than once in twenty years.

Ordinary Meeting of Council 28 April 1997:

Following extensive investigation, the Council was advised that the majority of locations which reported flooding caused by the storm of 27 July 1996 were adjacent to, or near, low points in the road in the various drainage catchment areas throughout the Town. The Council was further advised that investigations revealed that in the majority of cases, adequate drainage existed at the low point in the road but during the storms the *road gullies were either covered with leaves and debris or pipes leading from the gullies were partially blocked.*

At the time, the Council approved the reallocation of funds totalling \$188,000 from existing Drainage Capital Works in the 1996/1997 budget to 18 proposed drainage improvement works.

Previous Storm Occurrence - 22 January 2000:

At its Ordinary Meeting held on 8 February 2000, the Council was advised that on Saturday, 22 January 2000, Perth recorded 104 mm of rain over a 24 hour period. It was the wettest January day and the State's second wettest day on record. A further 27.6 mm had fallen by 4.00pm. The highest rainfall occurred between 2.00am and 6.00am, with 74mm recorded, i.e. approximately 20mm per hour. It was during this period that most of the reported flooding in the Town occurred.

The Water Corporation subsequently advised that on 22 January 2000, between 2.00am and 6.00am, the storm was at least a 1 in 100 year return storm, which means statistically a storm of that intensity would not be expected to occur more frequently than once every 100 years.

The Council was further advised that the Town's drainage system requires safe discharge of stormwater runoff for at least a 1 in 5 year return storm, which is accepted universally as the agreed level of service. The above factors, coupled with Perth experiencing its wettest January day on record, attributed to the flooding occurrence on the day.

The Council was also advised that only remedial works can be undertaken to safeguard affected properties for possibly no greater than a 1 in 10 year return storm and that most of the Town's piped drainage system connected to the Water Corporation's main drains. If those drains could not cope with the volume of water during an intense storm, the Town's drainage system would also fail. This was the case on 22 January 2000.

Recent Storm Occurrence – 22 March 2010:

The Storm:

Severe thunderstorms occurred on the afternoon and evening of Monday 22 March 2010 in the Central West, Lower West, and adjacent parts of the South West, Great Southern and Central Wheat Belt districts.

The severe storms moved through the Perth metropolitan area between 3.30pm and 6.00pm causing large hail, heavy rain and severe winds that resulted in damage estimated at \$900 million.

This storm produced the largest hail known to have occurred in Perth. It was also one of the costliest natural disasters in Perth's history, with preliminary damage estimates at over \$900 million.



The storm was the most significant weather event in terms of power outages (over 150,000 properties without power at the peak) and the number of requests for assistance from FESA-SES (over 3000).

Storms developed about 180 km north of Perth just after midday on 22 March 2010 and tracked to the south near the coast. The leading storm gathered intensity and reached Perth's northern suburbs at about 3.00pm, and the central business district and western suburbs by 4.00pm.

The Ocean Reef Automatic Weather Station recorded wind gusts to 120kph, while large hail, measuring up to 6cm, dented cars, broke windscreens, windows, and light roofing material.

Rainfall statistics:

The daily total rainfall for Mt Lawley was 40.2mm which was the fifth highest daily rainfall for March on record for the official Perth site. Of this rain, 23.0mm fell in 10 minutes and 38.4mm fell in one hour.

Wanneroo recorded 62.8mm in two hours, including 27.8mm in just 10 minutes, and these values exceeded the one in one hundred year (1:100) Average Recurrence Interval. The largest recorded hail occurred in Perth's western and northern suburbs between 3.30pm and 4.15pm. Reports of golf ball-sized hail (3-5 cm) were received in areas around Osborne Park and it is likely many other suburbs also received hail of at least 3cm diameter.

Information from the Water Corporation revealed that the storm return period was in the order of 1 in 94 years for the affected areas in and around the Town.

The Hail blocked gutters and drains exacerbating the flooding impacts throughout the metropolitan area and many properties were inundated with water and there were isolated reports of roof damage from severe winds.



Flooding:

As with the previous storm events in 1996 and 2000, again the majority of flooding which occurred during the storm was to areas and properties adjacent to or near low points in the numerous drainage catchment areas in the Town. This suggests that as a result of the storm, the various drainage systems were running at capacity and obviously road gullies located upstream could not cope with the runoff, resulting in a large volume of stormwater concentrating at the various road low points.

The majority of reports related to surface water flowing onto residents' properties, however, in 16 locations where the floor level of the dwelling was below the level of the road, water entered dwellings and/or garages, causing damage to carpets, motor vehicles, electrical equipment, etc.

As mentioned, the storm Perth experienced on 22 March 2010 far exceeded the 'acceptable' design capacity of a large number of drains in Vincent and the Perth metropolitan area in general.

It is very difficult to design a drainage network that will cater for a storm event of such high intensity and relatively short duration. In addition, during the recent 'sudden' downpour the associated hail, leaves and debris washed down the road gutter and blocked gullies. No amount of preventative maintenance can prevent this from occurring as the high winds and intense rain associated with such a storm event caused mass and instant leaf drop.

With blocked drains comes overland storm water flow. The issues experienced by many residents who reported problems are synonymous with this type of storm and no amount of re-engineering will guarantee that this will not reoccur during a similar or greater storm event in the future.

Immediately following the storm, the Town's Technical Services Operational crews, on a priority basis, commenced clearing gully lid/s and sumps of accumulated debris, swept streets, and jetted storm water lines. In addition, the Town's Design and Operations personnel have been progressively inspecting the worst affected areas to determine what remedial measures (if any) can be implemented to try to address some of the issues (wherever practical).

Note: For miscellaneous photos of damage, refer Appendix 9.2.1A & B. A list of the reported flooding (and damage) and status is attached at appendix 9.2.1C for information.

Town of Vincent properties affected:

Over 30 Town owned properties were affected by the Storm. Property repairs have been quoted on and forwarded to the Town's Insurers.

The Town's officers are still waiting for the insurance company to give the approval to proceed on carpet replacement. Work on the Library and Local History Centre, Administration and Civic Centre and the Town's Works Depot have commenced - refer spread sheet at appendix 9.2.1D.

Reports referred to the Town's Insurers:

The Town has received nine (9) insurance claims for property damage from residents. The current status of these claims is as follows:

- 4 claims were denied (3 by the Town's insurers and 1 by the Town for lack of information);
- 1 claim has been assigned a Loss Adjuster;
- 4 are in progress, awaiting assessment by the Town's insurers.

Town's Vehicles:

The storm did considerable damage to a number of the Town's vehicles, mainly at the Works Depot. The current status of these claims is as follows:

Vehicle Details:	Damage:	Status:
7 x Waste Management Vehicles	Hail damage to windscreens	No claim filed, repairs were below policy excess
8 x Depot Vehicles	Hail damage to vehicles	Claim submitted with Town's insurers. Vehicles have been assessed and are waiting for repairs to be carried out.
1 x Community Bus	Hail damage to panels.	Claim submitted to Town's insurers. Vehicle has been assessed and is waiting for repairs to be carried out.

Vehicle Details:	Damage:	Status:
2 x Administrative Vehicles	Vehicle received engine damage and hail damage.	Claim submitted to Town's insurers. Vehicle has been deemed an uneconomical loss. Claim has been settled.
	Vehicle received minor hail damage.	Claim submitted to Town's insurers. Vehicle has been assessed and is waiting for repairs to be carried out.

Town's Properties:

A significant number of the Town's properties received damage, with 12 claims being submitted. The Town's Library and Local History Centre, Civic and Administration Centre and Beatty Park Leisure Centre were the major properties affected. A comprehensive list is provided in appendix 9.2.1D.

Other Claims:

A potential claim for up to 3,000 books that were water damaged at the Library and Local History Centre is currently being assessed. The damaged books are currently undergoing water-removal treatment recommended by the insurers. A final claim assessment is yet to be determined.

Discussion:

As previously reported to the Council, \$188,000 was allocated in 1996/1997 to undertake remedial works associated with the previous storm occurrences, which allowed the Town's Technical Services to undertake many improvement works, including additional gullies, drainage extensions, asphalt bunding, etc.

It is interesting to note when comparing the complaints received during the recent storm with the ones previously received, that the flooding still occurred at the same locations including a number of additional locations.

Storms of this nature are very difficult to design a drainage system for.

The street system is designed for a 1 in 5 year storm. The Water Corporation main drains in which most of our drainage flows to, are only designed for a 1 in 10 return storm.

With increasing infill development over the years, the Town's impervious area has increased dramatically and when a storm event occurs similar in nature as the ones in late 1990, early 2000 and now in 2010, flooding will inevitably occur.

Given the layout of the Town, there is no scope for overland escape routes for storm water build up (as is now designed for in newer subdivisions). Therefore, in Vincent, if a property is located at a road low point and is below or at the level of the roadway, there is a very good chance of property flooding occurring during a future 'similar' (or greater) storm event.

No amount of drainage improvements upstream will safeguard this from reoccurring as the sheer volume of water, over a short period, renders gullies useless as they are either bypassed by the water flow, are covered with leaves and debris, fill up very quickly and the pipes are flowing full.

SUSTAINABILITY IMPLICATIONS:

Drainage design is determined by historical rainfall records. The longer the records the more accurate the design parameters. With regard to the recent storms in Perth, it can be seen that extensive flooding has occurred caused by high intensity short duration storms. This could be the result of a changing climate caused by man or by natural cycles of the weather system.

Whatever the reason, it appears that these types of storm events will continue to cause havoc and the Town needs to ensure that any new infrastructure is designed and new approvals granted with this in mind.

FINANCIAL/BUDGET IMPLICATIONS:

The Town's total clean-up expenditure relating to the 22 March Storm as at 5 May 2010 is \$229,000 as follows:

Beatty Park	\$3,000
Council Buildings/Public Halls/Health Clinics/Day Nurseries	\$30,000
Library & Local History Centre	\$9,000
Car parks	\$1,000
Sports grounds/Clubs/DSR Building	\$40,000
Parks	\$39,000
Street Trees/Road Reserves	\$30,000
Engineering: Roads/Drainage/Verge & median maintenance	\$77,000
TOTAL	\$229,000

Note: The above expenditure was charged to the relevant operating budgets associated with the facility/infrastructure.

Disaster Relief and Recovery Arrangements

On 23 March 2010, the State Government advised that the "Storm Perth Metropolitan (March 2010) 2009-2010" was declared an eligible event under the Western Australia Natural Disaster Relief and Recovery Arrangements (WANDRRA). The cost of engaging contractors and overtime associated with cleanups etc, can be claimed.

The Town's Financial Services Section are currently determining what proportion of the \$229,000 expended on storm damage/cleanup, the Town will be able to claim from the WANDRRA.

Draft Budget 2010-11

An amount of \$100,000 has been listed for consideration in the 2010/2011 draft capital budget to undertake drainage improvements where practical.

In addition, a number of improvements are being implemented this financial year utilising drainage maintenance, footpath maintenance and miscellaneous drainage improvement funding.

These improvements relate mainly to regrading/relaying paths and driveways to help contain the water within the roadway in several locations, installing additional soakwell gully pits with an outlet to the piped drainage system, and asphalt bunding at selected locations.

In addition, line jetting is continuing and investigations re options for drainage extensions, additional kerbing, etc is in progress.

Town of Vincent Administration and Civic Centre

Many areas of the metropolitan area, including Leederville where the Town's Administration and Civic Centre is located, suffered power failure in the early phase of the storm. As a consequence the switchboard and computers were rendered inoperable. The Town's ratepayers therefore could not contact the Town to request assistance and report damage until the following morning when power was restored.

The inability to directly contact the Town caused considerable frustration and anger to a number of ratepayers.

It is noted that Leederville suffers power failure 3 or 4 times per year and when this occurs, the Town's Administration and Civic Centre is largely inoperable.

As a Risk Management initiative, the Chief Executive Officer considers that it is prudent to investigate the installation of a power generator to enable the Administration and Civic Centre to function in times of mains power failures. A power generator is currently located at ME Bank Stadium and is to the Stadium needs now that the power has been upgraded. Accordingly, the Chief Executive Officer is currently investigating this to be relocated to either Beatty Park Leisure Centre or the Administration and Civic Centre.

COMMENTS:

On 22 March 2010, the intensity of the storm and the sheer volume of water that fell in Vincent during the storm occurrence was difficult to comprehend to one observing proceedings. The water running down most roads resembled a raging river and roadside gullies were rendered superfluous during the deluge.

The worst period of the storm, as previously stated, was at least a 1 in 100 year return storm. The design criteria used by the Water Corporation for the main drainage system into which most of the Town's drainage ultimately discharges, allows for sufficient capacity for up to a 1 in 5 year return storm for residential areas and 1 in 10 year return storm for commercial areas.

Council's drainage system requires safe discharge of stormwater runoff for at least a 1 in 5 year return storm, which is accepted universally as the agreed level of service. The above factors, coupled with Perth experiencing its highest daily rainfall for March on record, attributed to the flooding occurrence on the day.

Note: Notwithstanding the above, it must be realised that only remedial works can be undertaken to safeguard affected properties for possibly no greater than a 1 in 10 year return storm.
--

It should also be noted that the drainage systems throughout the Town coped particularly well during the rainfall, with the water receding quickly.

As previously mentioned, most of the Town's piped drainage system connects to the Water Corporation's main drains. If these drains cannot cope with the volume of water during an intense storm, the Town's drainage system will also fail. This was again the case on 22 March 2010 e.g. Wellman Street, Randall Street, Dunedin Street, Kadina Street, Tennivale Place, Howlett Street, Brookman Street etc.

In 1996, following severe flooding throughout the Town, the Water Corporation advised that the next review for the Claisebrook system was planned for 1997/98 and that preliminary investigations had indicated that a section of the Claisebrook Main Drain may require upgrading.

In light of the flooding experienced by the Town's residents on 22 January 2000, the Council requested the Minister for Water Resources to expedite the study on the Claisebrook Drainage System and allocate funds as a matter of urgency to carry out the required upgrading works.

Council Officers had previously written to the Water Corporation suggesting that there may be scope to increase the size of the Smith's Lake compensation basin, however, this was not considered prudent by the Water Corporation in the past.

Following the storm, the Chief Executive Officer again wrote to the Hon Dr Jacobs, Minister for Water and Mental Health, requesting *an update on the status of the main drainage network upgrade program to enable the Council to be informed and to pass the relevant information to the Town's residents who experienced severe flooding during the March 2010 storm.*

It is recommended that the Council write to the Water Corporation requesting that they assess the condition of the Main Drains running through the Town to ensure there are no root intrusions etc. which may be blocking certain sections of the drains thus reducing their capacity.

9.2.2 Further Report: Hyde Park Universally Accessible Playground Upgrade

Ward:	South	Date:	20 April 2010
Precinct:	Hyde Park; P12	File Ref:	RES0042
Attachments:	001		
Reporting Officers:	J van den Bok; Manager Parks & Property Services; P Roberts; Community Development Officer		
Responsible Officers:	R Lotznicker; Director Technical Services; M Rootsey, Director Corporate Services		

OFFICER RECOMMENDATION:

That the Council;

(i) *NOTES that;*

- (a) *following the community consultation period and review of the former design by E-QUAL Disability Consultants, the plan/costings have been revised to include (where practical) all components that have been recommended (as laid on the table);*
- (b) *the Hyde Park Universal Accessible Playground proposal has been referred to both the Western Australian Planning Commission (WAPC) and the Heritage Council of WA (HCWA) who have indicated their support subject to various minor conditions being addressed;*
- (c) *the Town was successful in obtaining a \$125,000 grant through LotteryWest towards this project;*
- (d) *the majority of works will be undertaken using suppliers currently under contract to the Town or through the Western Australian Local Government Association (WALGA) Preferred Supplier contracts;*
- (e) *'Urban Landscaping', who have progressively developed the plan in close liaison with Town of Vincent staff, have been engaged to project manage the works; and*
- (f) *following the review and additional comments received, an additional \$30,000 will be required to implement the project;*

(ii) **APPROVES BY AN ABSOLUTE MAJORITY:**

- (a) *the proposed upgrade of the Hyde Park Universal Accessible Playground works as outlined on attached Plan No. C1672L03, as shown at Appendix 9.2.2, at a total estimated cost of \$394,315; and*
- (b) *to re-allocate an additional \$30,000 for this project from the Capital Reserve Fund.*

Moved Cr Harvey, Seconded Cr Farrell

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Harvey

That a new clause (iv) be inserted s follows:

“(iv) extends and rationalises the existing 90 degree angle parking bays on Glendower Street, between Throssell and Palmerston Streets, to accommodate an additional ACROD parking bay on the eastern end of the parking area (as recommended by the consultant) at an estimated cost of \$2,000, to be funded from a source to be identified.”

Debate ensued.

AMENDMENT PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

Debate ensued.

**MOTION AS AMENDED PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (8-0)**

(Cr Burns was on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.2

That the Council;

- (i) *NOTES that;*
- (a) *following the community consultation period and review of the former design by E-QUAL Disability Consultants, the plan/costings have been revised to include (where practical) all components that have been recommended (as laid on the table);*
 - (b) *the Hyde Park Universal Accessible Playground proposal has been referred to both the Western Australian Planning Commission (WAPC) and the Heritage Council of WA (HCWA) who have indicated their support subject to various minor conditions being addressed;*
 - (c) *the Town was successful in obtaining a \$125,000 grant through LotteryWest towards this project;*
 - (d) *the majority of works will be undertaken using suppliers currently under contract to the Town or through the Western Australian Local Government Association (WALGA) Preferred Supplier contracts;*
 - (e) *‘Urban Landscaping’, who have progressively developed the plan in close liaison with Town of Vincent staff, have been engaged to project manage the works; and*
 - (f) *following the review and additional comments received, an additional \$30,000 will be required to implement the project;*

- (ii) **APPROVES BY AN ABSOLUTE MAJORITY:**
- (a) *the proposed upgrade of the Hyde Park Universal Accessible Playground works as outlined on attached Plan No. C1672L03, as shown at Appendix 9.2.2, at a total estimated cost of \$394,315; and*
 - (b) *to re-allocate an additional \$30,000 for this project from the Capital Reserve Fund; and*
- (iv) *extends and rationalises the existing 90 degree angle parking bays on Glendower Street, between Throssell and Palmerston Streets, to accommodate an additional ACROD parking bay on the eastern end of the parking area (as recommended by the consultant) at an estimated cost of \$2,000, to be funded from a source to be identified.*
-

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the recommendations made following the accessible audit undertaken by E-Qual disability consultants and to outline the results of the community consultation undertaken by the Town regarding the upgrade and development of the universally accessible playground and associated site works at Hyde Park.

BACKGROUND:

At the Ordinary Meeting of Council held on 24 March 2009, a progress report was presented on the Hyde Park Accessible Playground project where it was decided (in part):

That the Council;

- "(iii) APPROVES IN PRINCIPLE the design (as displayed) of the proposed accessible playground and landscape improvements around the immediate playground area;*
- (iv) LISTS an amount of \$200,000 for consideration in the draft 2009/10 budget to enable this project to be completed should further grant funding opportunities also prove unsuccessful;*
- (v) ADVERTISES the plans for a period of twenty one (21) days inviting written submissions from the public and the Heritage Council of WA (HCWA); and*
- (vi) RECEIVES a further report to consider any submissions at the conclusion of the consultation period."*

Further to the above, a report was presented at the Ordinary Meeting of Council held on 9 February 2010, where it was recommended as follows:-

"That the Council;

- (i) *NOTES that;*
 - (a) *the Hyde Park - Universal Accessible Playground proposal has been referred to both the Western Australian Planning Commission (WAPC) and the Heritage Council of WA (HCWA) who have indicated their support subject to various minor conditions being addressed;*

- (b) *the Town was successful in obtaining a \$125,000 grant through LotteryWest towards this project;*
 - (c) *following the community consultation period, the plan/costings have been revised to include a double swing and to reflect cost increases in building materials and playground components;*
 - (d) *signage will be erected at Hyde Park outlining the new playground design and advising patrons that works will be implemented in March/April 2010;*
 - (e) *the majority of works will be undertaken using suppliers currently under contract to the Town or through the Western Australian Local Government Association (WALGA) Preferred Supplier contracts; and*
 - (f) *'Urban Landscaping', who have progressively developed the plan in close liaison with Town of Vincent staff, have been engaged to project manage the works; and*
- (ii) **APPROVES BY AN ABSOLUTE MAJORITY:**
- (a) *the proposed upgrade of the Hyde Park Universal Accessible Playground works as outlined on attached Plan No. C1672L03-RevD which has been updated to incorporate (where practical) all ideas and comments received from respondents during the community consultation process; and*
 - (b) *to re-allocate \$40,000 to this project to enable it to be completed and for this to be funded from the Capital Reserve Fund."*

At the above meeting a procedural motion was put and then carried as follows:

"That the item be DEFERRED to seek advice from a suitable Universal Accessibility Auditor and to also investigate other matters raised by Councillors."

DETAILS:

As requested by the Council, the Town engaged the services of consultants (E-QUAL disability consultants) to review the playground design for the Playground Upgrade at Hyde Park and provide advice to assist the Town in ensuring the final design was universally inclusive for children of all abilities, their families and carers.

In the report submitted, the consultants provided two (2) lists of recommendations, one for the actual playground area and surrounds and a second list that provides recommendations for the whole park that could be implemented over time.

The consultant's recommendations and Officer's comments (Italics) are listed below and the rationale for each recommendation is detailed within the consultant's report as laid on the table.

Playground Area:

1. As a matter of priority, investigate ways of providing a unisex accessible toilet facility close to the new playground. It is recommended that this should include both child and adult size fold down change tables.

Officer's Comments

This toilet block is listed for upgrade in 2022-23 as part of the Town's 20 year Universally Accessible Building Upgrade Program. This project will now be reviewed and listed for completion earlier in the program (2011/12)

2. Consider whether to install fencing and investigate other ways of providing other types of visual and physical boundaries including landscaping solutions.

Officer's Comments

Fencing is not an item that the HCWA particularly support and it is considered that a fence will detract from the overall design. Following completion of the project, various groups and schools (Mt Hawthorn Education Support centre) will be invited to use the playground and provide comment on the design. If fencing is considered a major issue, this will then be reconsidered and alternative options, such as additional landscaping, will be further investigated to act as physical barriers.

3. Consider piloting the playground with children with disabilities and their families to identify any remaining access or safety concerns.

Officer's Comments

Comments as in (2) above.

4. Consider using different colours or having themed pictures or play activities e.g. hopscotch in the rubber surface.

Officer's Comments

Noted and will be considered when the rubber softfall of the playground is ordered.

5. Consider the addition of a double slide on the main play structure to provide this experience to children with disabilities and foster inclusive play.

Officer's Comments

This item has now been included within the revised design.

6. Ensure good colour contrast on the main structure wherever possible, and include a small number of bright coloured panels or fittings to assist children with low vision and with intellectual disability to navigate.

Officer's Comments

Noted and will be considered when individual components of the playground are ordered, however these colours should fit in with the overall colour scheme already used within the park.

7. Consider additional swings including one larger seat with additional body support.

Officer's Comments

The additional set of swings with a larger seat has now been included within the revised design.

8. Place a set of swings adjacent to the Liberty Swing to minimise the perception of segregation

Officer's Comments

Comments as in (7) above

9. Consider providing an additional and accessible whirl experience to enable children in wheelchairs to have this experience and participate alongside other children.

Officer's Comments

This item has now been included within the revised design.

10. Consider implementing ways of enabling sand play for all children to enhance interactive and cooperative play and provide an additional and important tactile play element for children with physical disabilities.

Officer's Comments

Has been considered and implemented where possible within the revised design.

11. Ensure the pedestrian gaps in the play wall are wide enough to accommodate wheelchair passage, according to at least AS1428.1.

Officer's Comments

Noted and has already been considered by the Landscape Architect in the initial design.

12. Include some play panels with greater sensory interest in the play wall, such as the chime panel available from Forpark.

Officer's Comments

This item has now been included within the revised design.

13. Consider providing soft platforms within the climbing net structure to open up this experience to more children and enhance interaction with other children.

Officer's Comments

These items have now been included within the revised design.

14. Ensure all stepping stones contrast well with their surrounds so as to enable children with low vision to participate and consider providing a range of coloured stones at each installation.

Officer's Comments

Noted and has already been considered by the Landscape Architect in the initial design.

15. Wherever possible, juxtapose equipment that supports access for children with physical disabilities alongside equipment that does not, to minimise the perception of segregation.

Officer's Comments

Design of play wall has now been reviewed and new items provided and now interspersed to minimise any segregation issues or perceptions.

16. Consider the possibility of using some fragranced plants either adjacent to the play space or at a nearby location in the park, to be enjoyed by all, especially people with vision impairments.

Officer's Comments

This will be considered and actioned following completion of all the "hard" landscape components of the project and when plants are sourced for planting.

17. Provide seating to allow seated supervision from the Western side of the structure.

Officer's Comments

Additional seating will be provided on the western side of the structure and undertaken as part of the Town's Parks Furniture Upgrade Program.

18. Provide an accessible path to the park bench closest to the Liberty Swing.

Officer's Comments

The existing park benches will be relocated alongside paths or will be fully accessible and installed as part of the Town's Parks Furniture Upgrade Program.

19. Look at ways of providing an additional accessible parking bay to meet anticipated demand.

Officer's Comments

Additional accessible parking bays can be installed along the Glendower Street frontage and these works will be considered and budgeted for in future years.

20. Look at ways of minimising the low stone wall trip hazard at the corner of the main path into the park.

Officer's Comments

This will be investigated and works actioned to resolve the current situation.

21. Lower the new playground plan sign if it is to remain on site for some time.

Officer's Comments

Completed

22. Ensure all seating provides firm ground access for people using wheelchairs or other mobility aids.

Officer's Comments

The existing park benches will be relocated alongside paths or will be fully accessible and installed as part of the Town's Parks Furniture Upgrade Program.

23. Ensure all park bench seating complies with access standard AS1428.2 regarding seat and arm height so as to maximize accessibility and comfort for all users, especially seniors.

Officer's Comments

Noted, seating will be installed accordingly

24. Look at ways of increasing the colour contrast of the dual height water fountain.

Officer's Comments

The drinking fountain bowl is made of brass and is unable to be recoated in different colours; it also has been made specifically forged with artworks for installation along the Wetlands/Heritage Trail.

25. Ensure that there are several accessible picnic tables which are on hard standing and have an access path.

Officer's Comments

The majority of existing picnic tables are already installed on hardstand areas and additional tables will be installed as part of the Town's Parks Furniture Upgrade Program and access provided where required.

26. Consider providing a small fenced area nearby for guide dog toileting.

Officer's Comments

This item will be considered in future budgets.

27. Promote the new playground on completion via disability organisations, Local Area Coordinators and on Information Radio.

Officer's Comments

Will be undertaken in conjunction with Community Development Services.

The Larger Park Area:

1. Improve the firmness of the ground at the "Pieces of Leisure" sculpture.

Officer's Comments

Consideration will be given to providing an alternative surface around the sculpture.

2. Repair the sound plinth beside the sculpture and look at ways to make it more useable by all, including increasing its visibility and making the text more readable, using accessible information principles.

Officer's Comments

Repairs in progress

3. Provide level access to the Life Trail exercise stations.

Officer's Comments

The individual station concrete pads are level; however the lakes perimeter path has been very slightly graded so that water runs off into the lakes.

4. Consider having some raised lettering or Braille and/or have a Life Trail podcast available on the website.

Officer's Comments

Will be considered as part of future budgets

5. Consider some tactile ground surface indicators or other landmarks at points on the main path to direct people with vision impairment to the Life Trail exercise points.

Officer's Comments

These items will be installed at some future point, most likely following completion of the lakes restoration project.

6. Consider improving access to gazebos by providing paths and ensuring the internal layout provides adequate wheelchair/gopher space and the seating is of a height suitable for seniors.

Officer's Comments

Not recommended. The path system in Hyde Park is already quite extensive and nearly all features within the park are accessible. Significant additional pathways are not supported by the Heritage Council of WA.

7. Investigate ways of making the black path to the Hyde Park Stage ramp firmer.

Officer's Comments
Completed, final asphalt layer now installed.

8. Eliminate the 30mm lip between the path and the ramp at the Stage.

Officer's Comments
Comments as in (7) above

9. Mark the leading edges of steps to the Stage to meet Access Standards and increase safety.

Officer's Comments
Will be completed in due course.

10. If the birdlife information sign is to be replaced, ensure it is on firm ground and provide larger print, consider some raised print or Braille and offer a podcast on the website.

Officer's Comments
Signage is to be reviewed and replaced following completion of the Hyde Park Lakes Restoration project. Information in regard to bird and tree species is available on the Town's Wetland Heritage Trail website.

11. If the Historical Trail plaques are to be replaced, ensure they are on firm ground and provide contrasting print. Consider some raised print or Braille and offer a podcast on the website.

Officer's Comments
Relocation of these signs will be considered when replacement is required. Podcast is already available.

12. Consider installing access paths and some directional signage to other play and recreational nodes in Hyde Park over a period of time.

Officer's Comments
The path system in Hyde Park is already quite extensive and nearly all features within the park are accessible significant additional pathways are not supported by the Heritage Council of WA.

13. Ensure there is adequate accessible parking to service the various areas of the park.

Officer's Comments
Additional accessible parking bays will be considered and budgeted for in future years.

The following information in regard to the community consultation undertaken by the Town and the overall playground design, was included in the report presented to Council at the Ordinary Meeting held on 9 February 2010.

Community Consultation:

In accordance with part (v) of the Council decision, the plans were submitted to HCWA, displayed in the Town's Administration and Civic Centre and Library and Local History Centre and 242 letters were distributed to properties directly adjacent to Hyde Park.

At the close of consultation, only two (2) responses were received, both *in favour* of the proposal. Given so few responses, the summary of comments has been outlined below. (rather than in a separate attachment).

- In favour of the proposal: two (2)
- Against proposal: nil

Community Comments

- Must include equipment for younger children such as swings
- Swings are definitely necessary
- Shade Sails would be useful
- Fencing should be considered
- Include equipment for younger children
- Swings and slides are a must in a playground
- Water fountains should be retained
- Benches required close to playground area
- Shading should be considered

Officer's Comments

Both respondents strongly indicated their preference to include a swing in the original design proposal. They consider that the majority of properties within the inner city precinct no longer have room to accommodate swings. In addition, the new playground located along the Glendower Street frontage has a new "birdnest swing", however, this really only caters for the older children.

Following assessment by the Disability consultants, the design now includes two (2) sets of swings including one (1) with a larger more stable seat for persons with a partial disability.

The request for benches has been noted and these have already been included within the design. Shade sails or fencing is not an item that the HCWA particularly support. The majority of the playground will be shaded during the hotter part of the day and shade has never been a particular issue at this site due to the proximity of large mature trees.

Whilst part of the existing playground is fenced, during the early design phase fencing was not considered necessary and therefore was not included. It is considered that additional fencing of this playground would compromise the design and aesthetics of the area and the entire park.

However, this matter will be further assessed after the playground is completed and further feedback is received from users through surveys, etc.

Playground Design:

A recent article in the *West Australian* newspaper reported recently how playgrounds have become dull and boring, hindering the development of our younger generation. Whilst some of the points outlined within the article were relevant, many of the areas identified within the article had not even been visited by the research team.

Hyde Park's Throssel Street playground is the largest and most patronised within the Town of Vincent. The funding allocated for this project is significant in terms of what has been allowed for other park playground upgrades within the Town and the elements of the design will challenge children both mentally and physically.

As outlined in previous reports to the Council, the design has been developed by a Landscape Architect specialised in the design and construction of accessible playgrounds in conjunction with Council staff and members of the Universal Access Advisory Group.

The final design includes playground components from various playground companies, including a climbing net, ramped playground structure, carousel, stepping stones, rubberised softfall/sandpit and landscaped areas which will add interest and provide hiding spaces for children to explore.

CONSULTATION/ADVERTISING:

All respondents and adjacent owner/occupiers will be advised of the Council's decision and a revised plan will be sent to the HCWA as requested, for their information and records.

LEGAL/POLICY:

This development proposal has been referred to the WAPC and HCWA and all works will be undertaken in accordance with the Heritage of Western Australia Act 1990 and the Town of Vincent Town Planning Scheme No. 1 and associated policies.

An absolute decision of the Council will be required to re-allocate funds.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: 1.1.5 Enhance and maintain parks, landscaping and community facilities. *“(a) Ensure all Town services, playgrounds and facilities are universally accessible where practicable and continue to implement the Playground Upgrade Program.”*

SUSTAINABILITY IMPLICATIONS:

The project will ensure that the playground will be upgraded/maintained to a high standard for the benefit of current and future users.

FINANCIAL/BUDGET IMPLICATIONS:

The 2009/2010 budget has an amount of ~~\$325,000~~ \$365,000 allocated for the universally accessible playground and associated site works at Hyde Park. This budget is made up of \$200,000 municipal funds and \$125,000 grant funding.

With the addition of the two (2) new double swings, accessible whirl, revised play wall components, other associated on site ancillary works and including final design/documentation and project management costs, the total cost of the project is now \$394,315.

Therefore, there is an anticipated overall budget shortfall of \$30,000.

COMMENTS:

As previously reported to the Council, this project has been under consideration for some years and has not progressed due to budgetary constraints or lack of grant funding. The playground at the Throssel Street end of Hyde Park is the largest within the Town and the community is now expecting a quality redevelopment of the existing playground area and surrounds.

Therefore, it is recommended that the Council approve this project and works commence on site as proposed as soon as possible.

The Chief Executive Officer advised that Mayor Catania declared a financial interest in Item 9.3.1. He departed the Chamber at 8.32pm. He did not speak or vote on this matter.

Deputy Mayor, Cr Sally Lake assumed the Chair at 8.32pm.

9.3.1 Investment Report as at 30 April 2010

Ward:	Both	Date:	3 May 2010
Precinct:	All	File Ref:	FIN0033
Attachments:	001		
Reporting Officer:	B. Tan, Manager Financial Services; B. Wong, Accountant		
Responsible Officer:	M. Rootsey, Director Corporate Services		

OFFICER RECOMMENDATION:

That the Council RECEIVES the Investment Report for the month ended 30 April 2010 as detailed in Appendix 9.3.1.

COUNCIL DECISION ITEM 9.3.1

Moved Cr Topelberg, Seconded Cr Maier

That the recommendation be adopted.

MOTION PUT AND CARRIED (7-0)

(Mayor Catania was absent from the Chamber and did not vote on this matter. Cr Burns was on approved leave of absence.)

Mayor Catania Burns returned to the Chamber at 8.33pm. The Chief Executive Officer advised that the item was carried.

Mayor Catania, assumed the Chair.

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the level of investment funds available, the distribution of surplus funds in the short term money market and the interest earned to date.

BACKGROUND:

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. Details are attached in Appendix 9.3.1.

Council's Investment Portfolio is spread across several Financial Institutions in accordance with Policy Number 1.2.4.

DETAILS:

Total Investments for the period ended 30 April 2010 were \$14,234,304 compared with \$15,774,304 at 31 March 2010. At 30 April 2009, \$12,482,547 was invested.

Total accrued interest earned on Investments as at 30 April 2010:

	Budget	Actual	%
	\$	\$	
Municipal	350,000	324,039	92.58
Reserve	300,000	365,826	121.94

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.

Investment funds have been required to be drawn down during this month for the payment of suppliers and payroll. The investment interest income received is over budget due to the increasing interest rates during the financial year as the market condition improves.

The Australian Government Guarantee Scheme for Large Deposits and Wholesale Funding (the Guarantee Scheme) was announced in October 2008 amid extraordinary developments in the global financial system. Given that funding conditions have subsequently improved significantly, and that a number of similar schemes in other countries have closed, the Australian Government on the 7 February 2010 has announced that the Guarantee Scheme will also close to new borrowing from 31 March 2010.

The Town current deposits of \$1 million or below with Australian-owned banks are automatically guaranteed by the Government, with no fee payable will remain in place until October 2011.

The report comprises of:

- Investment Report;
- Investment Fund Summary;
- Investment Earnings Performance;
- Percentage of Funds Invested;
- Graphs.

9.4.2 ME Bank Stadium Management Committee Meeting - Receiving of Unconfirmed Minutes - 19 April 2010 and Supafest Event

Ward:	South	Date:	3 May 2010
Precinct:	Beaufort, P13	File Ref:	RES0082/RES0072
Attachments:	001		
Reporting Officer:	M McKahey, Personal Assistant; John Giorgi, Chief Executive Officer		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council;

(i) *RECEIVES the Unconfirmed Minutes of the ME Bank Stadium Management Committee Meeting held on 19 April 2010, as shown in Appendix 9.4.2;*

(ii) *NOTES that;*

(a) *the additional works carried out by the Town of Vincent were primarily essential Health and Safety items or considered the responsibility of the Town;*

(b) *Rugby WA has satisfactorily completed the Interim Works, as detailed in the approved Stadium Works Agreement (as approved at the Ordinary Meeting of Council held on 16 September 2009); and*

(c) *the Rugby WA works far exceed the \$2 million loan (precise amount "commercial in confidence") provided by the State Government and investigations are being carried out by them to address their over-expenditure;*

(iii) *ACCEPTS the recommendation of the Stadium Management Committee to APPROVE BY AN ABSOLUTE MAJORITY the expenditure of \$112,152.26 for essential additional upgrade works at ME Bank Stadium and for this to be funded from the Perth Oval Reserve Fund;*

(iv) *ENDORSES the action of the Chief Executive Officer concerning the Supafest Event held at ME Bank Stadium on Sunday, 18 April 2010, as outlined in this report; and*

(v) *AMENDS Council Policy No. 3.8.3 "Concerts and Events" by inserting a new Clause 3.6.4, as follows;*

"3.6.4 The stage layout and configuration for Concerts and Events using amplified music shall be located in a position so as to face a south or south-easterly direction. Stage layouts facing a north or westerly direction are not permitted for events where, in the opinion of the Town's Chief Executive Officer, the music is likely to cause significant nuisance to the nearby community (for example, "rock", "heavy" "Rhythm & Blues", "Hip-Hop", Reggae, "Rap" style music and the like). Other concerts and events may be considered for a north facing stage, where the Applicant provides sufficient information (including acoustic modelling) to demonstrate that the event will not cause a significant nuisance to the nearby community."

***Note: The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.**

Moved Cr McGrath, Seconded Cr Topelberg

That the recommendation be adopted.

Debate ensued.

Cr McGrath departed the Chamber at 8.45pm.

Debate ensued.

Cr McGrath returned to the Chamber at 8.46pm.

Debate ensued.

AMENDMENT

Moved Cr Lake, Seconded Cr McGrath

That clause (v) be amended to read as follows:

“(v) *AMENDS Council Policy No. 3.8.3 "Concerts and Events" by inserting a new Clause 3.6.4, as follows;*

"3.6.4 The stage layout and configuration for Concerts and Events using amplified music shall be located in a position so as to face a south or south-easterly direction. Stage layouts facing a north or westerly direction are not permitted for events where, in the opinion of the Town's Chief Executive Officer, the music is likely to cause significant nuisance to the nearby community (for example, "rock", "heavy" "Rhythm & Blues", "Hip-Hop", Reggae, "Rap" style music and the like). Other concerts and events may be considered for a north facing stage, where the Applicant provides sufficient information (including acoustic modelling) to demonstrate that the event will not cause a significant nuisance to the nearby community."

AMENDMENT PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

**MOTION AS AMENDED PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (8-0)**

(Cr Burns was on approved leave of absence.)

COUNCIL DECISION ITEM 9.4.2

That the Council;

- (i) *RECEIVES the Unconfirmed Minutes of the ME Bank Stadium Management Committee Meeting held on 19 April 2010, as shown in Appendix 9.4.2;*
- (ii) *NOTES that;*
 - (a) *the additional works carried out by the Town of Vincent were primarily essential Health and Safety items or considered the responsibility of the Town;*

- (b) *Rugby WA has satisfactorily completed the Interim Works, as detailed in the approved Stadium Works Agreement (as approved at the Ordinary Meeting of Council held on 16 September 2009); and*
- (c) *the Rugby WA works far exceed the \$2 million loan (precise amount "commercial in confidence") provided by the State Government and investigations are being carried out by them to address their over-expenditure;*
- (iii) *ACCEPTS the recommendation of the Stadium Management Committee to APPROVE BY AN ABSOLUTE MAJORITY the expenditure of \$112,152.26 for essential additional upgrade works at ME Bank Stadium and for this to be funded from the Perth Oval Reserve Fund;*
- (iv) *ENDORSES the action of the Chief Executive Officer concerning the Supafest Event held at ME Bank Stadium on Sunday, 18 April 2010, as outlined in this report; and*
- (v) *AMENDS Council Policy No. 3.8.3 "Concerts and Events" by inserting a new Clause 3.6.4, as follows;*

"3.6.4 The stage layout and configuration for Concerts and Events using amplified music shall be located in a position so as to face a south or south-easterly direction. Stage layouts facing a north or westerly direction are not permitted for events where, in the opinion of the Town's Chief Executive Officer, the music is likely to cause significant nuisance to the nearby community. Other concerts and events may be considered for a north facing stage, where the Applicant provides sufficient information (including acoustic modelling) to demonstrate that the event will not cause a significant nuisance to the nearby community."

PURPOSE OF REPORT:

The purpose of the report is for the Council to receive the Unconfirmed Minutes of the ME Bank Stadium Management Committee meeting held on 19 April 2010, approve of expenditure for upgrade works at ME Bank Stadium and endorse action taken concerning the Supafest Event.

BACKGROUND:

At the Ordinary Meeting of Council held on 14 September 2004, the Council considered the establishment of a Committee for the management of the Stadium (known as "ME Bank Stadium" - formerly "Members Equity Stadium") and resolved inter alia as follows:

"That the Council APPROVES BY AN ABSOLUTE MAJORITY; ...

- (iii) *to delegate the following functions to the Committee;*
 - (a) *to establish and review the Heads of Agreement (HOA) Key Performance Indicators (KPIs) in conjunction with Allia;*
 - (b) *to assess whether each proposed Licensing Agreement is consistent with the KPIs and the provisions of the HOA and to approve the proposed Licensing Agreement if it is consistent;*

- (c) *to supervise the performance of the Services by Allia and to ensure that Allia performs the Services in accordance with the KPIs and the HOA;*
- (d) *to receive and consider Performance Reports;*
- (e) *to advise the Council on Capital Improvements required for the Stadium and to make recommendations to the Council about the use of the Reserve Fund;*
- (f) *to review Naming Signage; and*
- (g) *to review the Risk Management Plan;*

(For the purpose of avoidance of doubt, it is acknowledged that the Committee's functions do not include carrying out any of the Operational Management Services which are to be provided by Allia)."

Supafest Event

The Supafest Event was held at ME Bank Stadium on Sunday 18 April 2010 from 4.00pm to 10.00pm and was attended by approximately 12,500 patrons. Supafest was a concert whose artists play "Rhythm & Blues", "Hip-Hop" or "Rap" music. This music has a heavy bass influence – which is known to cause nuisance.

The Town's Health Services carried out pre-event inspections and also were in attendance during the actual event, as is the normal practice.

Complaints

Twenty-three (23) written complaints and four (4) verbal complaints were received by the Town concerning noise emanating from the Supafest event. In addition, the Town's Stadium Manager received five (5) complaints on the night. The complaints had the same substance as those that were received by the Town, i.e. excessive noise, including bass beat and that the words of the artists could be heard quite clearly.

Stage Configuration

The majority, if not all previous concerts at ME Bank Stadium, have located the stage at the northern end of the pitch, with the stage facing a south or south easterly direction. This ensures that the sound is directed over the area outside the Stadium, which is predominantly commercial, with few residences. As such, very few complaints have been received for previous concerts/events.

However, on this occasion, the Supafest event involved the stage facing the north-westerly direction, which was similar to the Raggamuffin Concert held on 24 January 2010.

Only two events have been held with the stage located in a north facing configuration at ME Bank Stadium. The Raggamuffin Concert was held on 24 January 2010 and attracted only one complaint, compared to 32 complaints following Supafest. A Noise Bond penalty of \$2,500 was imposed on this occasion for a breach of the Licence conditions. The relative success of the Raggamuffin event, in terms of complaints received, gave the Town the impression that the north facing configuration was suitable for concerts at ME Bank Stadium. Furthermore, pre-event noise modelling did not indicate that there would be an increased adverse affect on residents as compared to previous concerts at ME Bank Stadium. However, the weather conditions for the Raggamuffin Concert had a westerly prevailing wind, whilst the Supafest event had a southerly wind - directing noise towards the predominantly residential areas.

Ranger and Community Safety Services

Loton Park was made available to the public for parking purposes, a total of 100 vehicles for the evening. It was quite evident that a large number of persons attending the concert were arriving via public transport in particular from the Claisebrook railway station, and being dropped off by Taxis and other vehicles.

Parking, in general was reasonably quiet in comparison to other major concerts held at ME Bank Stadium, with 207 infringement notices being issued in the "Residential" area and paid parking stations.

General Comments:

- Patrons were mainly teenagers and seemed to arrive largely on foot.
- Rangers on shift noted that the noise from the event seemed very loud and could also hear the concert from the Town's Administration and Civic Centre.
- At approximately 7pm, officers based in Loton Park observed a number of people climbing the fence illegally to gain access to the event.
- It was reported that 15 police officers (approximately 10 police cars) attended the event at approximately 7.15pm.
- The officers observed the concert being shut down with lights being turned on approximately at 7.30pm due to safety concerns and poor behaviour. Crowds were apparently addressed on stage by organisers and told not come on dance floor as it was full. Apparently there were issues in pit area, main stage floor area. After around 20 minutes, the concert resumed after organisers consulted with police for go ahead.
- Several complaints were received the following day concerning excessive litter in the streets. This was attended to by the Stadium Manager and the Town's Street Sweeper.

Evictions

A total of 11 people were evicted for BYO alcohol, fence jumping, antisocial behaviour, and intoxication.

Noise

Regulation 18 Compliance:

A Regulation 18 Noise Exemption approval was granted for the event, in accordance with the *Environmental Protection (Noise) Regulations 1997*. The Regulation 18 Noise Compliance report from Lloyd Acoustics confirms that the Regulation 18 approval was not complied with on the night of the event. The Report details **59 exceedances** during the event and **6 additional exceedances** of the permitted level, during rehearsal. The Environmental Health Officers (EHOs) also noted that the event finished five minutes after the designated finish time of 10.00pm.

Requests to the Sound Mixers by the Acoustic Consultant on the night to reduce the sound volume were not complied with.

The Event Promoter has made a submission to the Town concerning reconsideration of the forfeiture of the \$20,000 Noise Bond. This has been considered, however, the decision to forfeit all the Noise Bond is considered justified for the following reasons:

1. 59 exceedances of the sound levels were recorded during the concert.
2. 6 exceedances were recorded during rehearsal.
3. Failure of the sound mixers to comply with instructions to reduce the sound volume during the actual event.
4. The Promoter was aware of the strict sound levels pertaining to this event (due to the stage layout).
5. Consideration of the complaints - which were received from residents in a wide range of suburbs and in several cases, up to 3-4 kilometres from the Stadium.

General Comments:

- The number of security officers patrolling around the venue was inadequate to cope with the number of patrons, where there was an overflow of people in the 'Mosh Pit' (dance floor) area. The crowd was advised halfway through the night that the 'Mosh Pit' is full and that security officers were not allowing any more people into the area. As a result, the attending officers observed a number of people climbing the fences to gain access into the 'Mosh Pit' area. The security officers were outnumbered and were evidently struggling to control the crowd from gaining access into the area.
- It was also noted that at one stage, the event was temporarily discontinued and lights were switched on, due to the escalating safety issues in the 'Mosh Pit'. The performing artists were constantly reminding the crowd to "stop pushing" and "to take three steps back" throughout the night, so as to avoid patrons being crushed against the stage. A minimum of four Police Officers were also seen patrolling the ground area.
- Several patrons were seen to be smoking inside the venue. A number of patrons were also observed to be smoking in designated areas, which are located external to the Stadium.
- Overall, the attending EHOs held grave concerns with the way the event was managed. The officers had difficulty gaining access into the 'Mosh Pit' where the Mixing Desk was located because all entrances to the 'Mosh Pit' were impeded by patrons. Furthermore, the officers were allowed access by some security personnel but were also refused entry by others, even when the officers had identified themselves.

Environmental Health Officer's Recommendations:

"It is recommended that:

1. *In accordance with the Noise Exceedance Penalty Matrix attached, the full amount of the \$20,000 Noise Bond should be retained by the Town, by way of penalty.*
2. *The Regulation 18 approvals process be amended to incorporate better pre-approval, communication and set-up measures, including:*
 - (a) *the approval will not be issued until it is read, understood and signed off by the Stadium Manager, Promoter and Acoustic Consultant;*

- (b) *the Acoustic Consultant is to be solely responsible for liaising directly with the Stadium Manager and Event Promoter following every 5 exceedances measured at the mixing desk; and*
 - (c) *the Acoustic Consultant's sound level meter must be located in a location that is accessible and within full view of the Acoustic Consultant and sound mixer.*
3. *Communication channels be significantly improved, including:*
- (a) *Between attending Noise Officer's and Ranger's during the event;*
 - (b) *WA Police to be more involved in the planning stage; and*
 - (c) *Reporting any non-compliance to the Stadium Manager and promoter.*
4. *When applications are made for a Deed of Licence where the performance stage is facing a north-westerly direction and/or when the main acts are of the R & B/hip-hop/rap style genres, that the application be refused, unless the applicant provides sufficient information to prove that the style of event will not cause significant nuisance to the nearby community."*

Chief Executive Officer's Comments:

The Chief Executive Officer concurs with the Environmental Health Officer's recommendations, except No. 4 relating to the performance stage. It is evident that a north facing stage for events of this nature will cause nuisance to the residents around the Stadium. Accordingly, the stage location for concerts involving "Rock", "Rhythm & Blues", "Hip-Hop", "Rap" style music, should revert to the usual location and face a south or south western direction. Other concerts may be considered where the Applicant provides sufficient information to demonstrate that the event will not cause a significant nuisance to the nearby community.

The Chief Executive Officer is of the opinion that the Supafest event caused serious breaches of the noise control requirements imposed by the Town and this caused considerable nuisance and inconvenience to residents in the Town. Accordingly, the whole of the \$20,000 noise bond has been withheld from promoter. It is considered that the forfeiture of the \$20,000 noise bond is a sufficient penalty to the Promoter and prosecution is not required.

Upgrade Works

The following is a summary of the upgrade works and expenditure at the Stadium for 2009 and 2010:

OMC - 9 June 2009:	
Urgent repairs and upgrade works	
Item	Actual Cost
Siren - Maintenance and Upgrade	\$3,806.00
Paving - Replacement and Re-laying	\$964.00
Dugout - new Weather Covers	\$3,820.00
Plumbing - Repairs to Showers, Fittings and Fixtures	\$1,158.60
Painting - Change Rooms and Doors	\$2,650.00
Players Races and Dugouts - non-slip surface	\$4,530.00
Grandstand - New Internal stud work partitioning - Storeroom	\$3,865.00
Change Rooms - Upgrade, Modifications	\$6,780.00
Total	\$27,573.60

OMC - 22 September 2009:	
General Upgrade, Repairs and Maintenance, Minor Works	
Item	Actual Cost
Brewer Street Toilet - Cistern replacements and Water Upgrade	\$6,010.00
Improved Lighting - main grandstand - Stairway	\$2,636.36
Directional Signage - Replacement/Upgrade	\$3,921.00
Additional stormwater soak wells (NE)#	\$1,623.84
Change Room 2 - Repairs to Ceiling	\$1,800.00
Stadium Function Room - Replace Fire Exit Door	\$1,600.00
Electrical data cabling box offices - Gate 1	\$1,310.00
Light tower electrical cabinets - install vent grills	\$0.00
Gate 3 Ticket Box - Minor repairs	\$1,150.00
Perimeter Fencing - General Repairs	\$1,050.00
Demountable toilets - new plumbing housings	\$600.00
Rear of "The Shed" - Repairs to walkway	\$57.50
Total	\$21,758.70

Soak wells not installed. Funding used for relocation of storage containers.

Upgrade of Playing Surface and Sub-Soil Drainage	
Removal of turf/subsoil and replace with new	\$25,585.00
Install spoon drain bottom of concrete driveway	\$3,575.00
Total	\$29,160.00
Demolition of Caretaker's Cottage and Associated Landscape Works	
Item	Actual Cost
Demolish Caretaker's Cottage	\$15,000.00
Turfing	\$4,500.00
Reticulation	\$2,500.00
Supply/battering of filling sand	\$1,350.00
Planting/Mulching	\$1,000.00
Total	\$24,350.00
Additional Required Works/Health and Safety Items	
Item	Actual Cost
Fencing - Perimeter Alterations - South Marquee Area	\$10,400.00
Fencing - Safety Enclosure - Marquee air conditioning*	\$3,500.00
Fencing - Safety Enclosure - Loading dock area*	\$5,900.00
Fencing - Safety Enclosure - Video Screen*	\$3,500.00
Fencing - Safety Enclosure - Loading Hoists*	\$3,840.00
Fencing - Safety Height Extension - NE suite area*	\$450.00
Fencing - Safety Balustrade under Force 15 Suite*	\$3,500.00
Marquee hardstand area, road widening*	\$15,600.00
Marquee floor re-levelling (with sand)	\$1,526.00
Hardstand and Site Works - Loading dock area	\$15,000.00
Marquee - Asphaltting front-side perimeter*	\$3,400.00
Concrete Footings - Force 15 Suite*	\$1,900.00
Car Park Brewer Street - Asphalt repairs*	\$1,873.44
Safety Bollards (2) - Protect base of Southern stand*	\$798.46
Slabs - Eastern stand Fire Escape*	\$2,200.45
Slabs - Between Shed and NE suites - Fire Escape*	\$600.00
Additional slabs/re-concrete - Rear of Eastern Stand*	\$1,900.00

Electrical Load Testing*	\$1,593.00
Generator - Servicing*	\$716.00
Electrical - Additional Safety Lighting - Eastern Stand Fire Escapes and other Minor Works#	\$20,000.00
Electrical - Additional Distribution Board - Loading Dock Area*	\$12,500.00
Safety Lighting - Rear Southern Stand and Loading Dock Area*	\$1,454.91
Total	\$112,152.26
OVERALL TOTAL	\$214,994.56

* *Essential safety items.*

At the Super 14 game held on 27 February 2010, the power to the Stadium tripped out. This was caused by incorrect wiring of the main power board circuits and possibly related to the recent works. The power failure was a serious concern for the Town and all users, which required urgent action to safeguard the health and safety of patrons. Fortunately, the power was rectified, prior to the game being televised world wide, which averted considerable embarrassment.

Rugby WA Works:

Rugby WA have completed their Interim Works as detailed in the Works Agreement. Minor Defects List still being completed. A list of costings has been provided to the Town (on a confidential basis), which reveals that the Works have far exceeded the \$2 million loan provided by the State Government. (The precise amount is "commercial in confidence".) Rugby WA are currently investigating options for payment and will be meeting with the Minister for Sport and Recreation in mid-April 2010.

OMC 22 September 2009:

At the Ordinary Meeting of Council held on 22 September 2009, the Council resolved inter-alia as follows:

"(viii) *NOTES that;*

- (i) *the interim/temporary upgrade works, as proposed by Rugby WA exceed their State Government loan funding of \$2,000,000; and*
- (ii) *an estimated short fall of \$225,000 is envisaged and a funding source for these monies is to be identified by the other parties; and*

(ix) **AUTHORISES;**

- (a) *the Chief Executive Officer to implement the above interim upgrade and temporary works/repairs and make minor changes which may arise (if required); and ..."*

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

The Local Government Act Regulations 1996 requires that Committee Meeting Minutes be reported to the Council.

Events at ME Bank Stadium are controlled by a Deed of Licence and Town Policy.

The Council Policy 3.8.3 - "Concerts and Events" - at Clause 2.6.9, states;

"2.6.9 ... In the event that an Environmental Health Officer, WA Police Officer or/and Officer from the Department of Environment and Conservation requires the noise levels to be reduced, the applicant/promoter/responsible person is to comply immediately. Failure to do so will result in forfeiture of the bond. The responsible person may also be issued with an Infringement Notice or be prosecuted."

Clause 3.4.1 - "Bond" - states;

"3.4.1 A Noise Control and Event Bond of \$20,000 is to be submitted to the Town a minimum of thirty (30) days prior to the event. This will be withheld by the Town in the event that serious breach(es) of the noise control or policy requirements are identified, and where the promoter fails to remedy the non-compliance as directed by the Town. The portion of the bond to be retained by the Town will be subject to the absolute discretion of the Town's Chief Executive Officer."

Concerts are also controlled by a Regulation 18 Certificate, issued under the Environmental Protection Act/Regulations.

STRATEGIC IMPLICATIONS:

This is in keeping with the Town's Strategic Plan - Plan for the Future 2009-2014, Objective 4.1 - "Provide Good Strategic Decision Making, Governance, Leadership and Professional Management" and, in particular, Objective 4.1.2 - "Manage the organisation in a responsible, efficient and accountable manner".

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Funding

The Perth Oval Reserve Funding contains an amount of \$151,315, as at 30 March 2010. Therefore, if the Additional Essential Works are approved, approximately \$39,100 will remain.

Chief Executive Officer's Comments:

The interim upgrade works carried out by Rugby WA were done under extreme pressure to ensure that the Stadium was ready for the Super 14 events, with the first game held on 12 February 2010. The majority of the essential works were completed by this date. However, other works were completed in time for the second game in late February. As such, costs were higher than normal, due to the extent of work being carried out after-hours so as not to impact on events already booked at the Stadium and, in some cases, other competitive quotes were not obtained – due to the urgency to complete the works.

The Stadium Works Agreement requires Rugby WA to be responsible for all costs and to indemnify the Town from any claims.

During the upgrade works, it became evident that responsibility for some items was in doubt - particularly, as the items related to the owner (the Town). Other items were carried out as they were considered to be primarily essential health and safety items (to protect the safety of patrons) or clearly the responsibility of the Town. These additional items, as outlined in the report, were carried out to ensure that the Town did not expose itself to any claims or liability.

The \$20,000 noise bond will be placed into the Town's Municipal Account.

COMMENTS:

The reporting of the Town's Committee Minutes to the Council Meeting is in keeping with the Local Government Act 1995 and its regulations.

In addition, it is recommended that the Council endorse the action taken by the Chief Executive Officer as outlined in the report.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

12. REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

Nil.

Cr Lake departed the Chamber at 8.55pm.

PROCEDURAL MOTION

At 8.55pm Moved Cr McGrath, Seconded Cr Farrell

That Council proceed “behind closed doors” to consider confidential items 14.1 and 14.2, as these matters relate to information concerning legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Lake was absent from the Chamber and did not vote. Cr Burns was on approved leave of absence.)

There was one (1) member of the public and one (1) journalist present who departed the Chamber at 8.55pm.

At 8.55pm the Presiding Member, Mayor Nick Catania called an adjournment of the meeting for approximately 5 minutes.

The Meeting resumed at 9.04pm, with the following persons present;

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward
Cr Sally Lake (<i>Deputy Mayor</i>)	South Ward
Cr Warren McGrath	South Ward
Cr Dudley Maier	North Ward
Cr Joshua Topelberg	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary)

No members of the Public were present.

14. CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED (“BEHIND CLOSED DOORS”)

14.1 CONFIDENTIAL REPORT - Mindarie Regional Council – Progress Report on Proposed Single Fee Model and Supreme Court Action by the City of Stirling

Ward:	Both	Date:	6 May 2010
Precinct:	All	File Ref:	ENS0008
Attachments:	001		
Reporting Officers:	R Lotznicker, Director Technical Services; John Giorgi, Chief Executive Officer		
Responsible Officer:	John Giorgi, Chief Executive Officer		

REVISED OFFICER RECOMMENDATION:

That the Council

(i) NOTES that:

- (a) the information contained in the report regarding the decision by the Mindarie Regional Council (MRC) to move from a multiple fee model to a single fee model (refer attachment 14.1A);*
- (b) the cost implications of a change in fee model has benefits for the Town and the majority of other members of the MRC as outlined in the report (refer attachment 14.1B); and*
- (c) the City of Stirling (COS) has commenced legal action in the Supreme Court of Western Australia to prevent the Mindarie Regional Council (MRC) from implementing its decision to introduce a Single Fee Model; and*

(ii) ENDORSES the action taken by the Chief Executive Officer to approve of the Town to be jointly legally represented together with the other Member Councils (City's of Perth, Joondalup and Wanneroo and Town's of Cambridge and Victoria Park) of the MRC to oppose the City of Stirling action, as detailed in this report;

(iii) AUTHORISES the Chief Executive Officer to:

- (a) enter into discussions with the other Member Councils, MRC, City of Stirling and other interested parties (in liaison with the Mayor, Town's MRC representative Cr Farrell and Director Technical Services); and*
- (b) approve of any further legal action (if necessary) to protect the Town's interest in this matter;*

(iv) NOTES that a further progress report on this matter will be submitted to the Council as any additional relevant information becomes available; and

(v) EXPRESSES disappointment and concern that the matter of the MRC proposed Single Fee Model is the subject of a Supreme Court action and the Council's preferred position is that the matter be the subject of negotiation and mediation (if necessary) between the MRC Member Councils.

COUNCIL DECISION ITEM 14.1

Moved Cr Farrell, Seconded Cr Lake

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

ADDITIONAL INFORMATION:

At the Supreme Court Directions Hearing held on 11 May 2010, the solicitors for all the Member Councils of the MRC (City of Joondalup, City of Wanneroo, City of Perth, Town of Cambridge, Town of Vincent and Town of Victoria Park) were successful in their application to be joined as a party to the Supreme Court proceedings commenced by the City of Stirling. This was achieved following discussions between the solicitors for each party that occurred just before the hearing commenced and so the application proceeded unopposed.

The application for the injunction has been confirmed for hearing on 25 and 26 May 2010 and orders were made detailing the steps each party must take leading up to the hearing. The Member Councils solicitor's are in the process of drafting an Application that will outline in more detail the other orders made at the Directions Hearing and the steps that must be taken in order to be in a position to oppose the application for an injunction.

Note: The Chief Executive Officer advised that this report is now released to the public as the Council has determined the matter.

PURPOSE:

The purpose of this report is to provide information on the review of the MRC Ordinary Members' Fee Model and recent action taken by the City of Stirling in the Supreme Court against the MRC.

BACKGROUND:

At the MRC Meeting held on 23 April 2009, the MRC Council considered a report on a request from the Town of Cambridge seeking "*an exemption from disposal of all or part of its waste at Mindarie Regional Council facilities...*".

A similar exemption was previously granted to the Town of Vincent by the MRC Council at its Ordinary meeting held on 11 October 2007.

At its 23 April 2009 meeting, the MRC Council made the following decision:

"That Council:

- (i) note the Town of Cambridge request;*
- (ii) authorise the investigation of Option Five – inter – regional council agreements for the processing of waste;*

- (iii) *authorise the investigation of Option Six – an improved model for the management of exemptions;*
- (iv) *conduct a review, and potential revision, to the Mindarie Regional Council fee structure in order to demonstrate a level of comparable pricing to other providers, thereby removing the attractiveness to ‘go elsewhere’;*
- (v) *require further consideration of the Town of Cambridge request in August 2009, following completion of these investigations."*

Part (iv), of the MRC decision provided the authority for the MRC administration, in conjunction with others, to commence a review of the member fees model.

Review Methodology:

The Key activities associated with the review of the member’s fee model were as follows:

- Adoption of a workshop model, involving MRC staff, Member Council officers, specialist advisors (financial and legal), and independent facilitation.
- Conduct three officer workshops with activities as follows:
 - Identification of member fee model options
 - Establishment of criteria for the evaluation of these options
 - Evaluation of options
- Conduct a Council Member workshop on 31 March 2010 with aim of receiving information on the review thus far.
- Formulation of legal and financial advice, in order to assist Council in its decision making.
- Receipt of City of Stirling correspondence on this matter.

The current situation is that two options are for consideration as follows:

- Multi Fee: the current model.
- Single Fee: an alternate model.

Following a number of workshops and much debate, a report on the matter was presented to the most recent Ordinary MRC Meeting held on 22 April 2010, where the following decision was made:

"That Council;

- (i) *Note the information in this item in relation to a review of the MRC member fee model;*
- (ii) *adopt a single fee model as the basis for determining the fee for the acceptance of waste from member Council’s for the 2010/2011 budget;*
- (iii) *authorise the CEO to present a report to the Council Budget Workshop scheduled for 13 May 2010, on the characteristics of the ‘Single Fee’ model."*

Note: The City of Stirling were strongly against the proposal to adopt a single fee and the four (4) City of Stirling Councillors on the MRC Council voted against the motion. The final vote being eight (8) in favour with four (4) against

Further at the MRC Council at its Ordinary Council Meeting on 22 April 2010 decided as follows in relation to the Item on Business Planning 2010/11:

- "(i) noted the methodology used for the Budget Planning and Strategic Budget for 2010/2011;*
- (ii) noted the new initiatives;*
- (iii) noted Members' Single Gate Fee of \$113 - \$119 (ex GST) for financial year 2010/2011 for budget planning purposes;*
- (iv) approved the Schedule of Fees and Charges relating to commercial and casual users, at Attachment One in respect of financial year 2010/2011."*

Special Meeting of MRC – 6 May 2010

Following the MRC's decision of 22 April 2010, a Notice of Motion was submitted by COS following the closure of the Meeting. The Notice of Motion was to rescind the decision relating to Item 8.1.1 as follows:

"That the decision of the Council made on 22 April 2010 in respect of item 8.1.1 be revoked and replaced with the following:

'That the Council:

- (i) note the information in this Item in relation to a review of the MRC member fee model; and*
- (ii) retain the processable/non processable model for member fees.'*

The Notice is signed by four Councillors.

The effect of the Notice is that the administration cannot take steps to implement the decision regarding 'single fee' until the Notice is dealt with (MRC Standing Orders 14.1 refer)."

DETAILS:

The Current MRC Member Fee Model:

In July 2004, the MRC Council approved an approach for the definition of categories of members waste, with effect from the opening of the new Resource Recovery Facility (RRF), as follows:

- Processable waste defined as Municipal Solid Waste suitable for any Secondary Waste Treatment process adopted by MRC.
- Non-Processable waste defined as waste not suitable for a Secondary Waste Treatment process and includes any residue from a Secondary Waste Treatment process.

In April 2005 the MRC Council approved a definition for processable waste and non processable waste (for the Stage 1 Resource Recovery Facility only) as follows:

- Processable waste is defined as all waste collected via
 - weekly household waste collection services for all Councils.
 - daily and weekly collection services for City of Perth.
- Non-processable waste is defined as that waste not suitable for processing by any Stage 1 Resource Recovery Facility established by MRC, and residue material from any waste processing facility within the region.

The translation of these decisions into actual fees occurred in the context of the 2009/2010 Budget where Council set the following member fees:

- Processable Fee: \$120.50 (excl GST).
- Non-Processable Fee: \$66 per tonne (excl GST).

Note: This is what the Town is currently paying with the majority of the Town's waste being processable.

The Multi Fee Option:

The multi fee option can be described as the 'status quo' where different fees are charged for different types of member-provided waste. This option translates to a model where processable and non-processable fees are charged. Material is defined as processable or non-processable in accordance with MRC Council decisions of July 2004 and April 2005.

The advantages of this model, from an MRC "provider of service" perspective, are as follows:

- The model is operational, without any significant administrative problems.
- The model contributes to MRC's ability to provide waste of satisfactory quality, and continuous quantity, to Resource Recovery Facility (RRF) Neerabup, in accordance with the RRFA (the contract).
- The fees are directly related to the cost of service – a useful customer service.

The indicative estimates for multi fee option for financial year 2010/2011 are as follows:

- Processable: \$134/tonne.
- Non-Processable: \$86/tonne

The Single Fee Option:

The Single Fee Option is for Member Councils to be charged an approved single fee for all tonnage received by MRC.

This preferred option would contain no discounts for residue. The indicative estimates for a single fee for financial years 2010/2011 is \$113 - \$119/tonne as derived from the MRC financial model.

Implications Related to adoption of a Particular Member Fees Model:

The implications of changing the fee model were discussed in detail at the meeting of the MRC held on 22 April 2010 and are summarised as follows.

From the "MRC as a business" perspective, the MRC will continue to obtain revenue from Member Councils for waste received, in accordance with existing financial precepts, regardless of the model. However, there is the potential for a reduction in tonnage received by MRC from Member Councils, as a result of action by one or more Member Councils, possibly due to dissatisfaction over any resolved fees model.

The implications of any such action i.e. reduced tonnage to MRC are potentially as follows:

- Potential increase to members' fees. An example of the potential increase to these fees, based on reduced tonnage, under the single fee model is as follows:

Tonnage (2010/2011)	Single Fee (\$/Tonne)
Estimated	\$113 - \$119
Estimated < 100,000 tonnes	\$134 - \$138

- Extended life of landfill due to decreased tonnage. For example, a decrease in annual tonnage of 100,000 tonnes would extend the life of the landfill by three (3) years provided other characteristics remain unchanged.

One scenario which may cause this reduced tonnage is withdrawal from MRC by one or more Councils. This process for withdrawal is a matter for the seven (7) Member Councils – not MRC – and is detailed in local government legislation.

In terms of the financial implications of the extended life of the current landfill, the key point to note is that there is the potential for increase to member fees because of the apportionment of the annual fixed operating costs of lesser tonnes for each remaining year of the landfill. In terms of the RRF Financial Guarantee, the trigger for changes to the obligations to ‘remaining Member Councils’ is when any Council withdraws from MRC, in accordance with the Constitution.

In short, if a Council withdraws from MRC, then the obligations to the remaining Councils under the RRF financial guarantee, increase. The implications on Member Councils as parties to Constitution, or as individual Councils, are matters for each Council, not the MRC, to investigate.

FINANCIAL/BUDGET IMPLICATIONS:

MRC Implications:

The key points in relation to MRC, from a financial perspective, are as follows:

- Multi Fee - no change to current financial situation.
- Single Fee - possible cash flow issues associated with revised member circumstances.
- possible financial issues related to business disruption in the event of member action as a result of a particular decision regarding the fees model.

However, the financial impact, from a Member Council cost perspective, is described in the Deloitte Touché Tohmatsu presentation (refer appendix 14.1B). This highlights the fact that Member Councils will pay more or less, depending on the selected Option.

Town of Vincent Implications.

The Town currently disposes of approximately 14,000 tonnes of processable waste at MRC. The 2009/2010 rate is \$120.50 per tonne which equates to approximately \$1,68m per annum.

The following table outlines the scenarios of a single fee compared with a processable fee and its implications on the Town of Vincent.

Comments	\$ per tonne	Tonnes/ annum	Cost/ annum	Decrease from 2009/2010	Increase from 2009/2010
Current cost 2009/2010 (processable)	\$120.5	14,000	\$1,680,000		
Projected cost 2010/2011 (processable)	\$134		\$1,876,000		\$196,000
Projected single fee (min value) 10/11	\$113		\$1,582,000	-\$98,000	
Projected single fee (max value) 10/11	\$119		\$1,666,000	-\$14,000	
Possible single fee 10/11 if withdrawal of a member (say Stirling)	\$136		\$1,904,000		\$224,000

Supreme Court Action – Indicative Costs

Minter Ellison Solicitors have advised that the indicative costs concerning the Supreme Court Action will be in the range of \$50,000 to \$100,000. This will be shared on a 1/6 basis between the Member Councils.

CONSULTATION/ADVERTISING:

N/A

LEGAL/POLICY:

A special meeting of the MRC Council has been convened for 6 May 2010. This meeting is to consider a rescission motion signed by four (4) Members elected to the MRC, namely the four (4) Councillors representing the City of Stirling (COS).

The motion, to be discussed at the Special Meeting reads as follows:

"That Council;

- (i) *notes the information in this item in relation to a review of the MRC member fee model; and*
- (ii) *retain the processable/non processable model for Member Council's."*

Supreme Court Action

Late on Wednesday 5 May 2010, the Chief Executive Officer (CEO) was advised that the COS had commenced action in the Supreme Court to prevent the MRC from proceeding with the implementation of the Single Fee model. The single fee could decrease Vincent's tipping fees by up to \$300,000 per annum (and others by a similar pro-rata amount). Stirling's fees would increase by \$2.25-\$3million per annum. If successful, the ramifications are significant for the Member Councils. The CEO considers that the Town needs to be legally represented, to protect its interest. The interests of the Member Councils, whilst similar to those of the MRC, may change as the matter progresses.

Therefore, after liaison with Mayor Catania, the Town's CEO approved of the Town to be represented by Minter Ellison solicitors to jointly represent the Member Councils, comprising - City of Joondalup are co-ordinating the matter. All of the other member Councils, have agreed to jointly engage Minter Ellison.

The COS's action is currently against the MRC only. COS intends to oppose any application by the other Member Council's to be heard as part of the proceedings.

The application for an interlocutory injunction was listed before Justice Le Miere at not before 10:30am on Thursday 6 May 2010. The minute of orders filed by Stirling discloses that the orders sought include to restrain the implementation of the decision on 22 April 2010 until after judgment or further order, and to allow MRC to apply on 24 hours notice to dissolve the injunction. The City of Stirling have also requested that they be paid damages arising out of the MRC's decision.

The COS are represented by McLeod's Solicitors and a Senior Counsel (SC). The MRC are represented by Woodhouse Legal and have also retained a SC. The Member Councils are represented by Minter Ellison Solicitors and a SC.

At the moment, the other local authorities that are members of the MRC are not parties to the action. Obviously they are the bodies that will be materially affected. If Stirling succeeds in its argument to overturn the resolution of 22 April 2010, the immediate aim should therefore be to ensure they all have an opportunity to be heard both in respect of the application for the interlocutory injunction and, if the action proceeds, in the action itself.

On 6 May 2010, the Supreme Court made the following Orders:

1. the matter be adjourned until **Tuesday 11 May 2010** for Mention;
2. the matter be listed for hearing on **25 and 26 May 2010**; and
3. the costs of each party were reserved.

In the event that COS will not agree to the other Member Councils of the MRC becoming parties to the action, the Town's solicitor will file an Application at the Directions Hearing on 11 May 2010 for this to occur.

Meeting with Town Solicitors

On Friday 7 May 2010 the Town's CEO along with the CEO's of Joondalup, Cambridge and A/CEO of Wanneroo met with Minter Ellison Solicitors to consider the matter and also a strategy "*for the way forward*".

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: 1.1.4 Minimise negative impacts on the community and environment "*(i) Adopt and implement the Town's Strategic Waste Minimisation Plan 2008-2013*".

SUSTAINABILITY IMPLICATIONS:

Managing of Waste in a sustainable manner is outlined in the Town's Strategic Waste Minimisation Plan. Ensuring diversion of waste to landfill at the lowest cost to its constituents is being pursued by the Town.

COMMENTS:

As mentioned in the report, the MRC Council has decided to introduce a single fee model for charging member Councils to dispose of their waste at either the landfill at Tamala Park or to the RRF at Neerabup. While this has positive cost benefits for most Members, it has a negative cost benefit to the City of Stirling who have commenced action in the Supreme Court to prevent the MRC from proceeding with the implementation of the Single Fee model.

The COS's legal action is considered to be extremely disappointing, as they have not adequately demonstrated their business case in the various workshops held to date. Notwithstanding the outcome of the Supreme Court Action, it is obvious that the future relationship between the COS and other MRC Member Councils will be strained, with potential ramifications to the MRC and Member Councils.

A further report with updated information will be provided at the Council Meeting.

14.2 Confidential Report: Nos. 602-610 (Lot: 89 D/P: 692, Lot: 404 and 405 D/P: 32639) Beaufort Street, Mount Lawley – Construction of Four-Storey Mixed Use Development and Associated Basement Car Park and Outcome of Appeal to the State Administrative Tribunal – Progress Report No. 2

Ward:	South	Date:	10 May 2010
Precinct:	P11 Mt Lawley 7	File Ref:	PRO4329
Attachments:	-		
Reporting Officers:	H Smith, Manager Planning, Building & Heritage Services; R Boardman, Director Development Services		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Progress Report No. 2 as at 10 May 2010 relating to the development at Nos. 602-610 (Lot: 89 D/P: 692, Lot: 404 and 405 D/P: 32639) Beaufort Street, Mount Lawley; and*
- (ii) **NOTES:**
 - (a) *the action taken by the Chief Executive Officer in dealing with this matter, the State Administrative Tribunal (SAT), as detailed in this report;*
 - (b) *that the SAT heard the matter on 5 May 2010, as outlined in the report; and*
 - (c) *a further report will be submitted to the Council, if required, as the development progresses.*

COUNCIL DECISION ITEM 14.2

Moved Cr Topelberg, Seconded Cr Farrell

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

Note: The Chief Executive Officer advised that this report is now released to the public as the Council has determined the matter.

Landowner:	Demol Investments Pty Ltd
Applicant:	Bollig Design Group

PURPOSE OF REPORT:

The purpose of this report is to inform the Council of the progress relating to this development and, in particular, the outcome of the State Administrative Tribunal Final Hearing in relation to his matter and the subsequent Orders (Unconfirmed) handed down by Senior Member McNab on 5 May 2010.

BACKGROUND:

At the Ordinary Meeting of Council held on 9 June 2009, the Council considered this matter and conditionally approved the development.

A Building Licence was issued for the development on 10 February 2010 and the applicant advised that site works commenced on or around the 15 February 2010. The Town's Officers visited the site following calls from adjoining landowners on 22 March 2010 in response to alleged damage to properties in relation to sheet-piling works being undertaken on the site. Further complaints were received by the Town's Mayor and the Town's Officers subsequently issued a "Stop Work Order" on 27 March 2010, requiring works on-site, in regard to the sheet piling, to stop. The builder complied with this Order.

The Council at its Ordinary Meeting held on 13 April 2010 considered Progress Report No.1 in respect of this matter and resolved the following:

"That the Council:

- (i) NOTES the Progress Report No. 1 relating to the development at Nos. 602-610 (Lot: 89 D/P: 692, Lot: 404 and 405 D/P: 32639) Beaufort Street, Mount Lawley;*
- (ii) IS OF THE OPINION that the building operations at No. 602-610 (Lots: 404 and 405 D/P: 32639) Beaufort Street has and will continue to cause damage to buildings in the vicinity, by vibration to the property of an owner of land in the vicinity of the land on which such operations or earthworks are being carried out;*
- (iii) ENDORSES the action taken by the Chief Executive Officer in dealing with this matter, as outlined in the legal advice detailed in this report; and*
- (iv) NOTES that the State Administrative Tribunal has listed the matter of review for a Directions Hearing to be held on Thursday 15 April 2010."*

DETAILS:

Over the previous weeks, the Town's Officers have been liaising with the Town's Lawyers Downings in respect of preparing the matter for two Directions Hearings held on 15 and 28 April 2010 and the Final Hearing at the State Administrative Tribunal held on 5 May 2010.

These preparations have included the commissioning of an expert structural engineer to advise the Town and its lawyers, in respect of the subject site, and matters relating to retaining boundary walls during construction via sheet piling.

Following consideration of all evidence and submissions before it, the Tribunal has issued Orders (Unconfirmed) in this matter which are summarised below:

The Applicant's request for review was allowed by the SAT and the decision of the Town to vary the Building Licence was set aside. In its place, the SAT decided to vary the Building Licence. A summary of the SAT Order is outlined as follows;

- All owners and occupiers within approximately 200 metres of the building site will be issued a letter from the Applicant or Builder containing the following information:
 - A statement that excavation and sheet-piling will recommence and provide a brief description of the proposed works (e.g. pre-drilling, vibration method, manufacturing requirements).
 - The duration of the works and the hours between which the works will be carried out.
 - A name and contact phone number of the Applicant's Representative.
 - The letter must state that an Occupier must refer the letter to the Owner of the property.

- The Applicant must, as soon as practicable, seek the consent of the owner/occupier of selected properties (as detailed in the SAT Order) to complete dilapidation reports. A copy of which will be provided to the Applicant's Representative, the Town and the relevant owner/occupier, as soon as possible. The Applicant will write separately to these selected owners.
- The Applicant/Builder must appoint an Independent Vibration Monitoring expert to install monitoring equipment at strategic locations, to detect and measure vibration.
- Upon installation of each monitor, a 'test' sheet-pile is to be installed and vibration monitoring undertaken. If the data collected from these 'tests' shows that at all times during performance of the test and subsequent works the measured vibration does not exceed the prescribed vibration level, the Applicant can proceed with the works. If the vibration measurement is exceeded, the Applicant/Builder must liaise with the Town and agree on future works.
- Further works cannot proceed without the written approval of the Town. However, the Town's consent is not to be unreasonably withheld or delayed.
- Daily inspections by the Vibration Monitoring Expert are to be undertaken at the properties detailed in the SAT Order. Affected property owners will be contacted separately. If the inspection reveals any damage, a written report is to be provided to all parties. This report is not of itself a basis for suspension or delay of the works.
- Data collected at the end of each day during works and any written communication between the parties is to be provided to the Architect, to which a daily written report will be forwarded to the Town.
- Should an allegation of further damage be received, a suitably qualified Contractor will undertake a further inspection of the subject property and the alleged damage. The Architect and the Applicant's Representative (Owner or Builder) shall liaise with the Town.
- The Applicant and the Town must work together in good faith in respect of the works and the specified conditions.
- Within two (2) working days (or as soon reasonably practicable thereafter), of the completion of the sheet-piling works, the Applicant must ensure that a further dilapidation report ("Closeout Report") is completed for each of the affected properties (as detailed in the SAT Order).

CONSULTATION/ADVERTISING:

A letter (as shown in Appendix 14.2) was sent out on 7 May 2010 to approximately 170 local residents, business proprietors advising them of the SAT Conditions.

LEGAL/POLICY:

This matter is being handled by the Town's Planning, Building and Heritage Services Section as an administrative matter. The Council will be kept informed as to the progress, and the possible legal and financial implications.

- *Local Government Act 1995;*
- *Local Government (Miscellaneous Provision) Act 1960; and*
- *Building Regulations 1989.*

The Town's Solicitors are preparing a detailed report on this matter and at the time of writing this report, it had not been received. The Town's Solicitors in conjunction with the Town's Officers will be drafting appropriate conditions for inclusion on building licences for use in the future.

SAT Orders

At the time of writing this report, the Town's Solicitors have been provided with a copy of the Unconfirmed SAT Orders – to enable Solicitors for both parties to finalise details. As such, they have not been presented to the Council.

Construction Management Plan

As previously mentioned to the Council, the Town's Officers are researching this matter with the aim of producing a Construction Management Plan and Guidelines. These will be available to developers and builders.

The Council's Development Application Conditions of Approval have also been revised to include new conditions for a Construction Management Plan.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

As previously outlined, the Town's solicitors advised that there is inherent risk in dealing with this complex matter however the Town's solicitors were confident that whilst the Town is acting in good faith and attempting to ensure the rights of the builder and the adjoining residents are both protected, any claim for damages or compensation could be reasonably defended.

The State Administrative Tribunal noted '*There is no order for costs*'.

Notwithstanding the above, the Town's legal fees in this respect are to date, in excess of \$55,000, which is not inclusive of fees for the provision of expert evidence from a structural engineer.

COMMENTS:

It is considered that the Town has taken the correct approach in this matter and has done so in a speedy manner so as to reinforce to both the residents and the builder. That is, to support the residents in their request to protect their properties from further damage and also minimise vibration complaints. It will also send a strong message to builders, that the Town expects that appropriate construction methods will be utilised in the Town and will not condone unmitigated damage to adjoining properties through construction on adjoining properties.

In moving forward, the Town's Officers have reviewed examples of Construction Management Plans being used elsewhere and will modify and adopt its procedures and requirements with a view to ensuring the Town is adequately informing itself and by so doing, reducing the likelihood of similar situations presenting themselves in any future developments in the Town. Notwithstanding, prior to the issue of any further building licences where piling is involved, appropriate conditions will be specified – based on advice from the Town's consulting engineer and solicitors.

PROCEDURAL MOTION

At 9.40pm **Moved Cr Farrell, Seconded Cr Topelberg**

That the Council resume an “open meeting”.

PROCEDURAL MOTION PUT AND CARRIED (8-0)

(Cr Burns was on approved leave of absence.)

15. CLOSURE

The Presiding Member, Mayor Nick Catania, declared the meeting closed at 9.41pm with the following persons present:

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward
Cr Sally Lake (<i>Deputy Mayor</i>)	South Ward
Cr Warren McGrath	South Ward
Cr Dudley Maier	North Ward
Cr Joshua Topelberg	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary)

No members of the Public were present.

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 11 May 2010.

Signed:Presiding Member
Mayor Nick Catania

Dated this day of 2010