



## TOWN OF VINCENT

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*"Enhancing and celebrating our diverse community"*

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# MINUTES

<h2>1 DECEMBER 2009</h2>
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Nil.	180
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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 1 December 2009, 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:**

Cr Anka Burns – apologies – arriving late due to work commitments.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Anka Burns	South Ward (from 6.17pm)
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)
Ben Dineen-Dickinson	Journalist – “ <i>The Perth Voice</i> ” (until approximately 7.05pm)

Approximately 24 Members of the Public

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

Nil.

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

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

1. Ben Doyle of Planning Solutions, 255 Beaufort Street, Perth – Item 9.1.11. Thanked Mayor and Councillors for making themselves available to meet and discuss the matter. Advised it has become apparent that in order to gain sufficient support, some modifications will be necessary. Requested the item be deferred to the next available meeting. Stated he looks forward to working with the Council.

**Cr McGrath departed the Chamber at 6.08pm.**

2. Steven Smyth of 244B Charles Street, North Perth – Item 9.1.4. Thanked Planning and Technical Officers for their assistance with the proposal and the Council for their support and ongoing support, as he attends to get the proposal accepted and put forward to a building licence.

**Cr McGrath returned to the Chamber at 6.09pm.**

3. Damien Newnham of 59 Kingston Avenue, West Perth – Item 9.1.19. Advised that he has had various discussions with Town Officers and is yet to receive any written confirmation of reasons to deny the application. However, he understands that parking has been raised as an issue, which is something they would like to avoid or encourage patrons to seek public transport or catch a taxi. Advised that the hotel wants to book an international act from Chicago which will cost \$100,000 to fly over, which they believe is a great way to showcase the large amount of money spent on redeveloping the hotel to ensure it is the social hub of Leederville. Hoped this could be investigated further and they will be happy to deal with any specific issues raised by the Council however, hopes it can be done in a timely fashion as New Years eve is fast approaching.
4. Sally Calder of 2 Myrtle Street, Perth – Item 9.1.7. Thanked Councillors for meeting with them. Stated they have raised issues with the Planning Department however, they do not feel they have been adequately addressed:
  - (i) they do not believe that the proposed development meets some Australian Standards (AS), specially the internal width of the garage as it is 2.78 however, a Town Planner advised that the AS is 3m. Therefore believed the garage will not be a functional space;
  - (ii) queried the turning circle into the garage, given the streetscape is very narrow;
  - (iii) wondered if it is to be called a “shed” a rather than a “garage”;
  - (iv) believed it does not meet the open space requirements as they feel it will be a big concrete/brick/paved thermal mass right next door to them; and
  - (v) there a minimum requirement for a soak well from a neighbours boundary. Believed this will be less than 1.5m from their boundary which concerns them.Asked the Town Planners to address their concerns and requested Councillors take into consideration the views of approximately 7 people from Myrtle Street who have also submitted their concerns and objections.
5. Simon Chester of 93 Chelmsford Road, North Perth spoke regarding the proposed removal of multiple dwellings provision to the Cleaver and Hyde Park Precincts. Believed there is room for sensitive application of density within the Town. Stated the Council’s instigation of the Leederville transit oriented masterplan and design guidelines for the block between Fitzgerald Street and Maltings are adequate examples of where density can be rolled out in the Town and have minimal impact on surrounding areas. Stated there are areas where land through out of date uses can be redeveloped. Stated the no multiple dwelling (NMD) was placed on the southern precincts with the express purpose of maintaining a low scale residential character of the area and precluding flats. Stated the continued support for that notion is clearly evident with the national awarded Vincent Vision 2024, where over 1,000 were actively engaged. Asked why treat the entire Hyde Park and Cleaver Precincts the same as the other areas of high value or high character value. Referred to the Annual Report. In 2008/2009 there were a total of 140 new developments in the Town, with 703 alterations and additions in the Town. Urged the Council to strongly think about blanket application of removal of the multiple dwellings. Stated over the last few months he has been speaking to the Department of Planning who have no problem. They believe it is entirely reasonable for this Council to go out and consult on the removal of the NMD on the Hyde Park and Cleaver Precincts. Urged the Council to consider this at the next meeting.

**Cr Burns entered the Chamber at 6.17pm.**

6. Anne Durbridge of 8 Anderson Street, Mt Hawthorn – Items 9.1.18 and 9.2.2. Understood the inevitability of the urban infill in suburbs close to the City however, is deeply concerned that this may be mismanaged if left with developers who are driven by monetary return rather than best interests of the community. Urged Council Members to consider the dwellings and asked if they are safe, healthy and sustainable? Asked if a dwelling with a 16m<sup>2</sup> outdoor living area and a

predominately concrete structure with no public open spaces or parks within this locality can be assessed safely and locally. Stated the area is a preferred choice by families as it is accessible to good local schools. Stated the World Health Organisation and the Health Department have identified childhood obesity as a major health crisis and local governments have a moral and legal obligation to provide accessible outdoor green spaces for use. Asked how a swing set and an outdoor setting can be placed in a 16m<sup>2</sup> area. Concerned about local traffic and safe pedestrian access with the increased population that comes with a higher density development. Stated the intersection of Scarborough Beach Road, Brady and Green Streets is known as a “hot spot” for accidents and certainly not pedestrian friendly. Believed the Town has an obligation to provide the community with necessary green spaces, parks or playgrounds and safer roads and pedestrian crossing if the community is to absorb the larger population. Stated as a community member she has an expectation that the Town embark on some strategic approach to further planning in this locality that maintains and allows for a well balanced healthy community. Urged the Town to honour their mission statement and scrutinise the dwellings. Stated due to ill health the resident of 4 Anderson Street has not had a chance to have an input.

7. Lynden Semmens of Greg Rowe & Associates, 26/258 Newcastle Street, Northbridge – Items 9.1.14 and 9.1.15. Stated both signs have been erected for approximately 30 years and his client had the ability to take over the contract for these sites to provide the signage and ongoing maintenance and changing of the signs at which realising the signs were dilapidated and in need of repair. Advised that the Lord Street sign is smaller than previously and the Vincent Street sign is marginally larger however, the legal advice supports the minor changes. Asked Council to approve the alternative recommendation.
8. Ben Dudley of 159 Palmerston Street, Perth – Item 9.1.7. Stated upon receipt of approval in August 2007 they lodged a building licence application that took into account the conditions of the then planning approval and the licence was assessed and approved and was ready for issue following appointment of a builder. Advised they sought a builder within their price expectation however, after a number of months of fruitless searching they decided to be an owner builder. Advised with the financial crisis his business was badly affected and they decided to defer all non-essential spending at the time, the garage renovations included. However, since June this year their financial position is more stable and they decided to restart the renovation. Urged the Council to approve the recommendation as it will effectively reinstate the approval that just lapsed. Believed the recommendation addressed the objections raised and demonstrate that the garage renovations will not adversely impact the amenity of the locality. Stated until the application was lodged they enjoyed cordial terms with neighbours and he personally advised them that they had to lodge a new application and were surprised and disappointed that they had mobilised a number of residence to support their objections.
9. John Pintabono of 30 Fairfield Street, Mt Hawthorn – Item 9.1.1, also speaking on behalf of his parents at No. 28. Concerned about the overview of the property for the proposed dwellings. Stated a development at the rear of 28 Fairfield Street has allowed a frontage window to be visible directly into the property and they are concerned that from time to time they have been able to see the residents within that unit going to bed. His children will be using the backyard however, the overview of the property will look directly into No. 30. Submitted photographs demonstrating the view from the proposed site.

10. Claude Iaconi of 67 Ruby Street, North Perth – Item 9.1.17. Stated for the last 15 years his mother has been battling against “*heritage freaks*” of the Council to heritage list the property however, 1 Bulwer Avenue looks like a house belonging on the island of Mykonos rather than belonging to Perth. Advised in November 2006 the Council rightly decided to exclude Nos. 1 and 21 from the MHI. Concerned that the Council is now turning its back on those 2 ratepayers and is agreeing or encourage the State Heritage Council to list them on their registered. Believed the decision is inconsistent. Advised as a real estate agent who has worked in the area over the last 16 years, heritage listing will erode the values of not only his mother’s property but also No. 21 and any other property that lacks any heritage features. Advised that his family thoroughly object to the fact that not a single brick can be touched without the permission of other bodies. Asked the Council to support the interim listing of the Bulwer Avenue Precinct excluding Nos. 1 and 21 to keep it consistent with the previous decision.
11. Royston Wong of 64 William Street, East Perth – Item 9.1.1. Advised that he is the designer for this project and he has been involved in a number of projects in Subiaco and East Perth Redevelopment and can see the changes to city living so there will be mixed development with ground floors used for business and upper floors for residential to encourage a more liveable environment. Stated the building is designed with a very interesting streetscape. Believed the Town is moving in a direction to create family viable living environments and to encourage more activities within the city, which he believes will make the Town one of the major cities. Advised that he is encouraged by the Planning Staff who are very knowledgeable, competent and highly efficient which has help them get the project through quickly. Believed overlooking is a normal occurrence with any city development. Believed this will encourage friendly neighbours as you can interact. Stated these days inner city living is combined with business and residential living.

There being no further speakers, public question time closed at approx. 6.38pm.

**(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**

Nil.

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

Minutes of the Ordinary Meeting of Council held on 17 November 2009.

**Moved Cr Lake, Seconded Cr Farrell**

***That the Minutes of the Ordinary Meeting of Council held 17 November 2009 be confirmed as a true and correct record.***

**CARRIED (9-0)**

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

**7.1 Employee of the Month Award for the Town of Vincent for December 2009**

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 DECEMBER 2009, the award is presented to Renae Oldfield, Records Assistant in the Town's Records Section. Renae was nominated by the Co-ordinator Ranger Services, Peter Cicanese, for Renae's excellent customer service that has constantly been evident whilst assisting the Town as an Events Staff Member at Loton Park for ME Bank Stadium Events.

The Town recently received an email from a Mr Kevin Perrin, who attended an event at the Stadium, stating as follows;

*"I recently went to ME Bank Stadium. Prior to going into the Stadium I was advised that due to my ACROD Sticker, I could park at no cost in the area within the ground (at Loton Park).*

*When entering the ground, I enquired with the young lady in the entry to the parking area as to the ACROD situation. Her name was Renae.*

*What a perfect person to have as your frontline contact. Renae was very helpful, bright and friendly. I hope you can give Renae the "pat on the back" that she deserves. Top service!"*

Congratulations Renae and well done!!

**Received with Acclamation!**

**7.2 2009 Sport and Recreation Industry Awards**

**Loftus Centre Redevelopment**

I am pleased to announce that the Town was selected as one of three finalists for the 2009 Sport and Recreation Industry Awards in the *"Best Revitalisation of an Existing Facility"* Category. This Award relates to the Town's Loftus Centre Redevelopment Project.

The Award provides recognition for the "changing use of an existing amenity and/or the rebuild/upgrade of a Facility to better meet these changing needs".

As you may be aware, the redevelopment of the Loftus Centre, which also included a new Library and Local History Centre for the Town, now incorporates the State Gymnastics Centre, improved recreational facilities and a redeveloped Loftus Community Centre.

The Loftus Recreation Centre is now one of the largest and successful Centres in Australia and I wish to congratulate the CEO and his staff for bringing this project to fruition.

The Director Corporate Services, Mike Rootsey represented the Chief Executive Officer at the 2009 Sport and Recreation Industry Awards Presentation on Friday 27 November 2009, where the Town received a Finalist Certificate for this project.

Special Service Award for Individuals in the Recreation Industry

I am also pleased to announce that at the same Event, the Town's Assistant Manager - Beatty Park Leisure Centre Operations, Jeff Fondacaro, received the Leisure Institute of Western Australia Special Service Award.

This award is a service industry award in recognition of Jeff's service to the Recreation Industry which acknowledges his long serving membership of the Leisure Institute of Western Australia Board and membership of the Royal Life Saving Board and also includes his service as lecturer for both TAFE and the Royal Life Saving Services and his involvement in many industry initiatives.

Jeff's recognition by his peers in the Recreation Industry is a credit to him and also positively reflects on the Town's Beatty Park Leisure Centre.

Congratulations to Jeff.

**Received with Acclamation!**

7.3 Cappuccino Festival – Angove Street, North Perth

I wish to express my congratulations to Staff, Sponsors and helpers, at the very successful and widely appreciated Angove Street (Cappuccino) Festival held on Sunday 29 November, which was extremely well attended.

Several thousand people attended the event during the course of the day, which included many ratepayers and residents of the Town.

May I thank the Town's Officers for again organising such a successful event, which included our Community Development Section (as organisers), Parks and Property Section (for manning the Town's native plants stall), Engineering, Ranger and Community Safety Section and Environmental Health Officers (for their contribution in setting up the Festival and work on the day).

7.4 The Mayor's Christmas Barbeque

I would like to invite everyone to the Annual Mayoral Barbeque, which will be held on Sunday 13 December 2009 at Hyde Park from 4pm to 7pm.

Come along with your family and friends and enjoy the afternoon's free festivities and also the Official Opening of the new Hyde Park Stage at 5.00pm.

I look forward to seeing you there.

7.5 Town of Vincent Advisory Groups

I wish to remind you that the nominations for the various Town of Vincent Advisory Groups, including; Art, Heritage, Local Area Traffic Management, Safer Vincent, Seniors, Sustainability and Universal Access, close this Friday 4 December 2009.

We welcome nominations from our Community.

## 8. DECLARATIONS OF INTERESTS

- 8.1 Cr Burns declared an interest affecting Impartiality in Item 9.1.10 – Nos. 64A and 64B (Strata Lots 1 and 2) Wasley Street, North Perth - Proposed Extension of Temporary Car Park Use and Use of Eastern Grouped Dwelling for Storage and Administration Purposes Associated with the Institutional Building (St Michael's Nursing Home - Nos 53-65 Wasley Street, North Perth) (Retrospective Application). The extent of her interest being that she lives at 68 Wasley Street, North Perth and the firm she was previously employed with acted for the previous registered proprietor of 64A and 68A Wasley Street in relation to this matter.
- 8.2 Cr Buckels declared an interest affecting Impartiality in Item 9.1.2 – Nos. 30-44 (Shops 36 and 38) (Lots 1 and 2, D/P 2028) Angove Street, North Perth – Proposed Change of Use from Shop and Eating House to Shop, Commercial Kitchen and Ancillary Eating House – Application for Retrospective Approval. The extent of his interest being that his wife worked as a barista at the business for six months, ending 29 November 2009.
- 8.3 Cr Farrell declared an interest affecting Impartiality in Item 9.4.5 – Draft Policy – Food Act 2008 Policy. The extent of his interest being that his father operates a laboratory that carries out food analysis for the Local Health Authorities Analytical Committee.
- 8.4 Cr Topelberg declared an interest affecting Impartiality in Item 9.2.1 – Possible Future Traffic Flow Alterations, William Street, Brisbane Street to Newcastle Street, and Other Adjoining Higher Order Roads Within the Town – Temporary Closure of the Horseshoe Bridge - Progress Report No. 3 (TES0473) Beaufort Precinct. The extent of his interest being that his business is located on and operates from William Street in the Town of Vincent, 1.5km from the Horseshoe Bridge.

All Councillors 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 9.1.11, 9.1.4, 9.1.19, 9.1.7, 9.1.18, 9.2.2, 9.1.14, 9.1.15, 9.1.1 and 9.1.17.

### 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 9.1.1, 9.1.20, 9.4.2 and 9.4.3.

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

Nil.

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	Items 9.1.12, 9.2.1 and 9.3.2.
Cr Buckels	Nil.
Cr McGrath	Items 9.1.3 and 9.1.8.
Cr Harvey	Nil.
Cr Lake	Item 9.1.20.
Cr Burns	Nil.
Cr Maier	Items 9.1.10 and 9.4.6.
Mayor Catania	Nil.

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

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

Items 9.1.2, 9.1.5, 9.1.6, 9.1.9, 9.1.13, 9.1.16, 9.1.21, 9.3.1, 9.3.3, 9.4.1, 9.4.4 and 9.4.5.

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

Nil.

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

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

Items 9.1.2, 9.1.5, 9.1.6, 9.1.9, 9.1.13, 9.1.16, 9.1.21, 9.3.1, 9.3.3, 9.4.1, 9.4.4 and 9.4.5.

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

Items 9.1.11, 9.1.4, 9.1.19, 9.1.7, 9.1.18, 9.2.2, 9.1.14, 9.1.15, 9.1.1 and 9.1.17.

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

**Moved Cr Farrell, Seconded Cr Burns**

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

*Items 9.1.2, 9.1.5, 9.1.6, 9.1.9, 9.1.13, 9.1.16, 9.1.21, 9.3.1, 9.3.3, 9.4.1, 9.4.4 and 9.4.5.*

**CARRIED (9-0)**

**9.1.2 Nos. 30-44 (Shops 36 and 38) (Lots 1 and 2, D/P 2028) Angove Street, North Perth – Proposed Change of Use from Shop and Eating House to Shop, Commercial Kitchen and Ancillary Eating House – Application for Retrospective Approval**

<b>Ward:</b>	North	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	North Perth Centre; P09	<b>File Ref:</b>	PRO0152; 5.2009.339.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	D Pirone, Planning Officer		
<b>Responsible Officer:</b>	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 S Hogan on behalf of the owner D & D Christou for proposed Change of Use from Shop and Eating House to Shop, Commercial Kitchen and Ancillary Eating House - Application for Retrospective Approval, at Nos. 30-44 (Shops 36 and 38) (Lots 1 and 2 D/P 2028) Angove Street, North Perth, and as shown on amended plans stamp-dated 15 October 2009, 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;*
- (ii) within twenty-eight (28) days of the issue date of this ‘Approval to Commence Development’, the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:*
  - (a) pay a cash-in-lieu contribution of \$2,044 for the equivalent value of 0.73 car parking space, based on the cost of \$2,800 per bay as set out in the Town’s 2009/2010 Budget; OR*
  - (b) lodge an appropriate assurance bond/bank guarantee of a value of \$2,044 to the satisfaction of the Town. This assurance bond/bank guarantee will only be released in the following circumstances:*
    - (1) to the Town at the date of issue of the Building Licence for the development, or first occupation of the development, whichever occurs first; or*
    - (2) to the owner(s)/applicant following receipt by the Town of a Statutory Declaration of the prescribed form endorsed by the owner(s)/applicant and stating that they will not proceed with the subject ‘Approval to Commence Development’; or*
    - (3) to the owner(s)/applicant where the subject ‘Approval to Commence Development’ did not commence and subsequently expired.*

*The car parking shortfall and consequent cash-in-lieu contribution can be reduced as a result of a greater number of car bays being provided on-site and to reflect the new changes in the car parking requirements;*

- (iii) *all signage that does not comply with the Town's Policy 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; and*
- (iv) *within 28 days of the issue date of the 'Approval to Commence Development' architectural drawings and building compliance report (BCA), which are prepared by a qualified Practising Building Consultant demonstrating the building complying with the Building Code of Australia (BCA) requirements for a Class 6 Building, and that the cost of this service is to be borne by the applicant/owner(s).*
- (v) *the gross floor area of the proposed shop shall be limited to a maximum of 58 square metres and the gross floor area of the commercial kitchen shall be limited to a maximum of 28 square metres. Any increase in floor space for the shop, commercial kitchen and/or ancillary eating house or change of use for the subject land shall require a separate Planning Approval to be applied to and obtained from the Town.*

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

**COUNCIL DECISION ITEM 9.1.2**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

<b>Landowner:</b>	D & D Christou
<b>Applicant:</b>	S Hogan
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Shop
<b>Use Class:</b>	Shop, Commercial Kitchen and Ancillary Eating House
<b>Use Classification:</b>	“P” and “SA”
<b>Lot Area:</b>	789 square metres
<b>Access to Right of Way</b>	East side, 3 metres wide, sealed, Town owned

**BACKGROUND:**

- 15 November 1993      The City of Perth Council conditionally approved an application for change of use from shop to eating house at Shop 44.
- 20 December 2000      The Town under delegated authority from the Council conditionally approved an application for change of use from shop to eating house at Shop 38.
- 24 July 2001              The Council at its Ordinary Meeting conditionally approved an application for change of use from shop to wine bar at Shops 34 and 36. This approval has not been taken up.

14 September 2004	The Town under delegated authority from the Council conditionally approved an application for verandah additions to existing eating house at Shop 44.
9 August 2005	The Council at its Ordinary Meeting conditionally approved an application for change of use from shop to eating house at Shop 32.
14 March 2006	The Council at its Ordinary Meeting conditionally approved an application for an awning addition to existing shop (Shop 40).
4 January 2007	The Town under delegated authority from the Council conditionally approved an application for an awning addition to Shops 30-44.
21 January 2008	The Town under delegated authority from the Council conditionally approved an application for change of use from shop to take-away food outlet with associated alterations and signage at Shop 40.
24 September 2008	The Town under delegated authority from the Council conditionally approved a sanitary facility to Shops 30-44.

**DETAILS:**

The proposal involves the application for retrospective approval for change of use from shop (Shop 36) and eating house (Shop 38) to shop, commercial kitchen and ancillary eating house.

The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>	
<b>Car Parking</b>	
Car parking requirement (nearest whole number): <ul style="list-style-type: none"> <li>• 30 – Shop (GFA = 68.5 square metres) requires 4.57 car bays</li> <li>• 32 – Eating House (PFA = 36 square metres) requires 8 car bays</li> <li>• 34 – Shop (GFA = 53.6 square metres) requires 3.57 car bays</li> <li>• 36 and 38 – Shop (GFA = 58 square metres) requires 3.87 car bays and Commercial Kitchen (GFA = 28 square metres) requires 3 car bays</li> <li>• 40 – Take Away Food Outlet (Seating = 4.2 square metres, Queuing = 8 square metres) requires 4.93 car bays</li> <li>• 42 – Shop (GFA = 42.2 square metres) requires 2.82 car bays</li> <li>• 44 – Eating House (PFA = 31.5 square metres) requires 7 car bays</li> </ul>	= 38 car bays
Total car bays required = 37.76 car bays	
Apply the adjustment factors: <ul style="list-style-type: none"> <li>• 0.85 (within 400 metres of a bus stop)</li> <li>• 0.85 (within 400 metres of a public car parking place with in excess of 75 car parking spaces)</li> </ul>	(0.7225)  = 27.46 car bays
Minus the car parking provided on-site	9
Minus the most recently approved on-site car parking shortfall. *This shortfall is calculated from all the existing approved uses from shops 30-44 Angove Street and includes the adjustment factors.	17.73*
Resultant shortfall	0.73 car bay
<b>Bicycle Parking</b>	
The proposed change of use does not result in any further increases in bicycle parking.	

<b>Consultation Submissions</b>		
<b>Support</b>	<b>Nil.</b>	<b>Noted.</b>
Objection (4)	<ul style="list-style-type: none"> <li>• Lack of car parking on site and un-timed car bays on street.</li> <li>• Lack of toilet facilities.</li> <li>• Retrospective application is unfair as they are able to operate without approval.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported – The proposed car parking shortfall is supported as the commercial building at Nos. 30-44 Angove Street is existing with 9 on-site car parking bays. A condition has been applied for the applicant to provide a cash-in-lieu payment for the car parking shortfall. Furthermore, an application can be made to the Town’s Technical Services to restrict on-street parking.</li> <li>• Supported in part – This will be dealt with as part of the Building Licence.</li> <li>• Not supported – The Town’s procedure for retrospective applications is that the applicant can continue operation until a determination is made.</li> </ul>
<b>Other Implications</b>		
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Nil	
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:**

The proposed change of use is supported by the Town’s Officers as the proposal contributes to the vitality and diversity of uses along Angove Street in the North Perth Centre Precinct.

In light of the above, it is recommended that Council approve the application, subject to standard and appropriate conditions to address the above matters.

**9.1.5 No. 18 (Lot 121, D/P 1106) Chatsworth Road, Highgate - Proposed Partial Demolition of and Alterations and Additions to Existing Single House**

<b>Ward:</b>	South	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Hyde Park, P12	<b>File Ref:</b>	PRO4865; 5.2009.397.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	T Cappellucci, Statutory Planning Officer		
<b>Responsible Officer:</b>	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 R Wilson on behalf of the owner M H & S P Solomon, for the proposed Partial Demolition of and Alterations and Additions to Existing Single House, at No. 18 (Lot 121, D/P 1106) Chatsworth Road, Highgate, and as shown on plans stamp-dated 25 September 2009, 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;*
- (ii) no street verge tree(s) shall be removed/pruned unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (iii) first obtaining the consent of owner of No. 16 Chatsworth Road for entry onto their land the owner of the subject land shall finish and maintain the surface of the boundary (parapet wall) facing No. 16 Chatsworth Road in a good and clean condition;*
- (iv) any new street wall, fence and gate within the Chatsworth Road 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; and*
- (v) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on-site.*

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**COUNCIL DECISION ITEM 9.1.5**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

<b>Landowner:</b>	M H & S P Solomon
<b>Applicant:</b>	R Wilson
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R80
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	316 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The application seeks approval for partial demolition of and alterations to an existing single house resulting in a second bathroom with laundry and an ensuite at No. 18 Chatsworth Road, Highgate. As a result, the existing fence common with No. 16 Chatsworth Road, is being replaced by a 5.9 metre long boundary wall, which adjoins an existing boundary wall for this site. The application is being referred to the Council as it involves a variation to the Residential Design Codes Open Space requirements, and such variations are specified in the Town's Non-Variation of Specific Development Standards and Requirements Policy.

The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
<b>Building Setbacks:</b> Ground Floor Side 1 (East) Common with No. 16 Chatsworth Road	1.5 metres	Nil	Supported – Not considered to have an undue impact on the neighbouring property, and no objection received from the directly affected neighbour.
<b>Building on Boundary:</b> Ground Floor (East)	Walls not higher than 3.5 metres with average of 3 metres for 2/3 (31.5 metres on the eastern boundary) of the length of the balance of the boundary behind the front setback, to one side boundary.	Wall Height = 3.96 metres to 4.3 metres maximum height  Wall Length = 5.9 metres (addition)  Total Wall Length = 5.9 metres (addition) + 21.1 metres (existing) = 27 metres  Required = $\frac{2}{3} \times (31.5-4) = 18.33$ metres	Supported – Not considered to have an undue impact on the neighbouring property as the boundary wall is of a similar height to that of the existing parapet wall on the boundary of No. 16 Chatsworth Road. It is not considered the wall will have any significant adverse effect on the amenity of No. 16 Chatsworth Road. No objections were received from the affected neighbour.

<b>Open Space:</b>	Minimum of 45 per cent of the proposed lot area.	37.6% of site.	Supported – Not considered to have an undue impact on the amenity of the site. In addition, the open space of the site prior to this application was 40%, thus was an existing non-compliance.
<b>Consultation Submissions</b>			
No comments were received during the consultation process.			
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:**

The variation of open space area is supported, as the proposal is consistent with the proper and orderly planning of the locality and the intensity and use of the site, is consistent with surrounding residential development. In addition, it is considered that no undue impact on the occupiers of the development nor the amenity of the locality will occur as a result of the variation to open space, and building on boundary requirements.

In light of the above, it is recommended that the Council approve the partial demolition of, and alterations and additions to the existing single house, subject to standard and appropriate conditions.

**9.1.6 No. 2 (Lot 40, D/P 13368) Glenelg Street, corner of Federation Street, Mount Hawthorn – Proposed Front Fence and Boundary Wall Addition to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Mount Hawthorn; P01	<b>File Ref:</b>	PRO4573; 5.2009.432.1
<b>Attachments:</b>	<a href="#">001</a> ;		
<b>Reporting Officer:</b>	J Pirone, Statutory Planning Officer		
<b>Responsible Officer:</b>	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 Craige Matthews Designs on behalf of the owners T Sita and R Taylor for proposed Front Fence and Boundary Wall Addition to Existing Single House, at No. 2 (Lot 40, D/P 13368) Glenelg Street, corner of Federation Street, Mount Hawthorn, and as shown on plans stamp-dated 16 November 2009, subject to the following conditions:*

- (i) *no street verge tree(s) shall be removed/pruned unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s); and*
- (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.*

**COUNCIL DECISION ITEM 9.1.6**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

<b>Landowner:</b>	T Sita and R Taylor
<b>Applicant:</b>	Craige Matthews Designs
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	301 square metres
<b>Access to Right of Way</b>	Not Applicable

**BACKGROUND:**

- 23 December 2008                      The Town under delegated authority from the Council approved a planning application for proposed demolition of existing single house and construction of a two-storey single dwelling.
- 7 January 2009                         The Town approved a demolition licence for a single dwelling.
- 11 February 2009                      The Town approved a Building Licence for a Two Storey Single Dwelling.

**DETAILS:**

The application seeks approval for a front fence and boundary wall addition to an approved single house at No. 2 Glenelg Street, corner of Federation Street, Mount Hawthorn. The application is being referred to the Council as it involves significant variations to the Town’s Street Walls and Fences requirements, and such variations are specified in the Town’s Non-Variation of Specific Development Standards and Requirements Policy.

The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Street Walls and Fences SADC 13:	Posts and Piers are to have a maximum width 355 millimetres and a maximum diameter of 500 millimetres.	800 millimetres wide piers by 190 – 200 millimetres wide piers.	Supported – See “Comments”
<b>Consultation Submissions</b>			
Support (1)	No Comments		Noted.
<b>Other Implications</b>			
Legal/Policy			TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications			Nil
Sustainability 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.

**COMMENTS:**

The view of the piers from the primary street, Glenelg Street, is only 190 millimetres, which significantly reduces the impact of the variation on the streetscape. Although the 800 millimetre wide piers can be seen from the secondary street (Federation Street), the design of the front fence blends in with the design of the existing house. The majority of the front fence is proposed to be 50% visually permeable with only 500 millimetre high solid portions. It is also noted that the neighbour’s consent from No. 4 Glenelg Street, Mount Hawthorn has been received, and the Town’s Technical Services have indicated that the proposed front fence complies with the requirements for visual truncations.

In light of the above, it is recommended that the Council approve the front fence subject to standard and appropriate conditions.

**9.1.9 No. 252 (Lot 401, D/P 34634 and Lot 301, D/P 302590) Charles Street, corner Alma Road, North Perth - Proposed Demolition of Existing Single House and Construction of Three (3), Two-Storey Grouped Dwellings**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Smith's Lake; P06	<b>File Ref:</b>	PRO4827; 5.2009.338.1
<b>Attachments:</b>	<a href="#">001</a> , <a href="#">002</a>		
<b>Reporting Officer:</b>	S Kendall, Heritage/Planning Officer		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1, APPROVES and in accordance with the provisions of the Metropolitan Region Scheme, RECOMMENDS SUPPORT to the Western Australian Planning Commission, of the application submitted by Integrity Developments for the owner Portland Asset Pty Ltd for proposed Demolition of Existing Single House and Construction of Three (3) Two-Storey Grouped Dwellings, at No. 252 (Lot 401, D/P 34634 and Lot 301, D/P 302590) Charles Street, corner Alma Road, North Perth, and as shown on plans stamp-dated 12 November 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;*
- (iii) any new street/front wall, fence and gate within the Charles Street and Alma Road setback areas, including along the side boundaries within these street setback areas, shall comply with the Town's Policy provisions relating to Street Walls and Fences;*
- (iv) prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town;*
- (v) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (vi) the support/approval of the Department of Planning and/or Western Australian Planning Commission, and compliance with its comments and conditions at the applicant(s)/owner(s)' full expense;*
- (vii) prior to issue of a Building Licence, the applicant shall comply with all requirements recommended by the Department of Planning and/or Western Australian Planning Commission;*

- (viii) *the manoeuvring area for the car parking bays of Units 1 and 2 shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (ix) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the road widening area being a minimum of 3.66 metres. It is recommended that the applicant obtain a Clause 42 certificate from the Department of Land and Information section of the Department of Planning demonstrating the extent of road widening; and*
- (b) *bedroom 1 of Unit No. 3 within the 4.5 metre cone of vision to the eastern boundary being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2008. 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 No. 202 Alma Road stating no objection to the proposed privacy encroachment.*

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

- (x) *first obtaining the consent of the owners of No. 202 Alma Road and No. 256 Charles Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 202 Alma Road and No. 256 Charles Street in a good and clean condition.*

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**COUNCIL DECISION ITEM 9.1.9**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

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<b>Landowner:</b>	Portland Asset Pty Ltd
<b>Applicant:</b>	Integrity Developments
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R60
<b>Existing Land Use:</b>	Single Dwelling
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	688 square metres
<b>Access to Right of Way</b>	Nil

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves the demolition of the existing single house and the construction of three (3), two-storey grouped dwellings.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	3.8 grouped dwellings	3 grouped dwellings	Noted – no variation.
Units 1 - 3 upper floor street setbacks to Charles Street.	Upper floor 2 metres behind the ground floor main building line.	Upper floor in line with ground floor.	Supported- Development on the site is constrained by a 3.66 metre road widening requirement and as this variation is not considered to have an undue impact on the amenity of the immediate area, which comprises single and two-storey residential dwellings.
Unit 3 upper floor street setbacks to Alma Road.	Upper floor 0.5 metre behind each portion of the ground floor setback.	Upper floor in line with ground floor.	Supported - As above.
<b>Building Setbacks:</b>			
Ground floor to northern boundary.	1.5 metres	Nil - 1.2 - 1.6 metres	Supported - No objection received from adjacent affected neighbour and not considered to impact on amenity of streetscape.
Ground floor all units to eastern boundary.	1.5 metres	Nil - 1.003 - 1.212 metres	Supported - As above.
First Floor of unit one to northern boundary.	1.6 metres	1.23 - 1.63 metres	Supported - As above.

First Floor of unit three to eastern boundary.	2.5 metres	1.25 - 1.26 metres	Supported - A condition of approval requires the windows to bedroom 1 to comply with the privacy requirements so that it is not considered a major opening. This change will result in a lesser setback requirement of 1.2 metres; hence, the building will comply.
Outdoor Living Area	Not within street setback.	Within street setback.	Supported - The outdoor living area is open to the winter sun and is able to be used in conjunction with a habitable room.
Driveways	Not to occupy more than 40 per cent (8 metres) of the lot frontage or 6 metres, whichever is the lesser.	Units 1 and 2 combined, is 6.8 metres.	Supported - The width of the driveway is required to accommodate vehicle movements within the site, to enable vehicles to exit onto Charles Street in forward gear.
Roof Form	Pitch between 30 and 45 degrees.	25 degrees.	Supported - The subject dwelling is located in a streetscape of varying architectural styles/forms and ages. There is no consistent roof form and therefore, the proposal is considered acceptable.
Building Height	6 metres to top of eaves.	Unit 2 - 6.2 metres. Unit 3 - 6.2 metres.	Supported - The dwellings comply with the maximum ridge height requirement, and only a small portion along the south western corner of Unit 2, and a small portion along the north-west corner of Unit No. 3, are non-compliant with the wall height-requirements. The over height portions are positioned along internal boundaries and will not have an undue impact on the Charles Street streetscape or adjacent properties.
Privacy: Unit 3 to eastern boundary	4.5 metres or screening.	1.269 metres.	Not supported - Conditioned to comply.

Retaining	No more than 0.5 metre without obtaining approval.	0.64 metre to courtyard of Unit 2.	Supported - The retaining has been provided to provide a flat outdoor living area. Unit 2 is contained within the middle of the site and the variation will not have an undue impact on the Charles Street streetscape or adjacent properties.
<b>Consultation Submissions</b>			
Support	Nil.		Noted.
Objection	Nil.		Noted.
Department of Planning (DP)	<p>In its letter dated 7 October 2009, the Urban Transport System of DP advised:</p> <ul style="list-style-type: none"> <li><i>"The plans show a 3.6 metre future road widening requirement instead of 3.66 metres.</i></li> <li><i>The Town should liaise with the WAPC to explore the possibility of lot amalgamation and the owner ceding the reserved land free of cost to the WAPC."</i></li> </ul>		<p>Noted - Conditioned to comply.</p> <p>Noted - A condition of approval requires the approval of the WAPC.</p>
<b>Other Implications</b>			
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:

### Demolition

The subject dwelling is an example of an Interwar Californian Bungalow constructed circa 1939. The dwelling has a three-room frontage and a main hipped roof form with three front gables. The WA Post Office Directories first list the subject dwelling in 1940 with George James as the occupant. Since then, the subject dwelling has been transferred several times to new owners and occupiers.

A full heritage assessment was undertaken for No. 252 Charles Street, North Perth, 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. Therefore, there is no objection to the proposed demolition on heritage grounds.

**Planning Control Area No. 88**

The subject property falls within Planning Control Area No. 88. The control area ensures no development occurs on land, within the control area, which might prejudice the future widening of Charles Street, should it be required for Primary Regional Roads in the Metropolitan Region Scheme. In the Western Australian Planning Commission's (WAPC's) letter dated 15 September 2006, the Town was advised that any development within this area requires the approval of both the Town and the WAPC. The Officer Recommendation has been structured to reflect this requirement.

In light of the above, it is considered that the proposed use is consistent with the strategic direction for Charles Street in accommodating higher density residential development and accordingly, it is recommended that the Council approve the application, subject to standard and appropriate conditions to address the above matters.

**9.1.13 Amendment No. 64 to Planning and Building Policies – Policy No. 3.5.5  
Relating to Domestic Satellite Dishes, Microwave Antennae and Tower  
Masts**

Ward:	Both	Date:	24 November 2009
Precinct:	All	File Ref:	PLA0216
Attachments:	<a href="#">001</a>		
Reporting Officer:	E Lebbos, Strategic Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, as shown in Appendix 9.1.13, subject to the Policy being further amended as follows:*

“(a) 1) - Satellite Dishes

Planning approval is not required for the erection of a satellite dish, ~~except~~ where it complies with the following criteria:

- i) the satellite dish is less than one metre in diameter; and
- ii) the satellite dish is not located on a wall or that portion of the roof of a building which faces, or is visible from, the primary street; and
- iii) the satellite dish is not located within any street setback area; and
- iv) the satellite dish does not project above the ridgeline of the building or is not visible from the primary street; and
- v) the satellite dish is coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties; and
- vi) there are no other satellite dishes or microwave antennae on the lot.

In assessing an application for a satellite dish the Town of Vincent is to have regard to:

- i) the visual impact of the satellite dish on the subject site, the streetscape and the general locality in terms of its design, scale, bulk, colour, height and general appearance;  
.....”

“(b) “2) - Microwave Antennae

Planning approval is not required for the erection of microwave antennae, ~~except~~ where it complies with the following criteria:

- i) the antenna has an area less than 0.6 square metres; and  
.....”

(c) “3) - Tower Masts

*The erection of a tower mast for the transmission and reception of radio signals in excess of 5 metres from natural ground level is not permitted unless ~~no~~ if there are any written objections are received by the Town of Vincent from the owners and occupiers of affected properties.”*

(d) “4) - Planning approval is not required for:

i) *mobile communication facilities temporarily located at any one specific place for a period not exceeding one week; or*

ii) *essential State Emergency Service communication equipment; ~~and~~*  
*or*

iii) *any other essential emergency service authority or telecommunications authority acting within the scope of its statutory responsibilities.”*

(ii) *ADVERTISES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*

(a) *advertising a summary of the subject Policy once a week for four consecutive weeks in a newspaper circulating in the locality;*

(b) *where practicable, notifying those persons who, in the opinion of the Town, might be directly affected by the subject Policy; and*

(c) *forwarding a copy of the subject Policy to the Western Australian Planning Commission; and*

(iii) *after the expiry of the period for submissions:*

(a) *REVIEWS the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, having regard to any written submissions; and*

(b) *DETERMINES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, with or without amendment, to or not to proceed with it.*

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

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**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**COUNCIL DECISION ITEM 9.1.13**

*That the Council;*

- (i) ***RECEIVES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, as shown in Appendix 9.1.13, subject to the Policy being further amended as follows:***

- (a) ***“1) - Satellite Dishes***

***Planning approval is not required for the erection of a satellite dish, ~~except~~ where it complies with the following criteria:***

- i) the satellite dish is less than one metre in diameter; and***
- ii) the satellite dish is not located on a wall or that portion of the roof of a building which faces, or is visible from, the primary street; and***
- iii) the satellite dish is not located within any street setback area; and***
- iv) the satellite dish does not project above the ridgeline of the building or is not visible from the primary street; and***
- v) the satellite dish is coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties; and***
- vi) there are no other satellite dishes or microwave antennae on the lot.***

***In assessing an application for a satellite dish the Town of Vincent is to have regard to:***

- ii) the visual impact of the satellite dish on the subject site, the streetscape and the general locality in terms of its design, scale, bulk, colour, height and general appearance;  
.....”***

- (b) ***“2) - Microwave Antennae***

***Planning approval is not required for the erection of microwave antennae, ~~except~~ where it complies with the following criteria:***

- i) the antenna has an area less than 0.6 square metres; and  
.....”***

- (c) ***“3) - Tower Masts***

***The erection of a tower mast for the transmission and reception of radio signals in excess of 5 metres from natural ground level is not permitted ~~unless~~ no if there are any written objections ~~are~~ received by the Town of Vincent from the owners and occupiers of affected properties.”***

- (d) *“4) - Planning approval is not required for:*
- i) *mobile communication facilities temporarily located at any one specific place for a period not exceeding one week; or*
  - ii) *essential State Emergency Service communication equipment; ~~and~~ or*
  - iii) *any other essential emergency service authority or telecommunications authority acting within the scope of its statutory responsibilities.”*
- (ii) *ADVERTISES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
- (a) *advertising a summary of the subject Policy once a week for four consecutive weeks in a newspaper circulating in the locality;*
  - (b) *where practicable, notifying those persons who, in the opinion of the Town, might be directly affected by the subject Policy; and*
  - (c) *forwarding a copy of the subject Policy to the Western Australian Planning Commission; and*
- (iii) *after the expiry of the period for submissions:*
- (a) *REVIEWS the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, having regard to any written submissions; and*
  - (b) *DETERMINES the Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, with or without amendment, to or not to proceed with it.*

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#### **PURPOSE OF REPORT:**

The purpose of this report is to present a Draft Amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, and to seek Council's approval to advertise the Draft Amended Policy.

#### **BACKGROUND:**

At its Ordinary Meeting held on 14 April 2009, the Council considered an application for a proposed satellite dish to an existing single house at No. 81 (Lot Y11, D/P 1151) Cowle Street, corner Charles Street, West Perth. The Officer Recommendation was for refusal. This was based on the fact that the development was not consistent with the orderly and proper planning and the preservation of the amenities of the locality, and was non-compliant with the Town's Policy relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts. The non-compliant requirements were as follows:

- the dish is 2.3 metres in diameter (the Policy requires satellite dishes to be less than one metre in diameter if erected on the wall or roof of the building);

- the dish is located on the rear portion of roof to the main dwelling and will be clearly visible from Charles Street (the Policy requires satellite dishes not to be located on a wall or that portion of the roof of a building which faces, or is visible from the street); and
- the dish is black powder coated (the Policy requires satellite dishes to be coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties).

It was considered that the location of the proposed satellite dish, in combination with the size and construction materials used, increased the visual impact of the dish from Charles Street. The Town's Officers conducted a site visit on 23 December 2008, whereby it was confirmed that there were alternative locations within the site for an appropriately located satellite dish. However, it was noted that this would require modifications relating to the relocation of the clothes drying area and possibly, the water tank at the rear of the dwelling, to enable the satellite dish to be placed at ground level.

The Council did not adopt the Officer Recommendation for refusal of the proposal, but rather, supported the proposed development on the following grounds:

- *“the house is located near a Town of Vincent owned park and therefore the impact on neighbouring properties will be minimal;*
- *there are trees in the park which will screen the satellite dish; and*
- *the satellite dish is not visible from Cowle Street.”*

At its Ordinary Meeting held on 25 August 2009, the Council considered a similar application for a proposed satellite dish addition to an existing single house at No. 586 (Lot 52, D/P 33979) William Street, Mount Lawley. This was a retrospective application however, and was objected to by 18 adjoining property owners. The application was non-compliant with the Town's Policy No. 3.5.5 on the following grounds:

- the dish is 3 metres in diameter (the Policy requires satellite dishes to be less than one metre in diameter if erected on the wall or roof of the building);
- the dish is located on a portion of roof which is visible from William Street – northern and southern elevations (the Policy requires satellite dishes not to be located on a wall or that portion of the roof of a building which faces, or is visible from the street); and
- the steel frame of the satellite dish is of a black powder coated colour (the Policy requires satellite dishes to be coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties).

In this case, despite the adjoining property owners objections and the non-compliant requirements, the Officers Recommendation was to support the satellite dish, which was approved (En Bloc) by the Council.

As a consequence of these two decisions, and previous Council decisions, the Town's Officers have reviewed the Town's Policy No. 3.5.5 relating to Satellite Dishes, Microwave Antennae and Tower Masts.

## **DETAILS:**

Following the adoption of Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, various issues have been raised with regard to the effectiveness of its application. This was particularly evident in Item 9.1.18, considered at the Ordinary Meeting of Council held on 14 April 2009, as well as Item 9.1.2, that was presented to the Council at its Ordinary Meeting held on 25 August 2009.

The review process has been fourfold; to determine if the Policy adheres to Part 6 of the revised Residential Design Codes of Western Australia (R-Codes 2008), research into various Local Government authorities, research into the technical specifications of satellite dishes, and feedback collated from internal service areas who apply the Policy.

### **1. The Residential Design Codes of Western Australia (State Planning Policy 3.1)**

Satellite dishes are addressed in Part 6.10 in the R Codes relating to *'incidental development requirements'*. More specifically, they are addressed within this Part in the section relating to *'external fixtures'*, (Part 6.10.2). The performance criteria states *'Solar collectors permitted as of right and other external fixtures that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.'* More specifically, (A2.4) of the acceptable development criteria relates specifically to satellite dishes. The Town of Vincent's Domestic Satellite Dishes, Microwave Antennae and Tower Masts Policy is consistent with the requirements for satellite dishes as outlined in this part of the R-Codes.

The acceptable development relating to satellite dishes in the R-Codes states *'Antennae, satellite dishes and the like not visible from the street.'*

The Town's Policy states:

- 1) (ii) *'the satellite dish is not located on a wall or that portion of the roof of a building which faces, or is visible from, the street;'* and
- 1) (iv) *'the satellite dish does not project above the ridgeline of the building or is not visible from the street.'*

### **2. Research into procedures by other Local Governments**

A number of Local Councils were examined as part of the review process, including the Town of East Fremantle, the City of Belmont, the Town of Cambridge, and the Town of Cottesloe. The findings indicated that the Town adopts similar guidelines to those local councils examined, and no scope for improvement, to streamline the Policy was revealed.

From the Local Councils mentioned above, the City of Belmont and the Town of Cambridge both stipulate a diameter of 1 metre for satellite dishes, similar to the Town of Vincent, with the Town of Cottesloe stipulating a diameter of 0.9 metre for satellite dishes. The Town of East Fremantle is the only local council from those listed above, that permit satellite dishes with a greater diameter than that of the Town of Vincent, stipulating a permitted diameter of up to 1.2 metres.

In addition, and in line with the Town of Vincent's Policy relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, the majority of the Policies examined stipulate the requirement for satellite dishes, to be of consistent colour to the wall or roof upon which they are erected.

Finally, similar to the requirements in the Town's Policy No. 3.5.5, all Policies from the various Local Councils that were examined, stipulate the requirement for any erected satellite dish to not project over the ridgeline of the building upon which it is erected, and to not be visible from the street or public place.

Therefore, it is evident by the research undertaken, that the Town's Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, is consistent with the Policies of other Local Councils within Western Australia.

### **3. Research into technical specifications of satellite dishes**

The Town's Officers contacted a satellite dish company to ascertain the technical specifications of satellite dishes. The Town's Officers were informed of the following standard specifications relating to a satellite dish's size:

- Maximum satellite dish sizes: 3 metres – 3.6 metres in diameter (for overseas channels); and
- Minimum satellite dish sizes: 0.65 metre – 0.85 metre in diameter (for local channels; for example, Foxtel).

The Town's Officers were also informed of the following standard specifications relating to a satellite dish's colour:

- The satellite dishes with the larger diameter are constructed of a mesh material, and are black in colour; and
- The satellite dishes with the smaller diameter are also constructed of a mesh material, and are either grey or white in colour.

In light of the above, the Town's Officers are aware of the functional necessity, in certain circumstances, of satellite dishes greater in diameter than the 1 metre stipulated in the Town's Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts. The Town's Officers have addressed this in the following section relating to the 'Internal Survey'.

In addition, regarding the standard colour of satellite dishes mentioned above, the Town's Officers have researched methods of modifying satellite dishes in order to comply with the requirement of Policy No. 3.5.5 which states '*the satellite dish is coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties.*' Research undertaken has indicated that it is possible to hide a dish so that it disappears from a distance (refer to figure 1). Although the satellite dish can be painted any colour, optically reflective paints (for example, metallic or gloss finishes) should be avoided as these finishes may focus the sun's radiation on the head unit, causing performance problems. Only matte finish paints should be used as they exhibit lower solar reflection properties, and cause a minimal amount of reflection errors. The paint should be applied as smoothly as possible, as any bumps or drips may cause reflection errors.



Figure 1: An example of a painted satellite dish

It should be noted that the low-noise block downconverter (LNB), sometimes called the eye, is the only part of a satellite dish that should not be painted. This part receives the reflected satellite beam and sends the signal to the satellite receiver. The LNB or eye is usually a white plastic portion located on the arm of the satellite dish, just in front of the dish (Source: <http://www.helium.com/items/736023-can-you-paint-a-tv-satellite-dish-without-affecting-its-function> (accessed October 2009), and <http://www.answers.com/topic/can-a-tv-satellite-dish-be-painted-a-different-color> (accessed October 2009)).

#### **4. Internal survey**

The Domestic Satellite Dishes, Microwave Antennae and Tower Masts Policy, was examined by relevant Planning and Heritage Officers who apply the Policy. A summary of the feedback received by the Town's Officers identified that, in the case of extraordinary circumstances, whereby a satellite dish that does not comply with the Town's Policy No. 3.5.5 is required to be installed, a number of criteria is to be met by the applicant. These include justification in relation to the following:

- the functional necessity of a satellite dish greater than 1.5 metres in diameter to be roof mounted; and
- the aesthetic impact such a satellite dish may have on the amenity of the area.

Subsequent amendments to the Policy to reflect the Officer's feedback as outlined above is detailed in the section below relating to 'Proposed Changes to the Policy,' and is also shown in Appendix 9.1.13.

It should be noted that satellite dishes the subject of this Policy (the type used as television receiving devices in residential areas) are typically receiving-only devices and should not contribute additional radiofrequency radiation to the environment. The function of these dishes is to act as large collecting devices for gathering weak signals that already exist in the environment. Therefore, no justification from the applicant is necessary in terms of any negative health impacts that the installation of a non-complying satellite dish will cause for residents within close proximity to the satellite dish. (Source: Government of Western Australia, Department of Health).

#### **5. Proposed changes to the Policy**

Two new sections have been incorporated into the Policy, in order to reflect the findings of the research undertaken.

The first section relates to Extraordinary Circumstances, whereby applicants proposing satellite dishes that do not comply with the criteria outlined in this Policy, are required to provide justification in relation to the following:

- the functional necessity for a satellite dish greater than 1.5 metre in diameter to be roof mounted; and
- the aesthetic impact such a satellite dish may have on the amenity of the area in relation to:
  - how the proposed satellite dish respects the amenity of the area;
  - how the size and impact of the proposed satellite dish responds to the size of the premises on which the satellite dish is to be installed and the scale of the surrounding buildings;
  - how the proposed satellite dish does not negatively impact on the appearance and efficiency of a road or other public way in terms of colour, brightness and location; and
  - how the proposed satellite dish responds to any objects of scenic, historic, architectural, scientific or cultural interest.

The second section relates to Planning Approval, outlining the requirements/circumstances whereby planning approval is necessary. It stipulates that any satellite dish approved under this Policy may be renewed or replaced with no additional planning approval required, with the exception that:

- a satellite dish with a greater diameter than the existing dish is proposed; and
- the satellite dish is to be installed in a different location to the existing dish.

It is anticipated that these changes to the Policy will reflect the findings of research into the requirements of the R-Codes in terms of visibility from the street, and the technical specifications of satellite dishes, in relation to size and colour. It is also envisaged that these changes will address the concerns that the Town's Officers have identified in relation to extraordinary circumstances, whereby the erection of non-complying satellite dishes is proposed in the Town.

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

The amended Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts is required to be advertised for twenty eight (28) days.

#### **LEGAL/POLICY:**

Town Planning Scheme No. 1 and associated Policies. Also, the Residential Design Codes of Western Australia (R-Codes 2008).

#### **STRATEGIC IMPLICATIONS:**

Strategic Plan 2009-2014 states:

##### *"Natural and Built Environment*

- 1.1 *Improve and maintain environment and infrastructure*
  - 1.1.2 *Develop and implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision.*
  - 1.1.3 *Enhance, maintain the character and heritage of the Town.*
  - 1.1.4 *Minimise negative impacts on the community and environment."*

**SUSTAINABILITY IMPLICATIONS:**

By addressing satellite dishes that do not comply with the requirements outlined in the Town's Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, this will reduce the adverse impact that such installations may have on the community, in terms of negative visual impacts, and negative impacts on the preservation of the amenity of the locality.

Therefore, it is envisaged that by amending this Policy No. 3.5.5, this will serve to support and protect social sustainability within the Town.

**FINANCIAL/BUDGET IMPLICATIONS:**

The current 2009/2010 Budget allocates \$66,000 for Town Planning Scheme Amendments and Policies.

**COMMENTS:**

It is considered that these amendments will result in a comprehensive and transparent Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts that provides clear, detailed information to the public, particularly in regards to the size, colour, and location of domestic satellite dishes within the Town.

In light of the above, it is recommended that the Council approves the amendments to Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Masts, and progress this document in accordance with the Officer Recommendation.

**9.1.16 No. 36 (Lot 500, D/P 69083) Paddington Street, North Perth - Proposed Partial Demolition of, and Alterations, Additions and Additional Two-Storey Grouped Dwelling to Existing Single House - Decision of State Administrative Tribunal (SAT) Review Matter No. DR 519 of 2008 Relating to Cost**

<b>Ward:</b>	North	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	North Perth; P08	<b>File Ref:</b>	PRO0718; 5.2008.490.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	R Rasiah, Coordinator Statutory Planning		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report relating to the Awarding of Cost Decision of the State Administrative Tribunal (SAT) relating to Review Matter No. DR 519 of 2008 No. 36 (Lot 500, D/P 69083) Paddington Street, North Perth - Proposed Partial Demolition of, and Alterations, Additions and Additional Two-Storey Grouped Dwelling to Existing Single House; and*
- (ii) *NOTES the SAT Order requiring the Town to pay costs of \$3,500 to the Applicants.*

**COUNCIL DECISION ITEM 9.1.16**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

<b>Landowner:</b>	T T Tran & H T Nguyen
<b>Applicant:</b>	Peter D Webb & Associates
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R30/40
<b>Existing Land Use:</b>	Vacant Land
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	559 square metres
<b>Access to Right of Way</b>	N/A

**PURPOSE OF REPORT:**

The purpose of the report is to inform the Council of the awarding of cost (decision attached) by the State Administrative Tribunal (SAT) to the applicant, associated with the SAT decision to uphold the above review (appeal).

**BACKGROUND:**

- 12 July 2005            The Council at its Ordinary Meeting resolved to constructively refuse an application for alterations, additions and two-storey grouped dwelling addition to existing single house at the above subject property for the following reasons:
- "1. The development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality.*
  - 2. The non-compliance with the Setbacks, Outdoor Living Area, Privacy, Buildings on Boundary and Essential Facilities requirements of the Residential Design Codes, and the Town's Policy relating to the Knutsford Locality, respectively.*
  - 3. Consideration of the objections received.*
  - 4. The proposed subdivision does not comply with the requirements of either grouped dwelling or battleaxe subdivision."*
- The Council also resolved as follows:
- "That;*
- (i) the Council ADVISES the Western Australian Planning Commission (WAPC) that the proposal does not meet the requirements for grouped dwellings as the proposed common property is not considered "necessary or functional", therefore resulting in the proposed survey strata subdivision being a battleaxe subdivision, that does not comply the minimum site area requirements for a battleaxe subdivision; and*
  - (ii) the Council ADVISES the applicant that it is prepared to consider an application for a second dwelling on the site only when it can be demonstrated to meet the minimum requirements for a grouped dwelling."*
- 9 August 2005            The applicant lodged an application for review with the State Administrative Tribunal (SAT) in response to the above refusal.
- 28 February 2006        The SAT allowed the application for review with the approval valid for a period of two (2) years only, this expiration date being 28 February 2008.
- 22 May 2006            The Western Australian Planning Commission (WAPC) conditionally approved the survey strata subdivision of the subject property.
- 10 October 2008        The Town received an application for partial demolition of, and alterations, additions and additional two-storey grouped dwelling to existing single house. The application had an identical format to that approved by the SAT on 28 February 2006.

- 2 December 2008 The Council at its Ordinary Meeting refused the application for partial demolition of, and alterations, additions and additional two-storey grouped dwelling to existing single house at the above subject site for the following reasons:
- “1. *Building bulk is considered excessive.*
  2. *Loss of privacy.*
  3. *Impact on amenity of neighbours.*
  4. *Feeling of confinement.*
  5. *Loss of sunlight and wind.*
  6. *Consideration of objections received.”*
- 20 December 2008 The applicant lodged an application for review with the State Administrative Tribunal (SAT) in relation to the refusal issued by the Council on 2 December 2008.
- 21 January 2009 The Town’s Officers attended a Directions Hearing at the SAT.
- 30 January 2009 The Town’s Officers attended Mediation at the SAT.
- 24 February 2009 The Council at its Ordinary Meeting reconsidered its decision of refusal on 2 December 2008, associated with the above review matter.
- 10 March 2009 The Council at its Ordinary Meeting considered a Confidential report relating to the consideration of draft "without prejudice" conditions, associated with the above review matter.
- 24 June 2009 Review DR 519 of 2008, determined by way of documents, was allowed for the application for partial demolition of, and alterations, additions and additional two-storey grouped dwelling to existing single house, that was refused at the Ordinary Meeting of Council held on 2 December 2008.
- 30 June 2009 Applicant applied for a cost ruling to the SAT payable by the Town for the amount of \$8,654.00.
- 17 July 2009 Town’s Officers lodged a submission with the SAT, that the amount of cost sought by the applicant was unreasonable, as the Town’s decision in refusing the application was based on the application of the Town’s Town Planning Scheme and appropriate policies, and as such the application for cost should be dismissed.
- 28 October 2009 Application for cost allowed in relation to Review DR 519 of 2008.

**DETAILS:**

The proposal involves the construction of an additional grouped dwelling at the subject property and alterations and additions to the existing dwelling (Serial No. 5.2008.490.1), refused by the Council at its Ordinary Meeting held on 2 December 2008. The development which is identical to the development (Serial 00/33/2584), that was previously refused by the Council at its Ordinary Meeting held on 12 July 2005, was subsequently approved by the SAT on 28 February 2006.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

Planning and Development Act 2005 (WA), State Administrative Tribunal Act 2004 (WA) and Town's Policy No. 4.1.23 - Policy and Procedure for State Administrative Tribunal.

**STRATEGIC IMPLICATIONS:**

Nil.

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Planning Consultant Mr Simon Bain's cost amounted to \$2,750 and the award of cost by the SAT to the applicant of \$3,500, resulting in a total cost of \$6,250 to the Town.

**COMMENTS:**

Below is a verbatim section of the relevant Town's Officers comments relating to this matter, from the Minutes of the Ordinary Meeting of the Council, held on 24 February 2009, which is as follows:

*"Conclusion*

*The application was refused by the Council at its Ordinary Meeting held on 2 December 2008, against the Officer's Recommendation for approval. The Town's Officers consider that there are limited options for redesign to address the Council's reasons for refusal, as the reasons for refusal are largely compliant with the Acceptable Development requirements of the R-Codes and Residential Design Elements Policy. The Town's Officers still maintain that the application is worthy of conditional support.*

*At the Mediation held on 30 January 2009, the SAT Member took the opportunity to advise parties to the Matter that unless flawed at law, the Tribunal is bound to ensure consistency of its decision making. The SAT Member referred to a number of previous cases, in order to highlight the importance of consistency of decision making. In the case of Di Latte v Town of East Fremantle (WASCA 2002 100), the following was stated:*

*"inconsistency has the potential of bringing the decision making process into disrepute because it suggests that the decision is arbitrary, rather than one made in accordance with a disciplined approach reflecting the application of sound town planning principles and consistent with commonly accepted notions of justice".*

*The Tribunal has therefore formed the view that as there has been no material change in the circumstances associated with this proposal, and unless the Town seeks to challenge the Tribunal on a matter of Law, then the Tribunal will be bound to issue an identical decision to that issued previously in this Matter (2006 WASAT 28 February 24, 2006). The applicant has outlined that should the Town not conform with the Tribunal's former decision, the applicant will seek an order as to costs from the Tribunal for all the actions required of the Applicant and its Consultants/Lawyers from the Directions to the time of the Tribunal's decision.*

*In light of the above and the Tribunal's comments, the Town's Officers or any representative of the Town at the State Administrative Tribunal will find it difficult to defend the Council's refusal and the application should be approved, subject to the aforementioned conditions."*

Part of the SAT decision of 28 October 2009 states the following:

- “35. *In this matter, there is in my view conduct on the part of the Town which can be objectively considered relevantly “unreasonable” (as that expression emerges from the authorities referred to above) warranting a cost award in the applicant’s favour.*
36. *Although I do not doubt that in good faith it is important for the process of orderly public sector decision-making that original decision-makers pay careful attention to consistency in that decision-making process; that they also pay regard to the advice of their professional officers; and that they avoid the need for rearguing of cases where there are in fact no material changes to the circumstances where an earlier identical planning approval had been given.*
37. *Here, the respondent Town was put expressly on notice of the possible consequences of its actions by both the Tribunal and the applicants, and passed up the opportunity to change its position in the reconsideration process. It ought to have reasonably known that the chance of a successful review in the applicant’s favour in such circumstances was very high indeed. Every conceivable indication was given that that was so. It was unreasonable to ignore these signals.*
38. *In my respectful opinion, a genuine attempt to assess the matter on its merit would have avoided a second review.*
39. *Cost should therefore be awarded to the applicants.”*

In awarding cost of \$3,500, the SAT was also of the view that the amount of cost (\$8,654.00) sought was excessive for a relatively straight forward matter, where most of the work was previously done in the 2006 review.

Generally, the success of obtaining a "cost order" from the SAT is considered rare. In the past four and a half years since the establishment of the SAT, only 4 awards for costs have been allowed. Two have been against the Town. Accordingly the decision of the SAT should be noted.

Chief Executive Officer Comments:

*In order to avoid a repeat of a similar circumstance in the future, it is strongly recommended that the Council give greater consideration to SAT directions.*

**9.1.21 City of Wanneroo – Local Structure Plan No. 79 – Tamala Park – Further Report**

<b>Ward:</b>	-	<b>Date:</b>	27 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	PRO0739
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	E Lebbos, Strategic Planning Officer		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report relating to the City of Wanneroo’s Local Structure Plan No. 79 relating to Tamala Park as shown in Appendix 9.1.21; and*
- (ii) *ADVISES the City of Wanneroo that the Council SUPPORTS the Local Structure Plan No. 79 relating to Tamala Park as outlined in this report.*

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**COUNCIL DECISION ITEM 9.1.21**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

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**FURTHER REPORT:**

The Council at its Ordinary Meeting held on 17 November 2009, considered the City of Wanneroo – Local Structure Plan No. 79 – Tamala Park and resolved:

*“That the item be DEFERRED to allow for a briefing for the new Councillors and the report be submitted to the Ordinary Meeting of Council to be held on 1 December 2009.”*

In accordance with the Council resolution, a briefing session was set up with the Tamala Park Regional Council Chief Executive Officer (CEO) on Thursday, 26 November 2009, to brief the Town’s Council Members. Following a 30 minute briefing session, whereby the CEO presented an overview of the project area and the proposed development to the Councillors, there was an opportunity for a short question/discussion session, whereby the following issues were raised and discussed:

- Possible access from Mitchell Freeway into the proposed development area;
- The proposed underpass under Neerabup Drive (currently Neerabup Road), in order to allow access to the proposed train station;
- Encouraging Transit Oriented Development (TOD) by facilitating safe access to the proposed train station;
- Sustainable development opportunities, including utilising water tanks, solar hot water systems, etc;
- The three activity/hub centres, ensuring that a centre is located within a 10 minute walkable catchment of residents in the development; and
- Issues with methane gas, and resultant difficulties in replanting native vegetation.

Overall, the briefing session was positive and informative, enlightening the Councillors of the development area and the proposed development.

The following is a verbatim of copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 17 November 2009.

*"OFFICER RECOMMENDATION:*

*That the Council;*

- (i) RECEIVES the report relating to the City of Wanneroo's Local Structure Plan No. 79 relating to Tamala Park as shown in Appendix 9.1.9; and*
- (ii) ADVISES the City of Wanneroo that the Council SUPPORTS the Local Structure Plan No. 79 relating to Tamala Park as outlined in this report.*

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*COUNCIL DECISION ITEM 9.1.9*

*Moved Cr McGrath, Seconded Cr Burns*

*That the recommendation be adopted.*

*Debate ensued.*

*PROCEDURAL MOTION*

*Moved Cr McGrath, Seconded Cr Lake*

*That the item be DEFERRED to allow for a briefing for the new Councillors and the report be submitted to the Ordinary Meeting of Council to be held on 1 December 2009.*

*MOTION PUT AND CARRIED (8-0)*

*(Cr Farrell was on approved leave of absence.)*

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*PURPOSE OF REPORT:*

*The purpose of this report is to inform the Council of the City of Wanneroo's Local Structure Plan No. 79 relating to Tamala Park currently being advertised for public comment, and to provide a summary of the document to the Council.*

*BACKGROUND:*

*The land included in the structure plan comprises an area of approximately 180 hectares. The landowners comprise of the Tamala Park Regional Council (167.484 ha), State of Western Australia (1.816 ha), and Bush Forever (WAPC) (8.9317 ha).*

*Tamala Park Regional Council is the corporate entity representing the interests of seven local governments in the urban development of the land, and includes the Town of Cambridge, City of Perth, Town of Victoria Park, Town of Vincent, City of Joondalup, City of Wanneroo, and City of Stirling.*

*The Town has received a letter dated 22 October 2009, inviting the Town to comment on the Local Structure Plan No. 79.*

*The document has been released for public comment, with submissions closing on 7 December 2009 to ensure that the community has the opportunity to provide feedback on the Local Structure Plan prior to it being finalised by the City of Wanneroo.*

**DETAILS:**

*The land subject to the Local Structure Plan No. 79 is bound by the suburbs of Mindarie and Clarkson. Neerabup Road is situated to the north of the site, the Mitchell Freeway reservation and Neerabup Regional Park to the east, the Tamala Park Landfill facility to the south, and an existing coastal foreshore reserve and the Indian Ocean to the west.*

*The Local Structure Plan No. 79 Map has been prepared following significant participation and input from the local community, the Tamala Park Regional Council, the City of Wanneroo, and relevant State and Federal Government agencies. The intended strategic outcome of the Local Structure Plan No. 79 is to facilitate the establishment of a range of housing typologies and densities. In addition, it will provide for the appropriate management of natural elements and features, such as the protection of significant tracts of native flora and associated fauna and the reuse of storm-water within a quality urban landscaping framework.*

*The land subject of the Local Structure Plan No. 79 has been separated into four precincts in order to accurately inform future planning processes, as follows:*

- *Precinct 1 – Western Precinct;*
- *Precinct 2 – Central Western Precinct;*
- *Precinct 3 – Central Eastern Precinct; and*
- *Precinct 4 – Eastern Precinct.*

*Plans, strategies and studies either undertaken to inform the structure planning process or required to inform the subsequent preparation of Detailed Area Plans include the following:*

- *Local Water Management Strategy;*
- *Resource Efficiency Strategy;*
- *Vegetation/Flora Surveys;*
- *Significant Tree Survey;*
- *Level 1 Fauna Survey;*
- *Environmental Management Plan;*
- *Landscaping Strategy;*
- *Traffic, Transport and Public Transport Report;*
- *Indigenous Heritage Management Plan;*
- *Ethnographic Survey;*
- *Engineering Report;*
- *Earthworks and Contour Plan;*
- *Geotechnical Report;*
- *Community Development Plan;*
- *Community Facilities Plan; and*
- *Economic and Employment Strategy/Activity Centres Model.*

*A servicing plan and noise attenuation analysis will also be undertaken in future development stages.*

*CONSULTATION/ADVERTISING:*

*The City of Wanneroo is currently advertising the Local Structure Plan No. 79 for public comment, which closes on 7 December 2009.*

*LEGAL/POLICY:*

*City of Wanneroo's District Planning Scheme No. 2.*

*STRATEGIC IMPLICATIONS:*

*The Town of Vincent Strategic Plan 2009-2014 states;*

*"Natural and Built Environment*

*1.1 Improve and maintain the environment and infrastructure*

*1.1.4 Minimise negative impacts on the community and environment.*

*Economic Development*

*2.1 Progress economic development with adequate financial resources*

*2.1.2 Develop and promote partnerships and alliances with key stakeholders.*

*2.1.3 Promote business development."*

*FINANCIAL/BUDGET IMPLICATIONS:*

*The Town's share of the proceeds of this land is currently estimated at between \$17 million and \$20 million.*

*SUSTAINABILITY IMPLICATIONS:*

*Section 9 of the Explanatory Section part of the Local Structure Plan No. 79 outlines the environmental, social and economic sustainability of the project.*

*According to this section 'sustainable development is generally broken into three constituent parts: environmental, social and economic sustainability, with the urban (physical form infrastructure) of a development being evaluated by these elements. The Tamala Park LSP has been developed with a 'bottom-up' approach based on sustainability principles and is aligned with national and local planning tools, and aims to exceed current best practice.'*

*Environmental Sustainability*

*Current market acceptability of principles such as the preservation of the natural environment, efficient use of resources, including energy and water have been incorporated in the Local Structure Plan No. 79, along with the integration of natural ecologies into the urban fabric (often termed 'Bio-city' or 'Green Infrastructure'). Also, one of the objectives of the Local Structure Plan No. 79 states 'adoption of supporting environmental and sustainability principles such as Green Star rating of residential buildings and whole-of-life energy material and maintenance utilisation factors for assessment of the value of public infrastructure.'*

*Social Sustainability*

*Best practice strategies such as designing out crime, provision of community facilities, and assessment of employment and affordability have informed the Local Structure Plan No. 79; however, according to the document, these will need to be incorporated through further planning stages.*

Economic Sustainability

*Pracsys Economic Consultants have addressed economic sustainability in Section 18 of the Explanatory Section part of the Local Structure Plan No. 79, relating to economic and employment strategies.*

*The Tamala Park Local Structure Plan No. 79 has been designed in a manner that reinforces its connection to larger employment centres, particularly Meridian Park. This will include initiatives such as lobbying for high frequency public transport between sites, workforce skill matching and maximising accessibility to Tamala Park amenity offerings for businesses and commuters travelling to these estates from the Mitchell Freeway, Marmion Avenue, and Joondalup Train Line.*

*It should be noted however that the Local Structure Plan No. 79 states ‘economic maturity of an area occurs well after build-out of first generation buildings and lots. The stages of activity centre building strong amenity during Phases I and II of the development (in conjunction with the Clarkson District Centre) to provide an environment for stages III and IV to potentially occur.’*

**COMMENTS:**

*Relevance to the Town of Vincent*

*The subject land is located in the jurisdiction of the City of Wanneroo, and as such, the City is the only landowner in the Tamala Park Regional Council that has assessment powers over the development. The Town of Vincent, as well as the various local government authorities with a stake in the land (as per the table below), are able to provide feedback on the Local Structure Plan No. 79, but ultimately the development will be assessed according to the City of Wanneroo’s Policies and Scheme.*

*All the local government authorities incorporated in the Tamala Park Regional Council have a stake in the project however, and as such, are involved as developers. The project shareholdings are as follows:*

<b>Council</b>	<b>Project Shareholding Joint Development Shares</b>
Town of Cambridge	1/12
City of Perth	1/12
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Joondalup	2/12
City of Wanneroo	2/12
City of Stirling	4/12

*It should be noted, that although the development will be assessed in accordance to the City of Wanneroo’s Policies etc., the Local Structure Plan No. 79 consists of similar strategic directions to the Town of Vincent’s objectives as outlined in the Town’s Strategic Plan 2009-2014. These include issues relating to the effective use of land and infrastructure, long term health of the environment, long term health of the social and cultural environment, long term economic health, and people and government. A summary of the objectives relating to these issues include:*

- *‘Effectively planning for the development of future infrastructure;*
- *Promoting urban design that is responsive to the needs of the community;*
- *Promote more efficient use of water, energy and other resources;*

- *Encouraging social cohesiveness and civic participation;*
- *Promoting the provision of community facilities and services that meet the needs of the community; and*
- *Promoting inclusive decision-making.'*

*The information contained within the Local Structure Plan No. 79 confirms that the document is an appropriate planning outcome for Tamala Park, and is in line with the Town of Vincent's plan for the future.*

*In light of the above, it is considered that the Council receive the report and support the Officer's Recommendation to advise the City of Wanneroo that the Town of Vincent supports the intent and content of the Local Structure Plan No. 79 relating to Tamala Park."*

**9.3.1 Community and Welfare Grants and Donations 2009/2010**

<b>Ward:</b>	Both	<b>Date:</b>	20 November 2009
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0182
<b>Attachments:</b>	-		
<b>Reporting Officer:</b>	T Farrell, Community Development Officer		
<b>Responsible Officer:</b>	M Rootsey, Director Corporate Services		

**OFFICER RECOMMENDATION:**

*That the Council APPROVES:*

- (i) *payment of the following grants and donations to the organisations listed in the 2009/2010 Annual Budget as follows:*

<i>Organisation</i>	<i>Amount</i>
<i>Salvation Army</i>	<i>\$5,000</i>
<i>Passages Resource Centre</i>	<i>\$4,500</i>
<i>Western Australian AIDS Council</i>	<i>\$2,500</i>
<i>Toy Libraries</i>	<i>\$2,000</i>
<i>Sundry Donations</i>	<i>\$6,000</i>
<b>TOTAL</b>	<b>\$20,000</b>

- (ii) *the funding of an annual grant of \$5,000, each year, to both the Volunteer Task Force (VTF) and People Who Care (PWC) under the terms of a Memorandum of Understanding (MoU) for a period of five (5) years.*

**COUNCIL DECISION ITEM 9.3.1**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

To obtain Council approval for Community and Welfare Grants and Donations for the 2009/2010 financial year.

**BACKGROUND:**

The Town of Vincent established the Community and Welfare Grants and Donations Scheme to provide financial assistance to individuals who are disadvantaged and/or in crisis and non-profit community groups and organisations providing community and welfare services to Town of Vincent residents.

Not for profit organisations are entitled to apply for grants of up to \$5,000 to assist with providing community services and programmes.

Funds are also set aside under "Sundry Donations" to enable the Town to provide small donations, on an ad hoc basis, to not-for-profit community service providers, not in receipt of an annual grant. In all cases, applications are thoroughly assessed in accordance with determined criteria and guidelines.

Each application has been rated on a standard scale against a standard set of criteria. The ratings scale is shown below:

<b>Criteria</b>	<b>Weighting</b>
Adherence to policy guidelines	30%
Benefit to Town of Vincent residents	20%
Financial viability of the project or programme	10%
Previous grants acquitted satisfactorily	10%
Targets vulnerable and disadvantaged groups in the community	10%
A unique service that meets the needs of the community	10%
Demonstrated experience in delivering the service or programme	10%
	<b>100%</b>

**DETAILS:**

A summary of the applications and their ratings is shown on the following pages:

**Applications recommended for funding:**

<b>Organisation</b>	<b>Western Australian AIDS Council</b>
Purpose of Funding	<p>Funding towards the HIV Emergency Relief Fund which provides emergency financial assistance to clients experiencing financial hardship and who are finding it difficult to meet the most basic costs of daily living.</p> <p>The assistance is granted under strict criteria and the funds provided are limited to utilities and food, in order to maintain basic living standards. Clients are given coaching in financial management and/or referral to other services.</p>
Target Group	People living with HIV/AIDS.
Services Provided by the Organisation	<p>The Western Australian AIDS Council is a community-based organisation which provides a diverse range of services to people living with HIV/AIDS and to the broader community.</p> <p>Services include;</p> <ul style="list-style-type: none"> <li>• Education;</li> <li>• Advocacy;</li> <li>• Support services; and</li> <li>• Health enhancement services.</li> </ul>
Incorporated	Yes
Number of Vincent Residents Served	The Western Australian AIDS Council provides welfare services to 126 people in total and of those, 30 live in the Town of Vincent.
Comments	<p>During the last financial year this particular program distributed 173 food parcels. It should be noted though that whilst the number of people accessing food parcels has remained fairly constant over the last few years, more requests are from families and thus larger food parcels are being distributed. There were 210 occasions of service for financial assistance which shows an increase of 12 on the previous year. With the significant increase in the cost of electricity and gas costs this year it is anticipated that the demand for paying these essential utilities bills will increase.</p>

Organisation	Western Australian AIDS Council
	<p>Many clients are single and, therefore, not eligible for emergency relief through Family and Children's Services and many other welfare providers. Fear of discrimination regarding their HIV status, limits the services that many people living with HIV/AIDS can access.</p> <p>The HIV emergency relief fund is an ongoing program which also receives support from FaHCSIA, Lotterywest and City of Perth to the value of \$9,000 and in kind support of \$2,500</p> <p>Total cost of the programme is \$13,500</p>
Amount Requested	\$2500
<b>Amount Recommended</b>	<b>\$2500</b>

W.A AIDS Council	Raw Score	Weighted Score %
Adherence to policy guidelines	90	27
Benefit to Town of Vincent residents	90	18
Financial viability of the project or program	90	9
Previous grants acquitted satisfactorily	100	10
Targets vulnerable and disadvantaged groups in the community	90	9
A unique service that meets the needs of the community	90	9
Demonstrated experience in delivering the service or program	100	10
<b>TOTAL</b>	<b>650</b>	<b>92</b>

Organisation	Passages Resource Centre
Purpose of Funding	<p>The grant would be used to continue to run a Healthy Cooking Group. This will involve clients learning how to budget, shop and prepare healthy, low cost meals. Clients are shown the importance of hygiene in food preparation as well as basic cooking techniques.</p> <p>This program will incorporate a Healthy Breakfast option during the colder months. The clients will prepare a variety of breakfast menus and purchase the ingredients the day before.</p> <p>Funds will be used to purchase fresh and packaged food, hygiene and cleaning products.</p>
Target Group	Marginalised young people aged between 12-25 years who are experiencing severe disadvantage such as homelessness, poverty, substance abuse, mental illness, abuse and trauma.
Services Provided by the Organisation	<p>Services provided by Passages include:</p> <ul style="list-style-type: none"> <li>• Advocacy and referrals;</li> <li>• Informal counselling;</li> <li>• Non-judgmental hospitality within a safe environment;</li> <li>• Laundry, bathroom and kitchen facilities;</li> <li>• Telephone, postal and computer access;</li> <li>• Clothing vouchers;</li> <li>• Medical and personal hygiene products;</li> <li>• Information and Life skills programs;</li> <li>• Positive leisure and recreation activities;</li> <li>• Medium term supported accommodation; and</li> <li>• Education scholarships.</li> </ul>

Organisation	Passages Resource Centre
Number of Vincent Residents Served	<p>In 2008, Passages provided services to 1,227 clients a total of 4,332 times.</p> <p>Due to the transient and street- present nature of the clients who use the service, it is difficult to determine the exact number of Town of Vincent residents who use the service. However it is estimated that a significant proportion of clients live within the Town of Vincent boundaries or adjoining suburbs.</p> <p>The Healthy Cooking Group involves up to 12 young people at a time with a further 10-12 young people participating in the weekly BBQ which has commenced in the last year.</p>
Incorporated	Yes
Comments	<p>Passages provide services to young people who are most disadvantaged, particularly those living on the street. The assistance offered meets very basic and concrete needs.</p> <p>The Healthy Cooking Program was initiated in 1999 with the support of the Town of Vincent, and due to the Towns support it has been running successfully ever since. It was established at the request of the young people accessing the centre. During this time the program has involved around 2,400 individuals including 278 in 2008.</p> <p>Passages has expanded to provide supported accommodation, whilst the Healthy Cooking Group has been assimilated into this venture, which provides education and training creating a pathway into independent living.</p> <p>The total cost of the program is \$6,000, with other funding coming from the organisation.</p>
Amount Requested	\$4500
<b>Amount Recommended</b>	<b>\$4500</b>

<b>Passages Resource Centre</b>	<b>Raw Score</b>	<b>Weighted Score %</b>
Adherence to policy guidelines	90	27
Benefit to Town of Vincent residents	90	18
Financial viability of the project or program	90	9
Previous grants acquitted satisfactorily	100	10
Targets vulnerable and disadvantaged groups in the community	90	9
A unique service that meets the needs of the community	90	9
Demonstrated experience in delivering the service or program	100	10
<b>TOTAL</b>	<b>650</b>	<b>92</b>

<b>Organisation</b>	<b>The Salvation Army</b>
Purpose of Funding	<p>The grant would be used to assist with the cost of running the Emergency Relief Assistance.</p> <p>Funds would be used to provide food parcels, clothing, assistance with utility bills, for individuals and families.</p> <p>Assistance is offered without discrimination to anyone in need regardless of his or her age, race or religion.</p>
Target Group	Individuals, families and seniors who are experiencing difficulties due to unemployment, poverty and family breakdown.
Services Provided by the Organisation	<p>Services provided by The Salvation Army include;</p> <ul style="list-style-type: none"> <li>• Emergency relief and support;</li> <li>• Home visits;</li> <li>• Food parcels;</li> <li>• Clothing;</li> <li>• Essential household items;</li> <li>• Assistance with utility bills; and</li> <li>• Counselling and training in life skills.</li> </ul>
Number of Vincent Residents Served	The organisation conducted 7,644 interviews in 2008/2009, as many of these individual people represent a family the number of people assisted is likely to be in the order of close to 23,000. It is estimated that 916 Town of Vincent residents accessed the service and were assisted 2-3 times in the financial year.
Incorporated	Yes
Comments	<p>The total cost of the Salvation Army Perth Community Support Program is \$983,513, with the Red Shield Appeal contributing \$440,000, \$378,000 provided by businesses and individual trusts and \$161,000 from the Commonwealth Government.</p> <p>The funding from this welfare grant will provide emergency relief assistance for Town of Vincent residents.</p>
Amount Requested	\$5000
<b>Amount Recommended</b>	<b>\$5000</b>

<b>The Salvation Army.</b>	<b>Raw Score</b>	<b>Weighted Score %</b>
Adherence to policy guidelines	90	27
Benefit to Town of Vincent residents	90	18
Financial viability of the project or program	90	9
Previous grants acquitted satisfactorily	100	10
Targets vulnerable and disadvantaged groups in the community	100	10
A unique service that meets the needs of the community	90	9
Demonstrated experience in delivering the service or program	100	10
<b>TOTAL</b>	<b>660</b>	<b>93</b>

**SUMMARY OF RATINGS:**

**Summary of ratings for applications recommended for funding:**

<b>Organisation</b>	<b>Raw Score</b>	<b>Weighted Score %</b>
<i>Western Australian AIDS Council</i>	650	92
<i>Passages Resource Centre</i>	650	92
<i>The Salvation Army</i>	660	93

**CONSULTATION/ADVERTISING:**

Due to the significant reduction in the grant funding available for 2009/2010 as part of the organisational review a decision was made to contact the community groups that have been regular recipients of this type of grant funding from the Town, rather than advertise and attract new groups that the Town may not have been able to fund this financial year. In August 2009 eight (8) organisations which have previously received funding from and provided significant services for residents from the Town of Vincent were contacted by Community Development Officers and invited to apply for funding.

The Organisations contacted and invited to submit an application by 30 October 2009 were:

- ASeTTS
- Beehive Industries
- Womens Health Services
- Passages Resource Centre
- Western Australia AIDS Council
- Manna Industries
- The Salvation Army
- Carers WA

**LEGAL/POLICY:**

Policy number: 1.1.5 *“Donations, sponsorships and waiving of fees and charges.”*

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2009 – 2014:

*“3.1.1 Celebrate and acknowledge the Town’s cultural and social diversity.”*

*“3.1.3 Determine the requirements of the Community and focus on needs, value, engagement and involvement”*

**FINANCIAL/BUDGET IMPLICATIONS:**

**Community & Welfare Grants and Donations**

The table below details the financial implications of the welfare donations scheme over the past financial year 2008/2009 and this financial year 2009/2010. In 2008/2009 there was only one advertised funding round due to the number of applications and in 2009/2010 due to the reduced budget organisations have been contacted and invited to apply.

Organisation	Funding Requested (08/09)	Funding Recommended (08/09)	Funding Requested 2009/2010	Funding Recommended 2009/2010
W.A AIDS Council	2,000	2,000	2,500	2,500
Passages Resource Centre	3,000	3,000	4,500	4,500
The Salvation Army			5,000	5,000
Carers WA	5,000	5,000		
Multicultural Services Centre	4,600	4,600		
ENASCO Australia	5,000	2,500		
Volunteer Taskforce	5,000	5,000		
Continece Advisory Service of WA	2,300	2,300		
Incest Survivors Association	5,000	1,500		
Australian Red Cross	4,745	4,745		
Women's Health Services	3,330	3,330		
St Vincent de Paul Society	5,000	5,000		
Toy Libraries	3,000	3,000	2,000	2,000
Sundry Donations	6,000	6,000	6,000	6,000
<b>TOTAL</b>	<b>\$53,975</b>	<b>\$47,975</b>	<b>20,000</b>	<b>20,000</b>

#### Ad Hoc/Sundry Donations

In the 2009/2010 Budget, \$6,000 is allocated to cover requests for sundry donations received during the year.

#### 2009/2010 Budget

An amount of \$30,000 has been allocated for Community and Welfare Grants and Donations in the Budget for 2009/2010.

Five Thousand dollars (\$5,000) has also been allocated separately for Volunteer Task Force in the 2009/2010 Budget.

Since the introduction of the Community and Welfare Grants and Donations the total amount of funding requested has increased as shown in the table below:

FINANCIAL YEAR	AMOUNT REQUESTED	AMOUNT GRANTED
1996/1997	\$43,000.00	\$40,110.00
1997/1998	\$72,500.00	\$45,300.00
1998/1999	\$129,000.00	\$51,740.00
1999/2000	\$95,940.00	\$55,500.00
2000/2001	\$139,507.00	\$55,000.00
2001/2002	\$128,133.20	\$59,368.00
2002/2003	\$167,172.00	\$63,700.00
2003/2004	\$120,786.00	\$63,300.00
2004/2005	\$137,065.00	\$67,585.00
2005/2006	\$90,555.00*	\$49,000.00*
2006/2007	\$69,750.00*	\$54,450.00*
2007/2008	\$55,750.00*	\$46,800.00*
2008/2009	\$53,975.00*	\$47,975.00
2009/2010	\$20,000.00*	\$20,000.00*

\* These figures do not include funding for the Loftus Community Centre, Rosewood Care Group-(meals on wheels provider until December 2008) and City of Stirling (meals on wheels provider since January 2009)

### **Memorandum of Understanding**

People Who Care and Volunteer Task Force are two organisations that provide a range of Home and Community Care (HACC) services to frail aged and disabled residents within the Town of Vincent. Both organisations have been funded since the introduction of the Community and Welfare Grants and Donations Scheme. Under the Memorandum of Understanding these organisations will receive the maximum grant amount of \$5000, per annum, for the next five (5) years.

### **Regular Annual Grants to Toy Libraries Located in the Town**

This 2009/2010 financial year, grants of \$1,000 will be offered to each Toy Library located in the Town of Vincent to assist with the costs of advertising, promotion and purchase of toys.

### **COMMENTS:**

Priority is given to funding those organisations to which the Town regularly makes referrals, and whose services directly or indirectly benefit a large number of the Town's residents and best reflect the needs of the local community.

Of the eight (8) organisations that were contacted by Community Development Officers and invited to apply for grant funding, three (3) applications were submitted by the due date. The remainder of funds will be recommended for allocation to targeted community groups that service residents prior to the end of the 2009/2010 financial year.

A report will be forwarded to Council for approval to allocate the remainder of funds.

**9.3.3 Annual Budget 2010/2011 – Adoption of Timetable**

<b>Ward:</b>	Both	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0025
<b>Attachments:</b>	-		
<b>Reporting Officer:</b>	M Rootsey, Director Corporate Services		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That the Council;*

(i) *APPROVES the timetable for the 2010/2011 Budget as detailed below:*

<i>DATE</i>	<i>TOPIC</i>
<i>1-30 April</i>	<i>Chief Executive Officer and Directors to review 1<sup>st</sup> Draft Budget</i>
<i>30 April</i>	<i>1<sup>st</sup> Draft Budget issued to Council Members</i>
<i>6 May</i>	<i>Briefing provided to Council Members on Draft Budget</i>
<i>11 May</i>	<i>1<sup>st</sup> Budget briefing/Special Council Meeting (open to the public)</i>
<i>25 May</i>	<i>2<sup>nd</sup> Budget briefing/Special Council Meeting (open to the public) – if required</i>
<i>26 May – 30 May</i>	<i>Budget documentation finalised for public comment</i>
<i>31 May</i>	<i>Advertise for public comment (14 days)</i>
<i>15 June</i>	<i>Public comment closes</i>
<i>16 June - 24 June</i>	<i>Final Budget documentation and report for Council prepared</i>
<i>24 June</i>	<i>Issue Agenda report</i>
<i>1 July</i>	<i>Adoption of Annual Budget at the Special Council meeting</i>

(ii) *AUTHORISES the Chief Executive Officer (in liaison with the Mayor) to make minor variations to the timeframe, if unforeseen circumstances arise or if a change is necessary.*

**COUNCIL DECISION ITEM 9.3.3**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

To provide a timetable for the preparation and adoption of the Annual Budget 2010/2011.

**BACKGROUND:**

It is recommended that the Budget is adopted as early in the new financial year as possible. It is proposed that Special Meeting of Council for the adoption the budget be held on the 1 July 2010. This will again allow the Town a cash flow benefit from the earlier issue of Rates Notices.

A separate Special Council meeting for the adoption of the Annual Budget will also allow more time for discussion on the final Budget document, without the constraint of the timing of the Ordinary Meeting of Council.

**DETAILS:**

The Annual Budget forms an integral part of the Town’s “Plan for the Future” 2009-2014, which was adopted by the Council.

The timetable proposed allows for both suitable Council Member and community reviews.

The Draft Budget will be initially issued to Council Members. A confidential briefing will be provided to Council Members either collectively or individually depending on circumstances. The Draft Budget deliberations will then be held at the scheduled Special Council Meetings, the public are invited to attend these meetings.

The public will also be invited to comment on the Draft Budget prior to adoption.

The proposed Budget Timetable is outlined below:

DATE	TOPIC
1-30 April	Chief Executive Officer and Directors to review 1 <sup>st</sup> Draft Budget
30 April	1 <sup>st</sup> Draft Budget issued to Council Members
6 May	Briefing provided to Council Members on Draft Budget (Thursday evening)
11 May	1 <sup>st</sup> Budget briefing/Special Council Meeting (open to the public
25 May	2 <sup>nd</sup> Budget briefing/Special Council Meeting (open to the public) – if required
26 May – 30 May	Budget documentation finalised for public comment
31 May	Advertise for public comment
15 June	Public comment closes
16 June - 24 June	Final Budget documentation and report for Council prepared
24 June	Agenda report issued
1 July	Adoption of Annual Budget at the Special Council meeting

This year it is proposed to schedule the briefing for the Council Members on a Thursday evening rather than a Saturday, which has been the practice in previous years.

It is also proposed that the Special Meeting for the adoption of the Annual Budget be held on 1<sup>st</sup> July 2010 which is also a Thursday.

**CONSULTATION/ADVERTISING:**

There is no statutory requirement to advertise the Draft Annual Budget for community consultation, prior to adoption.

However, it has been the Town’s practice for the last 4-5 years to advertise the Draft Annual Budget for a period of twenty-one (21) days, in accordance with the Community Consultation Policy. However, as the timeframe is very tight, and requires the Director (and other employees) to work under extreme pressure and on weekends to finalise the Budget, it is recommended it be advertised for 14 days.

**LEGAL/POLICY:**

The Annual Budget is prepared in accordance with the Local Government Act (1995) Section 6.2.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2009-2014 Plan for the Future – Key Result Area Four (4) - Leadership, Governance and Management:

- 4.1.1 *Provide Good Strategic Decision Making, Governance, Leadership and Professional Management.*
- 4.1.2 *Manage the organisation in a responsible, efficient and accountable manner.*
- 4.1.3 *Plan effectively for the future.*

**FINANCIAL/BUDGET IMPLICATIONS:**

N/A.

**COMMENTS:**

It is important that both the Administration and the Council adheres to the deadlines identified in the timetable to ensure that the Annual Budget is adopted in the required time frame.

**9.4.1 Use of the Council's Common Seal**

<b>Ward:</b>	-	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0042
<b>Attachments:</b>	-		
<b>Reporting Officer:</b>	M McKahey, Personal Assistant		
<b>Responsible Officer:</b>	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 November 2009.*

**COUNCIL DECISION ITEM 9.4.1**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

**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:

<b>Date</b>	<b>Document</b>	<b>No of copies</b>	<b>Details</b>
3/11/09	Deed of Easement	1	Town of Vincent and L Di Iorio of 22 Venn Street, North Perth WA 6006 re: Eden Street, West Perth - WAPC Reference: 135300
3/11/09	Deed of Release	2	Town of Vincent and Paul Bennett - Termination of Employment
3/11/09	Withdrawal of Caveat	1	Town of Vincent and Downings Legal of Level 11, 2 Mill Street, Perth WA 6000 re: No. 356 Oxford Street, Leederville - Removal of Caveat
6/11/09	Deed of Contract of Employment	2	Town of Vincent and Manager Library and Local History Centre, Elizabeth Scott

Date	Document	No of copies	Details
18/11/09	Withdrawal of Caveat	1	Town of Vincent and Downings Legal of Level 11, 2 Mill Street, Perth WA 6000 re: No. 174 (Lots 265 & 266) Grosvenor Road, North Perth - <i>The owner has applied for the withdrawal of the caveat so that the registration of the new title can proceed. Lots 265 &amp; 266, when amalgamated, will result in Lot 10 Grosvenor Road, North Perth being created.</i>
18/11/09	Notification of Section 70A	1	Town of Vincent and A & J Matta of 55 Lanchester Way, Stirling and Heal & Brandli Services Pty Ltd of unit 2, 356 Oxford Street, Leederville re: No. 356 Oxford Street, Leederville - <i>To satisfy Clause (xii) of conditional Planning Approval dated 28 December 2007 for demolition of vehicle sales premises and construction of a three (3) storey mixed use development comprising offices, shop, five (5) multiple dwellings and basement car park.</i>
20/11/09	Notification under Section 70A	2	Town of Vincent and P H Faulkner of 22 Jack Ricketts Drive, Ocean Beach WA 6333 re: No. 51 (Lot: 144 D/P: 1659) Buxton Street, Mount Hawthorn - Partial Demolition of, and Alterations and Additions, including Two-Storey Ancillary accommodation Addition, to Existing Single House - <i>To satisfy Clause (iii) of Conditional Approval granted under Delegated Authority.</i>
23/11/09	Deed of Licence	3	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Dainty Consolidated Entertainment Pty Ltd of 470 St Kilda Road, Melbourne 3000 re: Concert* - 20 February 2010 and, if required, 22 February 2010 (Stadium) (* <b><i>Commercial in Confidence until released to public</i></b> )
23/11/09	Deed of Licence	3	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Andrew McManus Presents (International Pty Ltd) of 460 Brunswick Street, Fitzroy, Victoria 3065 re: Concert* - 6 March 2010 and, if required, 7 March 2010 (Stadium) (* <b><i>Commercial in Confidence until released to public</i></b> )
23/11/09	Deed of Licence	3	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and On Point Promotions of 40 Whimbrel Street, Stirling WA 6021 and Paperchase Touring & Entertainment Pty Ltd of 27/25 Claremont Street, South Yarra, Victoria 3141 re: Concert* - 14 March 2010 (Stadium) (* <b><i>Commercial in Confidence until released to public</i></b> )
24/11/09	Transfer of Land	2	Town of Vincent and Western Australian Planning Commission of Albert Facey House, 469 Wellington Street, Perth 6000 re: Lot 67 on Plan 1417, Primrose Land, Perth - <i>Easement Burden for Right of Carriageway Purposes</i>

**9.4.4 Minutes of the Annual General Meeting of Electors held on 23 November 2009**

<b>Ward:</b>	Both	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	All	<b>File Ref:</b>	ADM0009
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	A Radici, Executive Assistant		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES and CONFIRMS the Minutes of the Annual General Meeting of Electors (AGM) held at 6.00pm on Monday 23 November 2009, attached at Appendix 9.4.4; and*
- (ii) *NOTES that a further report will be submitted to the Ordinary Meeting of Council to be held on 15 December 2009 concerning the Decisions made at the Annual General Meeting of Electors.*

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**COUNCIL DECISION ITEM 9.4.4**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

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**PURPOSE OF REPORT:**

The purpose of the report is for the Council to receive and confirm the Minutes of the Annual General Meeting of Electors held on 23 November 2009 and consider any decisions made at that meeting.

**BACKGROUND:**

The Annual General Meeting of Electors of the Town of Vincent was held on Monday 23 November 2009 at 6.00pm. It was attended by eleven (11) Electors and four (4) Councillors, as shown in the Attendance Register attached to the Minutes.

**DETAILS:**

It is standard practice for the Minutes of the Meeting of Electors to be presented to the Council for information. In accordance with the Local Government Act 1995, Section 5.33, all decisions made at Electors Meetings are required to be considered at the next Ordinary Meeting of the Council.

The Minutes are attached for the information of the Council. The following decisions were made at that meeting.

1. Moved Sally Lake, 51 Chatsworth Road Highgate, Seconded Marie Slyth, 89 Carr Street West Perth

**“That the Council take effective action to stop cyclists from commuting in Hyde Park, and from using Hyde Park as a venue for exercising on their bicycles; and further that the Council will liaise with the Cycling branch of the Dept of Transport so that they may take effective steps to bar commuting cyclists from Hyde Park or at the very least ensure that cyclists are required to reduce their speed to a walking pace.”**

MOTION PUT AND CARRIED (6-2)

2. Moved Brian Fleay, 59 View Street, North Perth, Seconded Warren McGrath, 4/142 Palmerston Street, Perth

**“That the Town of Vincent explore engaging with the City of Perth to develop a joint policy on development and related issues for the land between the Perth Railway Line and Bulwer Street.”**

MOTION PUT AND CARRIED (11-2)

3. Moved Brian Fleay, 59 View Street, North Perth, Seconded Simon Chester, 93 Chelmsford Road, Mt Lawley

**“That the Town of Vincent engage with it’s residents to more explicitly define the meaning of “*amenity*” when it is used to justify in-fill development proposals requiring concessions to conditions under the Town Planning Scheme, often with damaging social and other impacts.”**

MOTION PUT AND CARRIED (8-3)

4. Moved Colin Scott, 17 Deague Court, North Perth, Seconded Simon Chester, 93 Chelmsford Road, Mt Lawley

**“That the Town of Vincent form a Working Group to address issues of how the revenue stream of Tamala Park monies will be administered into the community.”**

#### **PROCEDURAL MOTION**

Moved Colin Scott, 17 Deague Court, North Perth, Seconded Warren McGrath, 4/142 Palmerston Street, Perth

**“That the above motion be DEFERRED and be further considered at the Annual General Meeting 2010.”**

MOTION PUT AND CARRIED UNANIMOUSLY

5. Moved Colin Scott, 17 Deague Court, North Perth, Seconded Simon Chester, 93 Chelmsford Road, Mt Lawley

**“That the Town of Vincent investigate ways to take out a full or half page advertisement in Local Newspapers in line with other Councils where information about Council activities and events can be brought to the community’s attention.”**

MOTION PUT AND CARRIED UNANIMOUSLY

6. Moved Marie Slyth, 89 Carr Street, West Perth, Seconded Colin Scott, 17 Deague Court, North Perth

**“That the Town of Vincent:**

- (a) **not make the Multiple Dwellings Policy changes to the Town Planning Scheme until full and comprehensive consultation has been conducted by the Town; and**
- (b) **further review and identify the likely impacts of the approval of the changes to the Town Planning Scheme on the “to be” newly developed type of Residential Streetscapes Policy.”**

MOTION PUT AND CARRIED (9-2)

7. Moved Simon Chester, 93 Chelmsford Road, Mt Lawley, Seconded Colin Scott, 17 Deague Court, North Perth

**“That the Town of Vincent’s Consultation Policy No. 4.1.5 be reviewed so that changes that may have significant impact on ratepayers and residents (such as the Multiple Dwelling Policy), are advertised in a manner that is consistent with the consultation which was undertaken for the Residential Streetscapes Policy.”**

MOTION PUT AND CARRIED (13-0)

8. Moved Simon Chester, 93 Chelmsford Road, Mt Lawley, Seconded Marie Slyth, 89 Carr Street, West Perth

**“That the Town of Vincent appoint an Independent Consultant to provide a “Desktop Review” of the potential impact of the following:**

- (a) **the Multiple Dwelling Policy 3.4.8;**
- (b) **the Town Planning Scheme Amendment No. 25 (relating to multiple dwellings;**
- (c) **the effective density increase to R80 in areas previously coded R60 with no multiple dwellings allowed; and**
- (d) **Clause 40 of the Town’s Town Planning Scheme No. 1 in combination with rules governing multiple dwellings;**

**on the characteristics of the building stock within the Town previously designated as either a Residential Streetscape or Townscapes in either:**

- 1. **the formerly proposed residential streetscapes policy; or**
- 2. **the District Survey & Municipal Heritage Inventory Review conducted by Hocking Planning & Architecture Collaboration;”**

**and provide a report to the Council no later than March 2010.”**

MOTION PUT AND CARRIED (12-1)

9. Moved Simon Chester, 93 Chelmsford Road, Mt Lawley, Seconded Marie Slyth, 89 Carr Street, West Perth

**“That the Town of Vincent appoint an Independent Consultant to undertake a “Desktop Review” to assess the alignment and effectiveness of the Town of Vincent Local Area Planning Strategy in addressing the findings of the Community Visioning final report and 6 Vision statements identified in Vincent Vision 2024 and provide a report to the Council no later than March 2010.”**

MOTION PUT AND CARRIED (10-3)

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

Notice of the Annual General Meeting of Electors was advertised in a local newspaper (“*Guardian Express*”) and “*The West Australian*” Newspaper. Notices were displayed on all notice boards. It was also displayed on the Town's website.

The Minutes are attached for the information of the Council.

#### **LEGAL/POLICY:**

The Local Government Act 1995 states;

“5.27 (1) *A general meeting of the electors of a district is to be held once every financial year.*

(2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.”*

“5.33 (1) *All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable -*

*(a) at the first ordinary meeting after that meeting; or*

*(b) at a special meeting called for that purpose,*

*whichever happens first.*

(2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.”*

#### **STRATEGIC IMPLICATIONS:**

Nil.

#### **SUSTAINABILITY IMPLICATIONS:**

Nil.

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

Nil at this stage. Once the various matters have been investigated, indicative costs will be known.

#### **COMMENTS:**

Due to the number of Motions and the very limited time available to properly research details and prepare reports to the Ordinary Council Meeting to be held on 1 December 2009, the various matters raised at the Annual General Meeting of Electors will be investigated and appropriate reports will be submitted to the Council Meeting to be held on 15 December 2009.

#### **9.4.5 Draft Policy – Food Act 2008 Policy**

<b>Ward:</b>	Both	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	All	<b>File Ref:</b>	LEG0061
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	A. Giles, Manager Health Services		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **APPROVES IN PRINCIPLE the Draft Policy 3.8.10 – “Food Act 2008” as shown on Appendix; and**
- (ii) **AUTHORISES the Chief Executive Officer to:**
  - (a) **advertise the Draft Policy 3.8.10 – Food Act 2008, for a period of twenty-one (21) days, seeking public comment;**
  - (b) **report back to the Council with any public submissions received; and**
  - (c) **include the Policy in the Town’s Policy Manual if no public submissions are received.**

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**COUNCIL DECISION ITEM 9.4.5**

**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

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**PURPOSE OF REPORT:**

The purpose of this report is to obtain the Council’s approval for the draft Food Act 2008 Policy (Attachment 001).

**BACKGROUND:**

The *Food Act 2008* was proclaimed on 23 October 2009 replacing the food hygiene provisions of the *Health Act 1911 (as amended)* and the *Health (Food Hygiene) Regulations 1993*. The *Food Act 2008* (the Act) is now the principal, stand alone piece of legislation governing food control in Western Australia. The Act is based on Model Food Provisions agreed to by all States, Territories and New Zealand and fully adopts the *FSANZ Food Standards Code*.

Food safety enforcement and associated education is one of the key statutory requirements of local government Environmental Health Officers, and changes in legislation impact the delivery of this service to the local food industry. The new legislation contains a number of differences from the food control provisions that were detailed in *Health Act 1911 (as amended)*, including:

- uniformity of legislation, including the adoption of the *FSANZ Food Standards Code*, across all Australian states and territories and New Zealand;

- a move from prescribed based legislation to outcome and risk based legislation, allowing greater flexibility for local government and food business proprietors; and
- an increase in maximum penalties - from \$50 to \$10,000 under the provisions of the *Health Act 1911 (as amended)* to between \$10,000 and \$500,000 under the *Food Act 2008*.

#### **DETAILS:**

The Town's 'Food Act 2008 Policy' is comprehensive, and is designed to be a guiding document for the Council, the Town's Officers, and food business proprietors within the Town. The draft Policy, and associated guidelines and procedures cover the following topics:

- Interpretations;
- Notification and Registration requirements (including temporary food businesses, fees and charges, exempt premises - including charity and community events);
- Food Business Risk Profiling:
  - Food Standards Australia and New Zealand – Priority Classification System;
  - Department of Health – Food Business Risk Profiling; and
  - Inspection Frequencies.
- Food Safety Programs and Auditing requirements;
- Compliance and Enforcement Procedures (including flow chart):
  - Infringement Notices;
  - Improvement Notices;
  - Prohibition Orders;
  - Prosecution;
  - Notification of Convictions;
  - Food Seizure; and
  - Food Sampling.
- Construction of Food Premises and Operational Considerations (including the assessment of plans, residential food businesses, and food recalls);
- Education and Training (including skills and knowledge requirements); and
- Useful Links – to external and internal references such as legislation, and guidance documents.

The draft Food Act 2008 Policy links registration fees, inspection frequency, construction standards and enforcement action, to the level of risk associated with each business.

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

The draft Policy will be advertised for a period of 21 days, and will be included in the Town's Policy Manual if no public submissions are received. If submissions are received, the matter will be reported to the Council again, for further consideration.

In addition to the standard consultation detailed above, the Town's local food industry will also be invited to comment on the draft Policy. This will be advertised in the December 2009 edition of the Town's publication *Food Safety Matters* newsletter.

#### **LEGAL/POLICY:**

- *Food Act 2008*;
- *Food Regulations 2009*; and
- *Australia New Zealand Food Standards Code*.

## **STRATEGIC IMPLICATIONS:**

Strategic Plan 2009 - 2014:

*Natural and Built Environment*

1.1.4 *Minimise negative impacts on the community and the environment.*

*Economic Development*

2.1.2 *Develop and promote partnerships and alliances with key stakeholders.*

*Leadership, Governance and Management*

4.1.2 *Manage the organisation in a responsible, efficient and accountable manner:*

(c) *Adopt Strategies for improving and enhancing the quality of services, processes and procedures.'*

## **SUSTAINABILITY IMPLICATIONS:**

The functions of the *Food Act 2008* are delegated to local government. Food safety education and enforcement is one of the key functions of Health Services and one of the main reasons why local government must employ Environmental Health Officers. There are minimal additional sustainability implications, as the key functions remain similar to those under the *Health Act 1911 (as amended)*.

## **FINANCIAL/BUDGET IMPLICATIONS:**

There will be minor financial implications with the advertisement of the draft Policy. The consultation with the local food industry will be incorporated into the December 2009 edition of the *Food Safety Matters* newsletter, to avoid additional postage charges associated with a separate mail out.

Clause 1.5 – Fees and Charges, in the attached Policy details the specific revenue which will be obtained in the form of notification and registration requirements, temporary food premises fees, annual registration fees, and re-inspections as a result of non-compliance. Enforcement revenue may also increase due to the introduction of on-the-spot fines for observed breaches where prosecution is not warranted, and as a result of the substantial increase in penalties for successfully prosecuted offences.

## **COMMENTS:**

Health Services have fully embraced the proclamation of the *Food Act 2008*. This guiding policy will assist the Town's Officers to adopt a consistent approach in the application of the new legislation, and will provide clear guidance to proprietors on the Town's expectations in relation to public health and food safety.

**9.1.11 No. 87 (Lot 101, D/P 53475) Bulwer Street, dual frontage to Greenway Street, Perth - Proposed Demolition of Existing Buildings and Construction of Five-Storey Mixed Use Development Comprising Offices, Showrooms, Unlisted Use (Small Bar), Twenty (20) Multiple Dwellings and Associated Basement Car Parking**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Beaufort; P13	<b>File Ref:</b>	PRO4257; 5.2009.325.1
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a>		
<b>Reporting Officer:</b>	R Rasiah, Coordinator Statutory Planning		
<b>Responsible Officer:</b>	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, APPROVES the application submitted by Oldfield Knott Architects on behalf of the owner Bulwer PDS Pty Ltd for proposed Demolition of Existing Buildings at No. 87 (Lot 101) Bulwer Street, dual frontage to Greenway Street, Perth and as shown on plans stamp-dated 24 August 2009, subject to the following conditions:*
  - (a) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
  - (b) *an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
  - (c) *a development proposal for the redevelopment of the subject property shall be submitted to and approved by the Town prior to the issue of a Demolition Licence;*
  - (d) *demolition of the existing building may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No. 1 and associated Policies for the retention of existing buildings valued by the community;*
  - (e) *support of the demolition application shall not be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property; and*
  - (f) *any redevelopment on the site shall be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Planning Scheme No. 1 and associated Policies; and*
- (ii) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by Oldfield Knott Architects on behalf of the owner Bulwer PDS Pty Ltd for proposed Demolition of Existing Buildings and Construction of Five-Storey Mixed Use Development Comprising Offices, Showrooms, Unlisted Use (Small*

*Bar), Twenty (20) Multiple Dwellings and Associated Basement Car Parking, at No. 87 (Lot 101) Bulwer Street, dual frontage to Greenway Street, Perth and as shown on plans stamp-dated 24 August 2009, 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 non-compliance with building height, residential/commercial mix of 66 and 34 per cent respectively, car parking, and building setbacks and privacy requirements of the Residential Design Codes;*
- (c) the development creates an undesirable precedent for developments of a similar scale and nature on other potential developments sites within the Beaufort Precinct, that are zoned Residential/Commercial; and*
- (d) consideration of the objections received.*

**COUNCIL DECISION ITEM 9.1.11**

**Moved Cr Topelberg, Seconded Cr Farrell**

*That the recommendation be adopted.*

Debate ensued.

**PROCEDURAL MOTION**

**Moved Cr Farrell, Seconded Cr Harvey**

*That the item be DEFERRED at the request of the applicant, so as to investigate modifications to the design.*

**PROCEDURAL MOTION PUT AND CARRIED (9-0)**

<b>Landowner:</b>	Bulwer PDS Pty Ltd
<b>Applicant:</b>	Oldfield Knott Architects
<b>Zoning:</b>	Metropolitan Region Scheme: Urban and "Other Regional Road Reservation". Town Planning Scheme No. 1 (TPS 1): Residential/Commercial R80 and "Other Regional Road Reservation".
<b>Existing Land Use:</b>	Office, showroom(car) and warehouse
<b>Use Class:</b>	Office Building, showroom, unlisted use (small bar) and multiple dwellings
<b>Use Classification:</b>	"AA", "SA", "SA" and "P"
<b>Lot Area:</b>	1404 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

12 February 1973      Planning Approval Serial No. 10/2800 issued for a car yard use at the above site.

13 July 1976          Planning Approval Serial No. 10/2800, issued for office, showroom and warehouse use at the above site.

18 December 2008 The Council at its Ordinary Meeting, resolved as follows:

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

The application Serial No. 5.2008.385 was subsequently withdrawn by the applicant on 25 August 2009.

27 August 2009 New planning application Serial No. 5.2009.325 was subsequently lodged on 27 August 2009.

**DETAILS:**

The proposal involves the demolition of the existing buildings and the construction of a five (5) storey mixed use development, consisting of offices, showroom, unlisted use (small bar), multiple dwellings and associated basement car parking. Vehicular access to the site is via Greenway Street.

The landowner's planning consultant has submitted a comprehensive response (attached) in relation to the concerns raised in the advertising submissions, and a summary of this response is as follows:

*"To summarise the above, the proposed development warrants support and approval for the following reasons:*

- 1. It is common practice for land fronting major regional roads to be designated for commercial uses, to provide a 'buffer' to more sensitive residential uses. The proposal incorporates twenty multiple dwellings, suitably located to mitigate potential ground-level amenity impacts;*
- 2. The subject site is located within a discrete 'island', formed by Beaufort, Bulwer, Greenway and Stirling Streets, and comprising only 11 land parcels, all developed for commercial purposes. The site is separated from the interior core of the precinct, which is more suited to residential-intensive mixed-use development. Development of the lots within the 'island' for more intensive commercial purposes will create an effective buffer to the existing residential uses on the southern side of Greenway Street, and makes best use of available land;*
- 3. The subject site is in an area experiencing considerable demand for office space. Optimising the use of the site for mixed-use commercial and residential purposes will assist in creating employment, and integrating land use and transport;*
- 4. By proposing a development which is itself visually striking and impressive, the subject application will effectively 'raise the bar' for the locality, ensuring any development of the surrounding lots is of a very high quality. Restricting building height to only two or three storeys will inevitably result in mediocre and uninspiring development, reflecting poorly on the surrounding locality. In contrast, a striking, grand building will befit such a landmark site, forming the gateway to the Beaufort Street precinct;*
- 5. The Town has recently approved several developments of greater height and scale to that proposed, including within the Beaufort Precinct, and in close proximity to the subject site. The proposed development will be similar in bulk and scale to the likely future development of the surrounding land;*
- 6. The parking provision is compliant with the statutory requirements, and is the environmentally responsible option. The proposed development will encourage the use of alternative modes of transport, consistent with the TravelSmart program actively promoted by the Town. The parking provision is not anticipated to result in traffic or parking problems in the locality, as the peak demand associated with surrounding traffic generators will not coincide with the peak demand of the office use;*

7. *Overshadowing is fully compliant with the requirements of the R-Codes, were they applicable to the non-residential development. The existing street wall of the 'Greenway Foundry Studios' grouped dwelling development already overshadows the internal areas of the development, and any additional overshadowing resulting from the proposal will be minimal. With regard to visual privacy, the separation provided by Greenway Street means the overlooking to the south is fully compliant with the requirements of the R Codes. In addition, the outdoor living areas within the 'Greenway Foundry Studios' are already overlooked by other dwellings within the development, and there can be no expectation of privacy. The 'cone of vision' to the east and west does not encroach on any existing residential uses, and future development is likely to reflect the 'inner city' amenity, with future residents less sensitive to such matters; and*
8. *The development will be an exporter of green electrical power. Accordingly, the proposed development is appropriate and justified, and will provide a considerable benefit to the local community and the Town. In light of the matters raised above, we request the Town's Officers and Elected Members support and approve the proposed development as submitted. We respectfully request the opportunity to address any meeting of Council at which the matter is considered, prior to determination."*

The applicant's submission is "Laid on the Table".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	R 80 - 11.23 multiple dwellings.	R 142 - 20 multiple dwellings	Not supported - The increased density in this instance has resulted in unacceptable bulk and scale issues, as a result of the additional number of storeys proposed.
Plot Ratio	1.0 or 1404 square metres.	2.85 or 4004 square metres.	As above.
Height of building	2 storeys.	5 storeys.	Not supported - The height and overall design of the proposal creates an unacceptable bulk and scale issue, and is considered to unduly affect the streetscape of the area, which is predominantly 2 storey buildings.
Non-Residential adjacent to residential area	2 storeys.	5 storeys.	Not supported - as above.

Residential/Commercial Zone	66/34 percent mix.	39/61 percent mix.	Not supported - The 66% residential and 34% commercial mix encourages further residential growth, and supports vibrant inner city areas. To allow an increase in only the commercial use would set a negative precedent.
Car Parking - Comment	46.24 car bays	43 car bays	Not supported - Given the proposal is for total redevelopment, there is opportunity to provide for the shortfall in car parking on-site, with a reduced scale development. Further comments in the "Comments" section.
Stores	1.5 metres dimension and 4 square metres in area.	A number of stores are 1.5 metres in dimension and less than 4 square metres in area.	Not supported - As above, the provision of stores in a redevelopment should be compliant.
Bicycle parking facilities	End of Trip facilities.	Not shown.	Not supported - As Bicycle facilities are required to be provided.
Privacy-balconies to eastern and western sides	7.5 metres.	4.2 to 4.9 metres.	Not supported - In the event of approval, the balconies would require screening in accordance with the R Codes.
Ground floor-south Greenway Street setback	Nil.	Nil to 1.925 metres.	Supported- The variation would not have an undue impact on the streetscape.
Walls on boundary to be 2/3 of length of lot boundary, maximum height of 6 metres	31.03 metres for east and west walls.	44.36 metres for both sides.	Supported - Most buildings are on the boundary, including the boundary walls within the front setback on the Bulwer Street frontage. The variations will not unduly impact on the amenity of the area.
First floor-east side	3.5 metres	Nil	Supported - The variation would not result in an undue impact on the amenity of the area.

First floor-west side	3.5 metres	Nil	As above.
Second floor-east side	5.2 metres	Nil	As above.
Second floor-west side	5.2 metres	Nil	As above.
Third floor-east wall 1	3.8 metres	Nil	Not supported - The proposal exceeds the height requirements.
Third floor-east wall 2	1.9 metres	Nil	As above.
Third floor-east wall 3	3.8 metres	Nil	As above.
Third floor-east wall 4	11.5 metres	4.2 to 4.9 metres	As above.
Third floor-west wall 1	1.9 metres	Nil	As above.
Third floor-west wall 2	1.9 metres	Nil	As above.
Third floor-west wall 3	3.8 metres	Nil	As above.
Third floor-west wall 4	11.5 metres	4.9 metres	As above.
Fourth floor-east wall 1	2.5 metres	Nil	As above.
Fourth floor-east wall 2	2.2 metres	Nil	As above.
Fourth floor-east wall 3	2.5 metres	Nil	As above.
Fourth floor-east wall 4	14.5 metres	4.2 to 4.9 metres	As above.
Fourth floor-west wall 1	2.2 metres	Nil	As above.
Fourth floor-west wall 2	2.2 metres	Nil	As above.
Fourth floor-west wall 3	2.5 metres	Nil	As above.
Fourth floor-west wall 4	14.5 metres	4.9 metres	As above.
<b>Consultation Submissions</b>			
Support	Nil		Noted.
Objection (5)	The proposed 5 storey building would look "out of place" in an area where the current residential complexes are 2-3 storeys in height, and is unrealistic. The height will allow residents to overlook into adjacent swimming pool area. A 2-3 storey building will also result in less possibility of intrusion of privacy		Supported- The variation will result in an undue impact on the existing streetscape, and also create a loss of privacy.
	Greenway Street has parking on one side of the street, and is generally overcrowded by car and truck on normal days. There should be sufficient car parking for residents and office staff on site for this purpose.		Supported - Given the proposal is for total redevelopment, there is opportunity to provide for the shortfall in car parking on-site, with a reduced scale development. See "Comments" section.
	Privacy impact from non-complying balconies.		Supported - In the event the proposal were to be approved, all privacy requirements of the R Codes are to be complied with.
	Will reduce the ambience in the area.		Noted.

<b>Other Implications</b>	
Legal/Policy	TPS 1 associated Policies and R Codes.
Strategic Implications	Nil
Sustainability Implications	Nil
Financial/Budget Implications	The proposal will be required to satisfy the energy efficiency requirements of the Building Code of Australia at the Building Licence stage.

\* 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:

#### Car Parking

In accordance with the Residential Design Codes requirements for mixed-use development, on-site car parking requirements for multiple dwellings may be reduced to one per dwelling where on-site parking required for other users is available outside normal business hours. A total of 20 car bays have been provided for the multiple dwellings. The balance of car bays available for the commercial component in this instance is 43 car bays.

<b>Car Parking- Commercial Component</b>	
Car parking requirement (nearest whole number) <ul style="list-style-type: none"> <li>• Office: 1 car bay per 50 square metres gross office floor area (proposed 2630 square metres) = 52.6 car bays.</li> <li>• Showroom: 3 spaces for first 200 square metres of gross floor area and thereafter 1 space per 100 square metres of gross floor area or part thereof (proposed 286 square metres) =3.86</li> <li>• Unlisted use (small bar): 1 space per 4.5 persons of maximum number of persons approved on site (proposed 50 persons maximum) = 11.11</li> </ul>	68 car bays
Apply the adjustment factors. <ul style="list-style-type: none"> <li>• 0.85 (within 400 metres of a bus stop)</li> <li>• 0.80 (within 50 metres of public car park with 50 car bays)</li> </ul>	(0.68) 46.24 car bays
Minus the car parking provided on-site	43 car bays
Minus the most recently approved on-site car parking shortfall	Not applicable as proposal is to redevelop the site.
Resultant shortfall	3.24 car bays
<b>Bicycle Parking Facilities</b>	
Office <ul style="list-style-type: none"> <li>• 1 per 200 (proposed 2630) square metres public area for employees (class 1 or 2) - 13.15 spaces.</li> <li>• 1 space per 750 square metres over 1000 square metres for visitors (class 3) - 2.17</li> <li>• End of trip bicycle facilities.</li> </ul>	Some bicycle facilities are shown in the basement, but no end of trip facilities is shown.

The proposed shortfall is likely to result in staff from this development seeking alternative on-street car parking in the vicinity. On the above basis, the shortfall in car parking is not supported, as the shortfall can be provided on-site with a reduced scale development.

### **Demolition**

The subject place at No. 87 Bulwer Street, Perth comprises a brick and iron motorcar showroom and warehouse built in the Late Twentieth Century Retail style. It was built circa 1973, and replaced an earlier residence that was built on the site circa 1926, which operated as a mixed business. The Metropolitan Sewerage Plan Survey dated July 1953, indicates the original brick building constructed in 1926 was still extant at that time, and featured asbestos additions at the front, and at the rear, with a larger industrial style building, built with brick galvanized iron roof, located to the east of the subject lot.

The current building is rectangular with a simple façade, and shop windows are featured along the front. A workshop and a carport are located to the rear of the commercial building, with bitumen car bays located to the east, and an additional access to Greenway Street to the south.

In 1973, a Development Application was submitted by Goerke & Co. to erect a Car Sales premises at the subject lot. Paul Goerke applied for a Building Licence in 1976 to change the subject place into an office and warehouse. In 1982, Autohause Porsche Pty. Ltd. proposed to construct additions to the existing showroom and workshop.

A preliminary heritage check undertaken on 16 September 2008, indicates that the subject 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.

In light of the above, it is considered that approval should be granted for demolition subject to standard conditions.

### **Department of Planning (DOP) Comments**

The DOP in its response letter dated 19 November 2009, have advised that there is a 2 metres road widening along Bulwer Street, across part of the subject site.

The DOP advised the proposed glass canopy can be supported on a temporary basis on the following conditions:

- *“the landowner agrees to remove the glass canopy at the time when the reserved land is required for the upgrading of Bulwer Street at their own expense; and*
- *The landowner agrees that the presence of the glass canopy shall not be taken into consideration in determining any compensation that may be payable by Council or the Western Australian Planning Commission when the reserved land is required for the upgrading of Bulwer Street.”*

Further advice was to the effect that there was to be no access off the regional road (Bulwer Street), unless special circumstances apply. The Town is to ensure that the number of required car bays comply with the Town's requirements.

### **Technical Services**

The Town's Technical Services have advised of the following:

- The footings must not encroach past the property boundary.
- The awning on Greenway Street will not be permitted as the building will be built to the boundary and on that side, there is no footpath.

- The aluminium and solar powered lighting panels, and protruding brickwork, are not supported.
- Wheel stops for all car bays facing the exit walkway and stores are to be provided.
- The bin area will be required to be mechanical ventilated, and details as to how the bins are to be collected. A waste management plan is to be submitted to be assessed, as to whether the Town can offer multi-collection days.

The applicant has advised that the awning may be removed, and all footings to be contained on-site, could be appropriately conditioned. All protruding elements (except awnings) will be contained on-site. These matters could be appropriately conditioned.

#### **Building Services Comments**

- Non-compliant Building Code of Australia requirements relating to fire related issues, and access for persons with a disability.

The applicant has advised that a Fire Engineering Consultant is to be engaged, with all BCA related matters, addressed at Building Licence stage.

In general, the proposal in its current form is not supportable, as it is considered to have an undue impact on the amenity and streetscape of the area and the stated non-compliances in the Assessment Table.

**9.1.4 No. 244B (Strata Lot 3 on Strata Plan 45388) Charles Street, North Perth – Proposed Additional Two-Storey Grouped Dwelling to Existing Two Grouped Dwellings**

<b>Ward:</b>	South	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Smith's Lake; P06	<b>File Ref:</b>	PRO3599; 5.2009.293.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	D Pirone, Planning Officer		
<b>Responsible Officer:</b>	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 the owner S A Smyth & C J Shirras for proposed Additional Two-Storey Grouped Dwelling to Existing Two Grouped Dwellings, at No. 244B (Strata Lot 3 on Strata Plan 45388) Charles Street, North Perth, and as shown on amended plans stamp-dated 17 September 2009, 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;*
- (ii) any new street/front wall, fence and gate within the Charles 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;*
- (iii) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (iv) first obtaining the consent of the owners of No. 238 Charles Street and No. 153 Alma Road for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 238 Charles Street and No. 153 Alma Road in a good and clean condition;*
- (v) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the windows to bedroom 1 on the eastern elevation;*
  - (b) the windows to bedroom 2 on the eastern elevation; and*
  - (c) the windows to the master bedroom on the eastern elevation,*

*being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject*

*windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2008. 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. 153 Alma Road stating no objection to the respective proposed privacy encroachments. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies; and*

- (vi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the removal of the blue metal gravel from the car parking area and the turning bay and being sealed, drained and paved to the satisfaction of the Town.*

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**Moved Cr Maier, Seconded Cr Farrell**

*That the recommendation be adopted.*

Debate ensued.

Cr Farrell departed the Chamber at 7.03pm.

Debate ensued.

AMENDMENT NO 1

**Moved Cr Maier, Seconded Cr Harvey**

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

“(v) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*

- (a) *the windows to bedroom 1 on the eastern elevation;*
- (b) *the windows to bedroom 2 on the eastern elevation; and*
- (c) *the windows to the master bedroom on the eastern elevation,*

*being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating;*

- 1) *the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2008.; OR*
- 2) *the windows to bedrooms 1 and 2 and the master bedroom complying with clause 6.8.1(iii) of the Residential Design Codes 2008.*

*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. 153 Alma Road stating no objection to the respective proposed privacy encroachments. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies; and”*

Cr Farrell returned to the Chamber at 7.04pm.

**AMENDMENT NO 1 PUT AND CARRIED 9-0**

Debate ensued.

**AMENDMENT NO 2**

**Moved Cr Maier, Seconded Cr Burns**

*That clause (vi) be deleted.*

Debate ensued.

**AMENDMENT NO 2 PUT AND CARRIED 9-0**

**MOTION AS AMENDED PUT AND CARRIED (9-0)**

**COUNCIL DECISION ITEM 9.1.4**

*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 the owner S A Smyth & C J Shirras for proposed Additional Two-Storey Grouped Dwelling to Existing Two Grouped Dwellings, at No. 244B (Strata Lot 3 on Strata Plan 45388) Charles Street, North Perth, and as shown on amended plans stamp-dated 17 September 2009, 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;*
- (ii) any new street/front wall, fence and gate within the Charles 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;*
- (iii) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (iv) first obtaining the consent of the owners of No. 238 Charles Street and No. 153 Alma Road for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 238 Charles Street and No. 153 Alma Road in a good and clean condition; and*
- (v) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the windows to bedroom 1 on the eastern elevation;*
  - (b) the windows to bedroom 2 on the eastern elevation; and*
  - (c) the windows to the master bedroom on the eastern elevation,*





<b>Consultation Submissions</b>		
Support	Nil	Noted.
Objection (1)	<ul style="list-style-type: none"> <li>• Side setbacks (south).</li>   <li>• Building height.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported – This is not considered to have an undue impact on the neighbouring property given a large portion of the southern boundary consists of common driveway, and therefore cannot contain other boundary walls.</li>   <li>• Not supported – The proposed development is compliant with the requirements of the R Codes.</li> </ul>

\* 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:**

In light of the above, it is recommended that Council approve the application subject to standard and appropriate conditions to address the above matters.

**9.1.19 Leederville Hotel, No. 742 (Lot 30) Newcastle Street, Leederville – Application for Extended Trading Area, New Years Eve 2009**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Oxford Centre; P4	<b>File Ref:</b>	PRO0630; PHI0157
<b>Attachments:</b>	-		
<b>Reporting Officer:</b>	S Teymant, Senior Environmental Health Officer		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *ADVISES the Applicant and Department of Racing, Gaming and Liquor that the Town DOES NOT SUPPORT the Extended Trading Permit application by the Leederville Hotel, No. 742 (Lot 30) Newcastle Street, Leederville, in relation to the extended public area, for the proposed New Years Eve event on 31 December 2009 to 1 January 2010, in its current form, for the following reasons:*
- (a) *the additional number of patrons in an open area is considered to result in an adverse impact on the amenity of the surrounding areas;*
  - (b) *the use of the car park will reduce available parking in the area;*
  - (c) *the use of the car park is considered undesirable as it contains potential trip hazards which may cause harm to persons potentially affected by alcohol;*
  - (d) *the potential for the large number of persons to cause unruly behaviour; and*
  - (e) *the application does not have the support of the WA Police; and*
- (ii) *AUTHORISES the Chief Executive Officer to negotiate with the Applicant concerning appropriate conditions and reduced number of patrons for the event, which is more amenable to the needs and expectations of the Town's community and relevant stakeholders and if successful, to approve it, with appropriate conditions.*

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**COUNCIL DECISION ITEM 9.1.19**

**Moved Cr Buckels, Seconded Cr McGrath**

*That the recommendation be adopted.*

Debate ensued.

The Presiding Member, Mayor Nick Catania ruled that he would consider and vote on the Recommendation in two parts.

**CLAUSE (i) PUT AND CARRIED (7-2)**

**For:** Mayor Catania, Cr Burns, Cr Farrell, Cr Harvey, Cr Lake, Cr Maier, Cr Topelberg  
**Against:** Cr Buckels, Cr McGrath

**CLAUSE (ii) PUT AND CARRIED (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council of an application to obtain approval by the Leederville Hotel to extend its normal trading area to include part of the Hotel's private car park for a New Years Eve event featuring international artists, on Thursday, 31 December 2009.

**BACKGROUND:**

An application by the Leederville Hotel submitted in August 2003 was approved at the Ordinary Meeting of Council held on 26 August 2003 and resulted in conditional approval being granted. The Council resolution (Item 10.1.4) was as follows:

*"COUNCIL DECISION ITEM 10.1.4*

*"That the Council APPROVES the application by the Leederville Hotel, No. 742 (Lot 30) Newcastle Street, Leederville, to host as part of the 2003 Rugby World Cup, the South African Rugby Tour and supporters, and the subsequent Extended Trading Permit, subject to compliance with the following:*

- (i) the Venue Risk Management Plan be developed in conjunction with the Town's Officers and the Police Services detailing foreseen risks and treatments, including Public Liability Insurance Cover, Noise Control, Litter Control, Anti-social and Crowd Control, as "Laid on the Table";*
- (ii) limiting the one-off Temporary Extended Trading Permit to the period of 8 to 20 October 2003 inclusive;*
- (iii) the removal of all temporary structures no later than seven (7) days after the expiration of the Building Permit;*
- (iv) limiting the late night hours to:*
  - (a) Monday and Tuesday evenings - no extension granted;*
  - (b) Wednesday and Thursday evenings - extension to 1.00am;*
  - (c) Friday and Saturday nights - extension to 2.00am;*
  - (d) Sunday nights - extension to 11pm; and*
  - (e) Temporary extended area - no late night extended trading hours; and subject to final conditions determined by the WA Police Service, Department Racing, Gaming and Liquor, Fire and Emergency Services, and the Hotel's Crowd Control Service Provider;*
- (v) requiring the Leederville Hotel to advertise the temporary Extended Trading Period with relevant conditions and after-hours mobile and landline contact numbers for nearby ratepayers to contact the Duty Manager in relation to any unreasonable noise, anti-social behaviour, or other problems, in both local newspapers and on an on-site notice board facing Vincent and Newcastle Streets appropriately located prior to commencement;*
- (vi) requiring the Leederville Hotel to conduct a further letter drop in the 200 metres zone around the premises to inform residents and ratepayers of:*
  - (a) the conditions imposed by the Council;*
  - (b) measures to be taken by the Leederville Hotel to maintain the amenity of the area during the Rugby World Cup; and*
  - (c) mobile and landline contact details for the day and night Duty Managers for the relevant period; and*
- (vii) requiring the Leederville Hotel to arrange on-site WA Police Service presence at the Leederville Hotel's expense, at the temporary "Bok Town" in relation to Springbok Rugby Union games, particularly on Saturday, 11 October 2003 (South Africa versus Uruguay), and Saturday, 18 October 2003 (South Africa versus England).*

*to the satisfaction of the Chief Executive Officer."*

**DETAILS:**

The application requests approval from both the Town and the Department of Racing, Gaming and Liquor (the determining authority), to obtain an Extended Trading Area Permit for Thursday, 31 December 2009 – 1 January 2010 to permit trading within part of the Hotel's car park. Comments are required to be submitted to the Department of Racing, Gaming and Liquor by 2 December 2009.

As detailed above, a similar application during the Rugby Union World Cup event was approved by the Council in 2003 relating to temporary use of the Hotel's car park area for an extension to the Hotel's public floor area.

The Leederville Hotel provided the following operational details in relation to the event:

*“The Leederville Hotel will be hosting 2,900 patrons who will welcome in 2010 with a NYE party Chilled [sic] out grooves by Dj Felix da Housecat and Perth’s finest local DJs.*

*Given the intended number of patrons, a fully fenced 30sqm marquee will be erected in the Northern car park directly adjacent to the venue, to house the additional patrons. The car park area containing the structure will be fully enclosed by portable cyclone fencing.*

*The operating framework for large events at the venue that has been developed and successfully deployed over the past 12 years will again be used to ensure that the event achieves the following objectives:*

- *Provide a safe environment, within which 2900 patrons can enjoy the event.*
- *Provide a quality food and beverage experience to those patrons (as always given our business model, food is the emphasis of the evening).*
- *Ensure that alcohol is consumed responsibly throughout the evening.*
- *Further enhance the reputation of the venue and the Leederville precinct.*
- *Ensure no environmental impact on the venue or surrounding public space.*

*Details of the various aspects of the event are outlined below:*

*Food*

*Substantial food will be available throughout the duration of the event.*

*Alcohol*

- *Numerous bars will be located throughout the venue.*
- *Once the vouchers have all been used, patrons can purchase alcohol from one of the bars.*
- *Water will be available to all patrons free of charge for the duration of the event.*
- *Soft drinks will be available for purchase to all patrons, and to Designated Drivers (specifically identified via a different coloured wrist band) free of charge.*
- *All staff working the event will have to attend a compulsory Responsible Service of Alcohol briefing at 6.00pm on the day of the event. A full information pack detailing the venue’s and their own personal obligations to ensure that alcohol is served responsibly will be provided to all staff working the event , a minimum of one week prior to the event being held.*
- *To further ensure that alcohol consumption is appropriately regulated, a maximum of four drinks per person will be served at any one time.*

- *Given that the event is a private one, (the area is specifically defined and fenced), all patrons will have to provide appropriate photo identification twice - both to collect their tickets and to gain entry, and we will have crowd controllers constantly monitoring the crowd. Given the nature of the entertainment being provided and the target audience for the event (sophisticated 25-40 year olds) it is highly unlikely that any juveniles will be in attendance. To further ensure alcohol is not supplied to juveniles, bar staff will be instructed to further request ID at the bars if they suspect the person attempting to purchase alcohol is under age.*
- *To ensure alcohol is not served to intoxicated persons, four crowd controllers will be made specifically responsible for half hourly intoxication checks. Any patron suspected of being intoxicated will be ushered to a specifically designated "dry area", where they will be provided additional water and made to remain for a period until they have recovered sufficiently to be allowed back into the event. A patron that gets removed in this manner twice will not be allowed back into the event.*

#### Entertainment

*Music is an extremely important part of this event and money will be invested in an international headline DJ act who will perform a 2 hour feature set. In addition, well known DJs with strong support in the local area will also be on the bill.*

#### Security and first aid

- *Sufficient crowd controllers will be in attendance throughout the course of the event in accordance with the license for the venue.*
- *All ticket holders will be asked for ID at the gate. (They will also have had to provide ID upon collection of their tickets). Upon approval of ID they will also be given a wristband to wear at all times.*
- *Royal Life saving personnel will be on hand in case of any emergency.*
- *Parking attendants will also be provided.*
- *A 'Designated Driver' area will be set up within the venue where designated drivers can receive free soft drinks for the duration of the night. This area will be manned by dedicated promo staff and all designated drivers will receive a separate wrist band.*

#### Additional facilities/operational aspects of the event

- *Seating and lounges will be available for patrons throughout the entire venue, to allow them to consume their meals.*
- *Sufficient portable toilets will be hired for the event (in accordance with Health Regulations), along with the premises existing 2 permanent facilities.*
- *The Leederville Hotel will provide sufficient bins to be placed throughout the venue to dispose of consumed beverages."*

#### **Planning Services**

The Town's Planning Services are concerned with the proposal to close part of the car park to accommodate the extended trading area, as this will result in further demand for car parking in the area. The car park is required to be open for patron car parking needs. Furthermore, the car park plans submitted indicate the location of an additional two "Bar" facilities for the above purposes.

The current planning approval also had restrictions on numbers of patrons allowed in the Hotel premises. The additional number of patrons in an open area is considered to result in an undue negative impact on nearby residents and the amenity of the immediate and surrounding areas.

Further concerns are raised in relation to the amplified music that is to be made available to the patrons in the car park.

On the above basis, the proposal is not supportable on planning grounds.

### **Ranger and Community Safety Services**

From past experience, parking in Leederville on New Year's Eve is a "nightmare", so an additional 900 patrons along with the loss of a portion of the existing parking bays in the Hotel's car park is likely to create a large impost on the existing facilities. While it is acknowledged that the behaviour of the Hotel's patrons has improved in recent months, with a reduction in the number of complaints being received, the fact remains that there is little doubt that there will be an impact on the surrounding area. Over the past few years, Rangers have been permitted to finish their shift at 8:30pm, or 9:00pm on New Year's Eve, because if the Rangers operate until midnight, they simply become targets for alcohol-affected revellers. It is considered that there is no value in raising the angst of the large number of people in the Leederville area, any more than is necessary. As a result, this application is not supported.

If there is an intention to close off the road from Oxford Street at the rear of the Hotel, the Hotel Management would need to obtain an agreement to do so, from the other users who access their private properties via the thoroughfare. Since it is a Gazetted Road, they would also need Police Approval and Council Approval.

### **Environmental Health**

The risk management plan submitted by the Leederville Hotel details risk management actions designed to deal with increased patron numbers, and one-off alterations to the public building. Whilst there are few public health concerns from the perspective of compliance with the *Health (Public Building) Regulations 1992*, and *Food Act 2008*, particularly in view of the risk management strategies detailed in the management plan submitted; there are concerns with tripping hazards presented by kerbing of the recently reconfigured car park area, in addition to public health and safety following the event. These concerns primarily relate to the safe and orderly dispersion of patrons out of the area, particularly given public transport, taxi and parking shortfalls.

In relation to compliance with the *Environmental Protection (Noise) Regulations 1997*, the Hotel's Acoustic Consultant reported to the Town's Health Services that the anticipated sound level emissions from the extended area, would not exceed the usual levels of the permanent public building.

Council approval was given at the Ordinary Meeting of the Council on 26 August 2003 to use part of the Leederville Hotel's private car park for the Rugby World Cup. This resulted in a portion of the car park being fenced off between 8-20 October 2003 as an extension of the public building. Whilst there were no compliance issues arising from this previous use, the current proposed event is considered to be different in nature from both an event timing and event type perspective. As a result, a comparison between the proposed event and previous event is not considered appropriate on this occasion.

The Town has been advised that the Leederville Hotel has invested heavily in the 2009/2010 New Years Eve celebrations. The investment and commitments made to date are further understood to have been made on the erroneous assumption that obtaining approval from the Town for a temporary extension to their public building would be a mere formality. Discussions between the Hotel's Management and the Town's Officers has revealed that this assumption, (rightly or wrongly), has arisen due to a similar past approval being obtained from the Town, permitting partial closure of the Hotel's private car park area for the accommodation of additional/increased patron numbers (i.e. world cup rugby event in 2003).

### **Engineering Services**

As indicated in the comment from Ranger and Community Safety Services, the Right-of-Way separating the Hotel from the car park is a dedicated road and, therefore, the Hotel/applicant will have to comply with the standard conditions if it is to be approved. This will include submission of a Road Closure Application, obtainable from the Police, which requires not only the Police's sign-off but also the Town's and Main Roads WA. The road closure has advertising/notification requirements, including a notice in the 'public notices' in *The West Australian*, and attracts a fee.

If approved, the applicant then is required to engage a Main Roads WA accredited Traffic Management Contractor to prepare and submit a Traffic Management Plan (TMP), in accordance with the relevant standards. The Town's Ranger and Community Services can issue a permit (cost \$80) with relevant conditions. Given that Thursday, 31 December 2009 is a work night and other businesses abutting the 'road' have a right of access, the Hotel would require the co-operation of the other property owners/tenants.

The actual closure would be undertaken by a qualified traffic controller in accordance with the approved TMP, not the hotel staff, with Traffic Control to remain on-site for the duration, so that patrons do not move the signs around for their own amusement.

### **Police Comment**

Wembley Police Services Officer-in-Charge has advised that, in isolation this event maybe appropriate; however, the reality is, that in considering this request it is important to consider the capacity of the local community to absorb and cater for the event, the capacity to police the environment, and likely behaviour of those attending and leaving events such as this.

Given the widespread increased demand on Police resources for New Years Eve, and the additional number of revellers that will be present in the Leederville area, the Police cannot justify giving support to the application (a large proportion of district policing resources will be required in other areas). It is considered that an extra 900 people will put pressure on available transport infrastructure.

### **CONSULTATION/ADVERTISING:**

As detailed above, numerous stakeholders were consulted in relation to the ETP application.

### **LEGAL/POLICY:**

- Health (Public Building) Regulations 1992;
- Food Act 2008;
- Liquor Control Act 1988;
- Vincent Accord 2009 – 2011;
- Environmental Protection (Noise) Regulations 1997; and
- Town Planning Scheme No. 1 and associated Policies.

### **STRATEGIC IMPLICATIONS:**

Plan for the Future - Strategic Plan 2009 - 2014:

*'Natural and Built Environment*

*1.1.4 Minimise negative impacts on the community and the environment.'*

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

In view of comments received internally and from external agencies regarding the event, it is not considered appropriate that the Extended Trading Area Permit be supported as proposed. The key issue relates to the event being conducted on New Years Eve, when all resources are historically stretched to their limit, particularly in relation to transport and policing.

**9.1.7 No. 159 (Lot 5, Strata Lot 2, STR 29986) Palmerston Street, Dual Frontage to Myrtle Street, Perth - Proposed Demolition of Existing Carport and Shed and Construction of Garage, Carport and Store Additions to Existing Grouped Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Hyde Park, P12	<b>File Ref:</b>	PRO1972; 5.2009.434.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	T Cappellucci, Statutory Planning Officer		
<b>Responsible Officer:</b>	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 B H Dudley on behalf of the owner B H Dudley & R Pargass, for the proposed demolition of existing carport and shed and construction of garage, carport and store additions to existing grouped dwelling, at No. 159 (Lot 5, Strata Lot 2, STR 29986) Palmerston Street, dual frontage to Myrtle Street, Perth, and as shown on plans stamp-dated 16 October 2009, 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;*
- (ii) any new street/front wall, fence and gate within the Palmerston 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;*
- (iii) first obtaining the consent of the owners of No. 157 Palmerston Street and No. 2 Myrtle Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 157 Palmerston Street and No. 2 Myrtle Street, in a good and clean condition;*
- (iv) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the height of the garage wall to the western boundary being a maximum height of 3.5 metres with an average height of 3.0 metres above the natural ground level;*
  - (b) the proposed garage is to be wholly structurally independent of the existing garage at No. 157 Palmerston Street, Perth; OR alternatively, prior to the occupation/use of the garage or within 35 days after the Building Licence being issued, whichever occurs first, that an easement shall be registered on the certificate of title for No. 157 Palmerston Street such that the structure within the easement area is used for structurally supporting the garage, and subject to first obtaining the consent of the owner of No. 157 Palmerston Street. All costs associated with this condition shall be borne by the applicant/owner of No. 159 Palmerston Street; and*

- (c) *no part of the structure (including footings) is to project beyond site boundaries. It is recommended that a Licensed Surveyor confirm the location of lot boundaries.*

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

- (v) *the proposed store is not to be used for habitable purposes.*

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**COUNCIL DECISION ITEM 9.1.7**

**Moved Cr Farrell, Seconded Cr Lake**

*That the recommendation be adopted.*

Debate ensued.

**MOTION PUT AND CARRIED (7-2)**

**For:** Mayor Catania, Cr Buckels, Cr Burns, Cr Farrell, Cr Harvey, Cr Lake, Cr Maier  
**Against:** Cr McGrath, Cr Topelberg

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<b>Landowner:</b>	B H Dudley & R Pargass
<b>Applicant:</b>	B H Dudley
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R80
<b>Existing Land Use:</b>	Grouped Dwelling
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	241 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

- 9 April 2002                      The Council at its Ordinary Meeting approved the application for proposed alterations, additions and front fence to the adjoining grouped dwelling.
- 24 November 2003              The Town under delegated authority from the Council granted conditional approval for carport additions to adjoining grouped dwelling at No. 157 Palmerston Street, dual frontage Myrtle Street, Perth.
- 14 August 2007                  The Council at its Ordinary Council Meeting approved the application for demolition of existing carport and shed and construction of garage, carport and store additions to existing grouped dwelling at No. 159 Palmerston Street, dual frontage Myrtle Street.

**DETAILS:**

The existing dwelling at No. 159 Palmerston Street, Perth is a semi detached dwelling dating from circa 1903 together with No. 157 Palmerston Street, Perth. The proposal includes the demolition of the existing carport and shed, and involves the construction of a store, carport and garage. The proposal is the same as that approved by the Council at its Ordinary Meeting held on 14 August 2007.

The applicant's submission is "*Laid on the Table*". The submission is summarised as follows:

- The development reflects the established streetscape character at the eastern end of Myrtle Street, by replicating the nil secondary street setback of the existing garage and house (on the same 'parent' title lot) and the existing corner shop directly opposite the site.
- The development provides adequate privacy for the occupants of the site without affecting the existing private open space of the dwelling.
- The development does not affect any easements or essential services.
- The proposed nil setback of the garage satisfies the relevant Performance Criteria by virtue of the existing structures in the street (namely the eastern end of Myrtle Street where the proposed garage will be situated), it does not detract from the streetscape, is consistent with the setback, materials, height and overall built form of the existing abutting garage and as there is an existing roller door constructed on the secondary street boundary of the site, the proposed development will not affect existing views to and from the existing adjacent dwelling to the west.
- Given the proposed development fronts a secondary street and the site's frontage to the secondary street is already occupied by the existing roller door, the proposed development is considered to satisfy the relevant Performance Criteria for this provision.
- The height of the proposed boundary wall is lower than the height of the existing pitched carport roof and effectively represents replacement of the existing materials of the rear shed and the filling in of the openings on the west side of the existing carport. As a result, the adjacent dwelling will be provided with a boundary wall with consistent materials and finishes.
- The proposed outbuilding is not attached to the dwelling, is non-habitable, does not exceed 10% of the site area (40 square metres), is not within the primary setback area and (excluding the carport), does not affect the open space requirement and satisfies the required maximum height of 2.4 metres above natural ground level.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
<b>Building Setbacks:</b> Ground Floor  Garage – (South) Myrtle Street frontage	1.5 metres	Nil	Supported – The garage is proposed to be setback in line with the main building line and directly parallel to adjoining grouped dwelling at No. 157 Palmerston Street (Strata Lot 1).

Garage – (East) No. 157 Palmerston Street	1.0 metre	Nil	Supported - Not considered to have an undue impact on neighbouring property and no objection received from directly affected neighbour.
Garage – (West) No. 2 Myrtle Street	1.5 metres	Nil	Supported – Not considered to have an undue impact on neighbouring property.
Carport – (West) No. 2 Myrtle Street	1.5 metres	Nil	Supported – Not considered to have an undue impact on neighbouring property and considered to have less of an impact than the existing carport on the directly affected neighbours.
Store – (North) No. 161 Palmerston Street	1.0 metre	Nil	Supported – Not considered to have an undue impact on neighbouring property and considered to have less of an impact than the existing shed on the directly affected neighbours.
Store – (West) No. 2 Myrtle Street	1.5 metres	Nil	Supported - As above.
<b>Buildings on Boundary:</b>	Walls not higher than 3.5 metres with average of 3 metres for 2/3 of the length of the balance of the boundary behind the front setback, to one side boundary.	<p>Three boundary walls proposed on three side boundaries.</p> <p>Store Wall on Northern Boundary: Complies with wall height and length required.</p> <p>Garage Wall on Eastern Boundary (abutting the neighbours garage at No 157 Palmerston Street): Complies with wall height; however, exceeds wall length allowed.</p> <p>Store, Carport and Garage Wall on Western Boundary: Complies with wall height; however, exceeds wall length allowed as it is proposed for the whole length of the boundary common with No. 2 Myrtle Street.</p>	<p>Supported in part –</p> <p>North boundary wall (store) – Supported as not considered to have an undue impact on directly affected neighbours and considered to have less of an impact than the existing shed on the neighbouring properties.</p> <p>East boundary wall – Supported as not considered to have an undue impact on neighbouring property as it abuts an existing garage at No. 157 Palmerston Street and no objection received from directly affected neighbour.</p> <p>West boundary wall (garage, carport and store) – Supported in part and has been addressed in the Officer’s Recommendation.</p>

<b>Open Space:</b>	45% minimum total of site.	30% of the site.	Supported – The subject dwelling is listed on the Town’s Municipal Heritage Inventory List. There are development constraints affecting the site partly attributed to the small lot size. The variation to open space is considered not to unduly impact on the amenity of the residents and the surrounding area as a whole.
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**Consultation Submissions**

Support (1)	Does not affect own property and does not affect the streetscape.	Noted.
Objection (7)	<i>Building on Boundary Wall (north)</i> - concern for the parapet wall to the store. <i>Building on Boundary Wall (west)</i> – concern over the nil setback as opposed to the required 1.5 metres as imposing due to its height.	Supported in part – refer to “Comments Section”.
	<i>Garage Front Setback</i> - - Imposing structure in this small street is not acceptable aesthetically; - Not sufficient width; and - Suggest garage be setback 1.5 metres as it is not in keeping with setbacks along Myrtle Street.	Not supported – refer to comment in the ‘Assessment Table’.
	<i>Building Height</i> – the height of the garage is too high within the streetscape.	Supported in part – refer to “Comments Section”.
	Concern relating to the garage width, soak well close to boundary, insufficient strength of garage walls, and insufficient turning circle into the street and insufficient slope on the roof over the carport and store room.	Not Supported - Garage width is compliant with requirements for a single car garage (3 metres) and a new garage wall will need to comply with Building specifications to ensure it is structurally sound. In regards to the turning circle into the street and the roof pitches for the carport and store room, the Council at its Ordinary Meeting held on the 14 August 2007 approved the same proposal with the garage having a nil setback to Myrtle Street, and the carport and store, having flat roofs.

**Other Implications**

Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications	Nil
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:

### Heritage

The subject property is listed on the Town's Municipal Heritage Inventory with a Category Management B – Conservation Recommended and forms part of a semi-detached pair of dwellings. Built circa 1903, the dwellings at Nos. 157-159 Palmerston Street are fine example of Federation Cottages that contribute to the quality and diversity of Palmerston Street.

The subject application involves the demolition of the existing garden shed and garage and the construction of a new shed and colorbond roof garage with zincalume roller door.

The proposed additions are considered discrete structural additions at the rear of the property, which will not impinge on any significance fabric of the heritage listed dwelling. It is considered that the proposal does not impact adversely on the original cultural significance of subject place.

In light of the above, the Heritage Officers have no objection to the proposal.

### Planning

The proposed alterations and additions involve the demolition of the existing carport and shed, and the construction of a garage, store and carport. The same plans proposed as part of this application were approved by the Council at its Ordinary Meeting held on 14 August 2007.

The existing carport and shed are abutting the northern and western boundaries, at an average height of 3.5 metres from natural ground level. This is higher than the acceptable height defined in Clause 3.3.2 – Buildings on Boundary, of the Residential Design Codes. This Clause states as follows:

*“In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary”.*

The proposed carport and store to replace the existing carport and shed will reduce the visual impact on neighbouring properties, as the relevant wall heights have been reduced to comply with Clause 3.3.2 of the Residential Design Codes.

Similarly, the height of the garage, although it only exceeds the 3.5 metre height limit of Clause 3.3.2 for a small portion of length towards the front boundary on Myrtle Street, has been conditioned to comply with the average height of 3.0 metres in the Officer Recommendation to reduce the impact on the neighbouring property.

Further, concerns in relation to the garage height and western boundary parapet wall encroaching onto the western neighbours property has been appropriately conditioned to this effect.

In addition, the garage addition at the adjoining grouped dwelling at No. 157 Palmerston Street, which included a variation to the open space requirements, was granted conditional approval under delegated authority by the Town on 24 November 2003; therefore, the open space variation is supported.

In light of the above, the above proposal is supported, subject to standard and appropriate conditions to address the above matters.

**9.1.18 No. 17 (Lot 48, D/P 6049) Brady Street, corner Anderson Street, Mount Hawthorn - Proposed Four (4), Two-Storey Grouped Dwellings**

<b>Ward:</b>	North	<b>Date:</b>	26 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	PRO4076; 5.2009.421.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	D Pirone, Planning Officer		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

*in accordance with the provisions and powers of both the Local Government (Change of Districts Boundaries) Order 2007 and the Local Government (Constitution) Regulations 1998, allowing the Town of Vincent to, in effect, administer the City of Stirling District Planning Scheme No. 2 as if it were its own Scheme, and the Metropolitan Region Scheme, APPROVES the application submitted by D Sheppard on behalf of the owner N J Russell & Dirleton Holdings Pty Ltd for proposed Four (4), Two-Storey Grouped Dwellings, at No. 17 (Lot 48, D/P 6049) Brady Street, corner Anderson Street, Mount Hawthorn, and as shown on plans stamp-dated 19 November 2009, 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;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the new street/front wall, fence and gate within the Brady Street setback area and the Anderson Street setback area including along the side boundaries within these street setback areas, complying with City of Stirling Policy N101425 relating to Streetscape (including Fencing);*
- (iii) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (iv) first obtaining the consent of the owners of No. 15 Brady Street and No. 4 Anderson Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 15 Brady Street and No. 4 Anderson Street in a good and clean condition; ~~and~~*
- (v) a detailed landscaping plan, including a list of plants and the landscaping of the Brady Street and Anderson Street verges adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. The landscaping of the verge shall 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 which do not rely on reticulation. Where reticulation is not used, the alternative method should be described. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*

(vi) prior to the issue of a Building Licence, the applicant shall lodge a non-refundable bond of \$5,000 for the modification of the kerb radius from Anderson Street into Brady Street, from 12 metres to 8 metres, to ensure compliance with AS 2890.1 – Prohibited Locations of Access Driveways.

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

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**COUNCIL DECISION ITEM 9.1.18**

**Moved Cr Farrell, Seconded Cr Maier**

*That the recommendation be adopted.*

Debate ensued.

**MOTION PUT AND CARRIED (9-0)**

**ADDITIONAL INFORMATION:**

The Director Technical Services has advised that the crossover to unit 3 does not comply with Australian Standard 2890.1, clause 3.2.4. In order for the crossover to comply, the applicant/owner will be required to modify the radius of the existing kerb as per new clause (vi).

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<b>Landowner:</b>	N J Russell & Dirleton Holdings Pty Ltd
<b>Applicant:</b>	D Sheppard
<b>Zoning:</b>	Metropolitan Region Scheme: Urban City of Stirling District Planning Scheme No. 2: Residential R50
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	749 square metres
<b>Access to Right of Way</b>	Not applicable.

**BACKGROUND:**

30 May 2007                      The City of Stirling conditionally approved an application for proposed four (4), two-storey grouped dwellings.

27 September 2007              The Town of Vincent issued a Demolition Licence for the existing single house.

15 February 2008                The Town of Vincent issued a Building Licence for the construction of the development approved by the City of Stirling on 30 May 2007.

**DETAILS:**

The proposal involves the construction of four (4), two-storey grouped dwellings.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density:	4.16 dwellings	4 dwellings	Noted – no variation.
Building Setbacks: Ground Floor -North Unit 1	1.5 metres	1 metre – 4.7 metres	Supported – Not considered to have an undue impact on the neighbouring property as there is a very small portion of wall that is setback less than 1.5 metres.
Unit 2	1.5 metres	1 metre – 4.7 metres	Supported – Not considered to have an undue impact on the neighbouring property as there is a very small portion of wall that is setback less than 1.5 metres.
Unit 3	1.5 metres	1.2 metres – 4.7 metres	Supported – Not considered to have an undue impact on the neighbouring property as there is a very small portion of wall that is setback less than 1.5 metres.
Unit 4	1 metre	Nil	Supported – The applicant has submitted amended plans that reflect a significant decrease in the height of the boundary wall on the northern boundary.
-West (Unit 1)	1.5 metres	Nil – 3.66 metres	Supported – The applicant has submitted amended plans that reflect a significant decrease in the height of the boundary wall on the western boundary and no objections received from affected land owner.
Upper Floor -North Unit 1	1.2 metres	1 metre – 3.3 metres	Supported – Not considered to have an undue impact on the neighbouring property as there is a very small portion of wall that is setback less than 1.2 metres.

<p>Unit 2</p> <p>-West (Unit 1)</p>	<p>1.2 metres</p> <p>2 metres</p>	<p>1 metre – 3.7 metres</p> <p>1.2 metres – 2.77 metres</p>	<p>Supported – Not considered to have an undue impact on the neighbouring property as there is a very small portion of wall that is setback less than 1.2 metres.</p> <p>Supported – The plans indicate significant articulation incorporated into the western wall that reduces the impact of the wall.</p>
<p>Buildings on Boundary:</p>	<p>Walls not higher than 3.5 metres with average of 3 metres for 2/3 (24.93 metres on the northern boundary and 16.4 metres on the western boundary metres) of the length of the balance of the boundary behind the front setback, to one side boundary.</p>	<p>Walls proposed on two boundaries.</p> <p>-West (garage) Wall height – 2.7 metres – 2.9 metres (average = 2.8 metres); Wall length = 6.2 metres</p> <p>-West (meals/kitchen) Wall height – 3.3 metres – 3.5 metres (average = 3.4 metres); Wall length = 6.2 metres</p> <p>-North Wall height – 2.8 metres – 3.4 metres (average = 3.1 metres); Wall length = 8.4 metres</p>	<p>Supported – No variation.</p> <p>Supported – Not considered to have an undue impact on the neighbouring property and no objections received from affected land owner.</p> <p>Supported – the applicant has submitted amended plans that reflect the height of the boundary wall being reduced from 3.4 metres to 4 metres, with an average height of 3.7 metres to 2.8 metres to 3.4 metres, with an average height of 3.1 metres.</p>
<p>Vehicular Access:</p>	<p>Driveways shall not exceed an aggregate width of 9 metres.</p>	<p>Total width = 14 metres.</p>	<p>Supported – The aggregate width of the crossovers on Anderson Street are 9 metres and the crossover to Unit 4 is located on Brady Street, which has a width of 5 metres.</p>

Garage Doors:	Garage doors occupying a maximum of 60 per cent (13.74 metres) of the width of the frontage.	Proposed garage doors occupying a width of 65.5 per cent (15 metres) of the width of the frontage.	Supported – The proposed garage doors are of minimum width, and are 1.26 metres wider than the requirements.
Open Space:	A minimum of 45 percent of the total lot area shall be open space.	<p>Unit 1 = 43 per cent.</p> <p>Unit 2 = 43 per cent.</p> <p>Unit 3 = 41 per cent.</p> <p>Unit 4 = 52 per cent.</p> <p>Overall open space = 45 per cent.</p>	Supported – The applicant has amended the plans to reduce the size of the dwellings in order for the overall open space to comply with the requirements of the R Codes.
Outdoor Living Area:	<p>An outdoor living area provided with minimum dimensions of 4 metres.</p> <p>To be provided behind the street setback area.</p>	<p>The courtyards for units 1, 2, 3 and 4 have dimensions of less than 4 metres.</p> <p>The courtyard for unit 4 is located within the street setback area.</p>	<p>Supported – As the proposed outdoor living area is much larger than the required 16 square metres with the proposed alfresco courtyards for units 1 and 4 having an approximate area of 22 square metres and for units 2 and 3, an area of 22 square metres. Furthermore, the plans also indicate Japanese courtyards to all units off the family/meals areas, with approximate areas of 12 square metres.</p> <p>Supported – Not considered to have an undue impact on the area. The front courtyard allows for street surveillance as it is located on the corner of Anderson Street and Brady Street.</p>

<b>Consultation Submissions</b>		
Support (2)	No comments provided.	Noted.
Objection (4)	<ul style="list-style-type: none"> <li>• Noise from outdoor living areas.</li>   <li>• Height and materials of dividing fence.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported – The outdoor living areas are required to be provided behind the street setback area to the north of the property, which is indicated on the plans. Any noise will be required to comply with Health (Noise) Regulations.</li> <li>• Not supported – The plans indicate a 1.8 metre high dividing fence to be constructed along the northern boundary, which is compliant with the Town of Vincent Local Law. There are no requirements for fencing materials, and dividing fencing is a civil matter between neighbours.</li> </ul>
	<ul style="list-style-type: none"> <li>• Overshadowing and sunlight.</li>   <li>• Change in ground levels.</li>   <li>• Lack of open space.</li>   <li>• Privacy.</li>   <li>• Bulk and scale of the development.</li>   <li>• Landscaping should be provided.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported – The R Codes determine overshadowing from north to south only, and as such, most overshadowing occurs onto Anderson Street and Brady Street.</li> <li>• Not supported – The plans indicate that all retaining walls and fill are less than 500 millimetres above the natural ground level and, therefore, does not require a Planning Approval or Building Licence.</li> <li>• Not supported – The applicant has provided amended plans that indicate compliance with total open space on the site.</li> <li>• Not supported – All windows to habitable rooms on the upper floor are compliant with the requirements of the R Codes, in that they are either obscure glass, or have a sill height of 1.6 metres.</li> <li>• Not supported – The applicant has submitted amended plans that comply with the building height requirements of the R Codes; plot ratio is not applicable for grouped dwellings in an R50 zoned area.</li> <li>• Supported – A condition has been applied to the Officer Recommendation that requires the applicant to submit a landscaping plan that is to be approved by the Town’s Parks Services prior to the issue of a Building Licence.</li> </ul>
	<ul style="list-style-type: none"> <li>• Height of the parapet wall on the northern boundary.</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported – The applicant has amended the plans to indicate a significant decrease in the height of the parapet wall on the northern boundary.</li> </ul>

<b>Other Implications</b>	
Legal/Policy	City of Stirling District Planning Scheme No. 2 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications	Nil
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:**

In light of the above, it is recommended that Council approve the application, subject to standard and appropriate conditions to address the above matters.

**9.2.2 Possible Partial Road Closure and Amalgamation With Adjoining Land at No 3 Brady Street, of a Portion of Gibney Avenue, Mount Hawthorn**

<b>Ward:</b>	North	<b>Date:</b>	25 November 2009
<b>Precinct:</b>	COS16	<b>File Ref:</b>	TES0588
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	A Scott; Snr Technical Officer Land & Development		
<b>Responsible Officer:</b>	R Lotznicker, Director Technical Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on a request received for a possible partial closure and amalgamation of Gibney Avenue, possible partial road closure and amalgamation with adjoining land at No 3 Brady Street, of a portion of Gibney Avenue, Mount Hawthorn;*
- (ii) *SUPPORTS IN PRINCIPLE the concept of a partial closure and amalgamation of Gibney Avenue subject to;*
  - (a) *in principle agreement being reached with the City of Stirling and Main Roads WA for the proposed future improvements to the Scarborough Beach Road/Main Street/Brady Street/Green Street intersection;*
  - (b) *the outcome of clause (ii)(a), ensures that adequate area of road reserve remains at the intersection of Brady Street and Scarborough Beach Road to allow for the proposed future intersection improvements including, but not limited to, allowance for possible service relocations, paths and road realignments; and*
  - (c) *all costs associated with the proposal being paid by the Applicant;*
- (iii) *ADVISES the Department for Planning and the applicant of the Council's decision; and*
- (iv) *NOTES that a further report on this matter will be submitted to the Council when clause (ii) has been actioned.*

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Cr Burns departed the Chamber at 7.38pm.

**COUNCIL DECISION ITEM 9.2.2**

**Moved Cr Maier, Seconded Cr Farrell**

*That the recommendation be adopted.*

**MOTION PUT AND CARRIED (8-0)**

**(Cr Burns was absent from the Chamber and did not vote.)**

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**PURPOSE OF REPORT:**

The purpose of this report is to seek Council's approval for the partial closure of Gibney Avenue and amalgamation into a new townhouse development project at 3 Brady Street, Mount Hawthorn.

**BACKGROUND:**

Gibney Ave was previously under the jurisdiction of the City of Stirling, and from 1 July 2007 came under the care, control and management of the Town of Vincent. The process of closing a portion of Gibney Ave and amalgamating it into a development lot was previously initiated by the City of Stirling, however, due to the recent local government boundary changes, did not proceed further.

The owners of the adjoining townhouse development project at 3 Brady Street now wish to reinitiate the closure, purchase the land and proceed with the development.

**DETAILS:**

Gibney Ave currently terminates in a cul-de-sac at Brady Street/Scarborough Beach Road and it is this portion of road reserve that the developer wishes to close and include in the proposed town house development project (shown hatched below).



The developers have advised the Town that they have secured all the properties along Scarborough Beach Road between Jugan Street and Brady Street with the exception of one.

One lot remains outside the project, however, the proposed design allows for it to be included in the long term should it ever become available, or to be developed independently but connectively (refer attached plan A).

Note: The Department for Planning have advised they have no objection to the closure and sale of the Road Reserve, and have provided a valuation to the developer to be paid by the developer to State Land Services, a section of the Department for Planning.

### **Planning Services Comments:**

The subject land forms part of the area that was ceded from the City of Stirling to the Town of Vincent during the boundary changes that took place on 1 July 2007. Currently, for planning purposes, all proposed development on this land is to be assessed in accordance with the City of Stirling District Planning Scheme No. 2 and associated policies and provisions, until such time as the Town amends its existing Town Planning Scheme No. 1 or the proposed Town Planning Scheme No. 2 is gazetted.

The site was the subject of a Scheme Amendment No. 423 to the City of Stirling District Planning Scheme No. 2, which introduced the Glendalough Station Precinct and zoned the subject land 'Mixed Residential'. Clause 2.3.1 of Scheme Amendment No. 423 prescribes that *"no development of Lots 3, 32, 16 and 17 shall occur until such time as the land subject to the Brady Street road closure has been finalised and agreement reached with the owner(s) of the abovementioned properties regarding its acquisition and inclusion within the overall design and layout of their landholdings so as to ensure the land is subject to a comprehensive development solution"*.

The owners of the majority of the land within the subject lots outlined above have engaged Masterplan Consultants to prepare an indicative concept plan for the redevelopment of the site. Various meetings have been held with the Town's Planning Division, Technical Services Division and Masterplan Consultants to discuss the proposed concept plans for the site.

It is considered that the proposed concept supports the key objectives of the City of Stirling Glendalough Station Precinct. In addition, the proposal supports the strategic direction outlined in the Town's Local Planning Strategy, to facilitate integrated mixed-use development within close proximity to Glendalough Station. The proposed development is also consistent with the guiding principles of the Scarborough Beach Road Activity Corridor Project facilitated by the Department for Planning and of which the Town is an industry partner.

### **Officer Comments:**

The next step in the closure process is to seek Council's approval of the process, which will then be advertised prior to requesting the Minister's approval. However, prior to approving the closure, it is recommended that the Council gives *in principle support* to the concept of a partial closure and amalgamation of a portion of Gibney Avenue subject to:

- in principle agreement being reached with the City of Stirling and Main Roads WA for the proposed future improvements to the Scarborough beach Road/Main Street/Brady Street/Green Street intersection;
- ensures that adequate area of road reserve remains at the intersection of Brady Street and Scarborough Beach Road to allow for the proposed future intersection improvements including, but not limited to, allowance for possible service relocations, paths and road realignments;
- all costs being paid by the Applicant.

### **CONSULTATION/ADVERTISING:**

To be discussed with City of Stirling and Main Roads WA.

**LEGAL/POLICY:**

The process will be carried out in accordance with the Land Administration Act (1997).

**STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: *1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment.*

**SUSTAINABILITY IMPLICATIONS:**

N/A

**FINANCIAL/BUDGET IMPLICATIONS:**

Not applicable at this stage, however, the applicant would be responsible for all costs involved, including the purchase of the land, the reconstruction of the roadway and all associated costs.

**COMMENTS:**

Gibney Avenue terminates in a cul-de-sac at Brady Street and Scarborough Beach Road and, together with the land fronting Scarborough Beach Road, forms part of the area that was recently ceded from the City of Stirling to the Town of Vincent.

As mentioned in the report, for planning purposes currently all proposed development on this land is to be assessed in accordance with the City of Stirling District Planning Scheme No. 2 and associated policies and provisions.

The site was the subject of a Scheme Amendment which introduced the Glendalough Station Precinct and zoned the subject land 'Mixed Residential' and the owners of the majority of the land within the subject lots outlined above have engaged Consultants to prepare an indicative concept plan for the redevelopment of the site.

The concept plan includes a possible partial closure and amalgamation of Gibney Avenue, possible partial road closure and amalgamation with adjoining land at No 3 Brady Street, of a portion of Gibney Avenue.

The Council has been requested to support possible partial closure and amalgamation of Gibney Avenue in principle conditional upon the matter being further investigated.

**9.1.14 Nos. 281-283 (Lot 10) Fitzgerald Street, Perth – Alleged Unauthorised Sign and Sign Structure (Billboard)**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Hyde Park; P12	<b>File Ref:</b>	PRO4464
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officers:</b>	N Wellington, Development Compliance Officer R Rasiah, Co-ordinator Statutory Planning		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **DOES NOT CONSIDER** the subject sign and sign structure (billboard) situated at Nos. 281-283 (Lot 10) Fitzgerald Street, Perth, to be an 'exempted advertisement' for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (TPS No. 1) for the following reasons:
- (a) the structure currently used to carry the posters is not the same structure used to carry the posters that were displayed before the commencement of TPS No. 1 (gazetted 4 December 1998); and
- (b) there is no evidence that the subject signage is displayed under a licence or other approval granted by the Council before the commencement of TPS No. 1;
- (ii) advises the owners of Nos. 281-283 (Lot 10) Fitzgerald Street, Perth, that:
- (a) the unauthorised sign and sign structure (billboard) is to be removed from the property within twenty-eight (28) days of notification; and
- (b) that the Council is unlikely to favourably consider granting retrospective planning approval for the subject sign and sign structure (billboard); and
- (iii) **AUTHORISES** the Chief Executive Officer to proceed with legal proceedings should the subject sign and sign structure remain after the twenty-eight (28) day period.

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**Moved Cr Maier, Seconded Cr Topelberg**

*That the recommendation be adopted.*

Debate ensued.

Cr Burns returned to the Chamber at 7.41pm.

Debate ensued.

**MOTION PUT AND LOST (0-9)**

**Reasons:**

1. The sign meets the spirit of the Town Planning Scheme provisions and does not seriously conflict with the requirements of the Town Planning Scheme.

**ALTERNATIVE RECOMMENDATION - COUNCIL DECISION ITEM 9.1.14**

**Moved Cr Maier, Seconded Cr Harvey**

*That the Council;*

- (i) ***CONSIDERS the subject sign (billboard) situated at Nos. 281-283 (Lot 10) Fitzgerald Street, Perth, to be an ‘exempted advertisement’ for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (TPS No. 1) and therefore does not require further Planning Approval; and***
- (ii) ***ADVISES the owners of Nos. 281-283 (Lot 10) Fitzgerald Street, Perth, that a Building Approval Certificate Application, including structural details certified by a Practising Structural Engineer, plans and specifications of the subject sign structure, shall be submitted to and approved by the Town of Vincent as required under section 374 AA of the Local Government (Miscellaneous Provisions) Act 1960, and regulation 11 (a) of the Building Regulations 1989, within twenty eight (28) days of notification by the Town.***

**MOTION PUT AND CARRIED (9-0)**

<b>Landowner:</b>	HT Vu & TA Vo
<b>Applicant:</b>	Not applicable
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
<b>Existing Land Use:</b>	‘Shops’
<b>Use Class:</b>	N/A
<b>Use Classification:</b>	N/A
<b>Lot Area:</b>	355 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

- 20 June 2008                      The Town received a written enquiry regarding an alleged upgrade of the sign and sign structure (billboard) on the subject site.
- 24 June 2008                      An inspection by the Town’s Officers revealed that a steel frame structure, measuring approximately 12 metres long and 4 metres high, had been erected on the southern wall of the subject property. A search of the Town’s records failed to reveal any relevant approval (Building Licence) for the subject structure.
- 27 June 2008                      The Town wrote to the owner of the property requesting them to remove the unauthorised structure within fourteen (14) days of notification.
- 24 July 2008                      The Town received correspondence from Greg Rowe & Associates on behalf of Paramount Outdoors, who have entered into an agreement with the owners of the subject site with respect to the advertising material on the wall sign on the southern wall of the existing building on the subject site. They claimed that the sign had been existing on the subject site for a period exceeding 30 years and that their client has evidence to confirm this. They further claimed that given the sign was erect prior to the gazettal of Town of Vincent Town Planning Scheme No. 1 (TPS No. 1), the sign in question should be considered as an “exempted advertisement”.

- 5 August 2008            The Town wrote to Greg Rowe & Associates as follows:
- “Please note that the Town’s letter dated 27 June 2008 relates to an unauthorised structure that appears to have been recently erected without a Building Licence, not to advertising material and/or signage as referred to by you. The Town’s letter also requested the owner to provide appropriate records, should they consider otherwise, in order for the Town to further consider the matter. To date no further correspondence has been received from the owners in this regard.*
- Failure to comply with the Town’s requirements will leave the Town with limited option other than to pursue legal action to ensure compliance with its requirements.”*
- 26 August 2008            The Town received an application from Greg Rowe & Associates for retrospective building approval for the subject unauthorised sign structure.
- 1 September 2008            The Town returned the application for retrospective building approval for the subject unauthorised sign structure, as it required additional information to be submitted as part of the application.
- 2 September 2008            An inspection by the Town’s Officers revealed that signage had been erected to the subject unauthorised sign structure.
- 9 September 2008            The Town wrote to the owner of the property requesting them to remove the unauthorised sign and sign structure (billboard) within seven (7) days.
- 19 September 2008            The Town received correspondence from Hardy Bowen Lawyers on behalf of the owners of the subject property, which included an Advertising Agreement dated 1 June 1990, purportedly between the previous owners of the subject property and Australian Posters, so as to demonstrate that the sign was in place before 4 December 1998 and, therefore, considered as an ‘exempted advertisement’ for the purposes of clause 28 of TPS No. 1.
- 23 September 2008            The Town received an application from Greg Rowe & Associates for retrospective building approval for the subject unauthorised sign structure.
- 3 October 2008            The Town returned the application for retrospective building approval for the subject unauthorised sign structure, as it required additional information to be submitted as part of the application.
- 6 October 2008            The Town wrote to Hardy Bowen Lawyers as follows:
- “Your advice that the subject sign structure is an ‘exempted advertisement’ for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (‘Scheme’) is noted. However, the Town is of the view that that the subject sign structure was not in existence/fully displayed on site prior to the gazettal of the Scheme on 4 December 1998. The Town is aware that two (2), 6.0 metres by 3.0 metres sign structures previously existed on the subject site.*

*It is therefore considered that the new sign structure has been erected without the prior approval of the Town and is unauthorised.*

*It is again requested that the unauthorised signage and structure be removed within seven (7) days of the date of this letter. Failure to do so will leave the Town with limited option other than to commence legal proceedings.”*

14 November 2008

The Town received correspondence from Greg Rowe & Associates on behalf of Paramount Outdoors. They advised as follows:

*“We refer to the meeting between your Ms Nadine Wellington and Messrs Rasiah and Tran and our Messrs Fairfoul and Carter in relation to the above. During the meeting, discussions were held in relation to the Town of Vincent’s (Town) order for the removal of the wall sign fixed to the southern wall of the existing building on the subject site, due to the sign being “constructed without planning approval.”*

*Further to this meeting, Hardy Bowen Lawyers were requested to provide advice on the Town’s position, being that:*

*“The Town is of the view that the subject sign structure was not in existence/fully displayed on site prior to the gazettal of the Scheme on 4 December 1998. The Town is aware that two (2), 6.0 metres by 3.0 metres sign structures previously existed on the subject site.”*

*The legal advice provided by Hardy Bowen concluded that “There is no basis upon which the Town can require the advertisement to be removed as it is permitted.”*

*This advice is based upon a review of the Town’s Scheme and various case studies, involving legal proceedings pertaining to existing and exempted use rights. Cases examined included Shire of Perth v O’Keefe & Anor (1964) heard by the High Court, North Sydney Municipal Council v Boyts Radio & electrical Pty Ltd (1989), Royal Agricultural Society of NWS v Sydney City Council (1987), City of Mitcham v Fusco (2002), Prestige Car Sales Pty Ltd v Walkerville Town Corporation (1979), Franconi v Shire of Perth (1964), and Norman v Gosford Shire Council (1975).*

*In the above cases, it was established that existing or exempted use rights within Town Planning Schemes should be liberally interpreted. This is to ensure that minor variations or changes to operating practices to existing uses do not prejudice existing and exempted use rights.*

*On this basis, we are of the view that given there was signage on the wall prior to 1998 and that any alteration to the extent of the signage has been so minor, that given the Court decisions noted above, the signage is consistent with a continued use and there is no requirement for any additional planning approval from the Town.*

*Consistent with our legal advice our Client cannot agree with the Town’s request to remove the relevant signage.”*

- 26 November 2008 The Town requested its Lawyer to provide legal advice on this matter.
- 24 December 2008 The Town received legal advice from its Lawyer, which is circulated confidentially to Council Members, for information.
- 14 May 2009 The Town wrote to Greg Rowe & Associates as follows:
- “I refer to your letter dated 11 November 2008 regarding the abovementioned matter and I apologise for the delay in responding to you whilst the Town has been obtaining its own legal advice.*
- With regard to your advice that the subject sign structure is an ‘exempted advertisement’ for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (‘Scheme’) and is therefore permitted, and in order for the Town to further progress this matter, you are further requested to provide the Town with suitable documentary evidence that the sign structure and signage was in place prior to 4 December 1998.*
- Please note that the advertising agreement dated 3 June 1990 does not identify a specific site and therefore cannot be accepted by the Town for this purpose.”*
- 23 September 2009 The Town wrote to the owner of the property requesting them to either remove the unauthorised sign and sign structure (billboard) from the property or make application for retrospective Planning Approval, within twenty eight (28) days of notification.
- 3 November 2009 Greg Rowe & Associates provided the Town with a Advertising Agreement and attached Schedule and Tax Invoice, dated 25 January 1993, purportedly between the previous owners of the subject property and Australian Posters for “*TWO ONE NEXT TO OTHER ONE Size: 6.3 x 3.2M*” billboards for a 5 year term.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Town's Signs and Advertising Policy does not permit billboards and the structures of a similar or identical type within the Town of Vincent.

Division 3 – Control of Advertisements of TPS 1 states:

**“28 DEFINITION**

*For the purposes of this Division –*

*“advertiser” means any one or more of the land owner, occupier, licensee or other person having an interest in or benefiting from the display of an advertisement;*

*“display” in relation to an advertisement, includes the erection and placing of the advertisement; and*

*“exempted advertisement” means an advertisement that is-*

- (a) fully displayed before the commencement of this Scheme; or*
- (b) displayed under a licence or other approval granted by the Council before the commencement of this Scheme.*

**29 NEED FOR PLANNING APPROVAL**

*A person shall not begin or continue to display an advertisement, other than an existing or exempted advertisement, without having first applied for and having obtained planning approval under Part 4.*

**30 EXISTING AND EXEMPTED ADVERTISEMENTS**

*Unless it is subject to a notice under Clause 31 –*

- (a) an exempted advertisement may be displayed; and*
- (b) an existing advertisement may continue to be displayed in accordance with the licence or approval, if any, granted by the Council.*

**31 NOTICES AFFECTING THE DISPLAY OF ADVERTISEMENTS**

*(1) Where, in the opinion of the Council, the display of an advertisement, including an exempted or existing advertisement, seriously conflicts with –*

- (a) the requirements of the Scheme;*
- (b) any relevant planning policies;*
- (c) the Scheme Map;*
- (d) the orderly and proper planning of a locality;*
- (e) the conservation of the amenities of a locality; and*
- (f) the design, scale and relationship of existing buildings or surroundings of the advertisement;*

*the Council may, by notice in writing, require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within the period specified in the notice.*

*(2) Where, in the opinion of the Council, an advertisement has deteriorated inappropriately having regard to the matters set out in sub-clause (1), or where the advertisement ceased to be effective for the purpose for which it was displayed, the Council may by notice in writing require the advertiser to–*

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the Council in the notice; or*
- (b) remove the advertisement.*

*(3) A notice under this clause is to –*

- (a) be given to the advertiser;*
- (b) refer to the advertisement which is the subject of the notice and give full details of the action or alternative courses to be taken by the advertiser to comply with the notice; and*
- (c) specify the period, not being less than 60 days, within which the action specified is to be completed by the advertiser.*

- (4) *Subject to the provisions of the Act, a person on whom the notice is served under this clause has a right of appeal against the Council's decision to serve the notice."*

The Town has previously obtained legal advice regarding a similar matter. The legal advice is circulated confidentially to Council Members, for information.

**STRATEGIC IMPLICATIONS:**

Town of Vincent Strategic Plan 2009 – 2014 – Key Result Area One: Natural and Built Environment

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

*1.1.3 Enhance, maintain the character and heritage of the Town.*

*1.1.4 Minimise negative impacts on the community and environment".*

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

The 2009/2010 Budget lists \$25,000 for Town Planning Administration - Legal Expenses. The costs associated with undertaking prosecution proceedings, including solicitors costs, are yet to be determined. If successful in the prosecution proceedings, the Town will be able to recover some of the associated costs.

**COMMENTS:**

The Advertising Agreement and attached Schedule and Tax Invoice dated 25 January 1993 between Australian Posters and the then owners of the subject property, appear to satisfy the requirement to provide suitable documentary evidence that signage existed on the property prior to 4 December 1998; however, it does not satisfy the requirement to show that the sign structure (that is the same structure currently used to carry the posters), was in place prior to 4 December 1998.

The extent of the signage and sign structures that previously existed on the southern wall of the subject property was two (2), 6.3 metres by 3.2 metres panels. The advertising area of the two signs, based on those dimensions, would have been 40.32 square metres.

The dimensions of the current sign structure used to carry the single format advertisement are approximately 3,600 millimetres by 12,600 millimetres (45.36 square metres).

Given the original sign structures used to carry the posters prior to 4 December 1998 have been removed and replaced with a new material, it is considered that the subject sign and sign structure (billboard) does not strictly comply with the requirements to be considered as an "exempted advertisement", in accordance with TPS No. 1 and, therefore, in accordance with clause 29 of TPS No. 1 requires planning approval to be obtained. It should be noted that should such an application be received by the Town, it may be subject of clause 31 of TPS No. 1, if the advertisement is considered to seriously conflict with any of the matters referred to in that clause. Should the Council form the view that the subject sign and sign structure (billboard) can be considered as an "exempted advertisement", then no further Planning Approval of the Town is required to be obtained.

**9.1.15 Nos. 179-181 (Lot 5) Lord Street, Perth – Alleged Unauthorised Sign and Sign Structure (Billboard)**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO0607
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officers:</b>	N Wellington, Development Compliance Officer R Rasiah, Co-ordinator Statutory Planning		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *DOES NOT CONSIDER the subject sign and sign structure (billboard) situated at Nos. 179-181 (Lot 5) Lord Street, Perth, to be an 'exempted advertisement' for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (TPS No. 1) for the following reasons:*
- (a) *the structure currently used to carry the posters is not the same structure used to carry the posters that were displayed before the commencement of TPS No. 1 (gazetted 4 December 1998); and*
- (b) *there is no evidence that the subject signage is displayed under a licence or other approval granted by the Council before the commencement of TPS No. 1;*
- (ii) *advises the owners of Nos. 179-181 (Lot 5) Lord Street, Perth that:*
- (a) *the unauthorised sign and sign structure (billboard) is to be removed from the property within twenty-eight (28) days of notification; and*
- (b) *the Council is unlikely to favourably consider granting retrospective planning approval for the subject sign and sign structure (billboard); and*
- (iii) *AUTHORISES the Chief Executive Officer to proceed with legal proceedings should the subject sign and sign structure (billboard) remain after the twenty-eight (28) day period.*

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**Moved Cr Maier, Seconded Cr Farrell**

*That the recommendation be adopted.*

**MOTION PUT AND LOST (0-9)**

**Reasons:**

1. **The sign meets the spirit of the Town Planning Scheme provisions and does not seriously conflict with the requirements of the Town Planning Scheme.**

**ALTERNATIVE RECOMMENDATION - COUNCIL DECISION ITEM 9.1.15**

**Moved Cr Buckels, Seconded Cr Topelberg**

*That the Council;*

- (i) *CONSIDERS the subject sign (billboard) situated at Nos. 179-181 (Lot 5) Lord Street, Perth, to be an 'exempted advertisement' for the purposes of Clause 28 of the Town of Vincent Town Planning Scheme No. 1 (TPS No. 1) and therefore does not require further Planning Approval; and*
- (ii) *ADVISES the owners of Nos. 179-181 (Lot 5) Lord Street, Perth, that a Building Approval Certificate Application, including structural details certified by a Practising Structural Engineer, plans and specifications of the subject sign structure, shall be submitted to and approved by the Town of Vincent as required under section 374 AA of the Local Government (Miscellaneous Provisions) Act 1960, and regulation 11 (a) of the Building Regulations 1989, within twenty eight (28) days of notification by the Town.*

**MOTION PUT AND CARRIED (9-0)**

<b>Landowner:</b>	Di Prospero Pty Ltd
<b>Applicant:</b>	Not applicable
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS No. 1): Residential/Commercial R80
<b>Existing Land Use:</b>	'Shops' (Vacant)
<b>Use Class:</b>	N/A
<b>Use Classification:</b>	N/A
<b>Lot Area:</b>	554 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

- 8 February 2009            The Town received a written enquiry regarding an alleged upgrade of the sign and sign structure (billboard) on the subject site.
- 13 February 2009        A search of the Town's and the former responsible authority, the City of Perth's, records failed to reveal any relevant approval for the subject sign and sign structure (billboard).
- 26 February 2009        The Town wrote to the owner of the property requesting them to remove the unauthorised sign and sign structure (billboard) within fourteen (14) days of notification.
- 9 March 2009            The Town received correspondence from Greg Rowe & Associates on behalf of Paramount Outdoors, who have entered into an agreement with the owners of the subject site with respect to the advertising material on the subject site. They advised as follows:  
  

*"...Further to this correspondence, a review of the Town of Vincent Town Planning Scheme No. 1 (TPS 1) provisions relating to signage and exempted development was conducted. The investigation concluded that the subject sign, is by virtue of reference an exempted advertisement", given the sign was erected prior to the gazettal of*

*TPS 1. Further to our office's desktop investigation, Hardy Bowen Lawyers were requested to provide advice on the Town's position, being that:*

*"The Town's Signs and Advertising Policy does not permit billboards within the Town Of Vincent. It is therefore requested that the unauthorised sign (billboard) be removed within fourteen (14) days of the date of this letter."*

*The legal advice provided by Hardy Bowen concluded that "There is no basis upon which the Town can require the advertisement to be removed as it is permitted."*

*This advice is based upon a review of the Town's Scheme and various case studies, involving legal proceedings pertaining to existing and exempted use rights. Cases examined included Shire of Perth v O'Keefe & Anor (1964) heard by the High Court, North Sydney Municipal Council v Boyts Radio & electrical Pty Ltd (1989), Royal Agricultural Society of NWS v Sydney City Council (1987), City of Mitcham v Fusco (2002), Prestige Car Sales Pty Ltd v Walkerville Town Corporation (1979), Franconi v Shire of Perth (1964), and Norman v Gosford Shire Council (1975).*

*In the above cases, it was established that existing or exempted use rights within Town Planning Schemes should be liberally interpreted. This is to ensure that minor variations or changes to operating practices to existing uses do not prejudice existing and exempted use rights.*

*On this basis, we are of the view that given the subject signage was erected prior to 1998 and that any alteration to the extent of the signage has been minor, that given the Court decisions noted above, the signage is consistent with a continued use and there is no requirement for any additional planning approval from the Town.*

*Consistent with our legal advice our Client cannot agree with the Town's request to remove the relevant signage."*

13 March 2009

The Town wrote to Greg Rowe & Associates as follows:

*"With regard to your advice that the subject sign structure is an 'exempted advertisement' in accordance with the Town of Vincent Town Planning Scheme No. 1 ('Scheme'), "given the sign was erected prior to the gazettal of TPS 1", please provide suitable documentary evidence that the subject sign was erected on the subject site prior to the gazettal of the Scheme on 4 December 1998."*

March 2009 – present

The owner provided the Town with undated photographs of the site and surrounding area, three (3) statutory declarations from two independent persons attesting to the existence of the subject billboard prior to 1998, and an image from Landgate dated 12 September 1989. The owner is continuing to undertake extensive research in an effort to obtain evidence of approval from the City of Perth. It is noted that the Town's records indicate that the current owner purchased the property around March 2006. The Town was not aware of the unauthorised sign and sign structure (billboard) at that time.

- 15 October 2009 Greg Rowe & Associates provided the Town with an Advertising Agreement and attached Schedule and Tax Invoice, dated 3 June 1993, purportedly between the previous owners of the subject property and Australian Posters for “*TWO ONE ON TOP OF OTHER ONE Size: 6.3 x 3.2M*” billboards for a 5 year term.
- 27 October 2009 The Town’s then Acting Manager Planning, Building and Heritage Services, Development Compliance Officer and Co-ordinator Building Services met with one of the owners at the subject site. At this meeting, the owner showed the Town’s Officers the remains of the original sign structure (stored behind the building) that used to carry the posters prior to 4 December 1998, which had been removed by the new billboard company, according to the owner, sometime in 2008, as it was considered to be in poor condition and “required repair” as it was a potential danger. The owner further advised that the sign structure was replaced with a galvanised material, and is smaller in size than the original structure.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Town's Signs and Advertising Policy does not permit billboards and the structures of a similar or identical type within the Town of Vincent.

Division 3 – Control of Advertisements of TPS 1 states:

**“28 DEFINITION**

*For the purposes of this Division –*

*“advertiser” means any one or more of the land owner, occupier, licensee or other person having an interest in or benefiting from the display of an advertisement;*

*“display” in relation to an advertisement, includes the erection and placing of the advertisement; and*

*“exempted advertisement” means an advertisement that is-*

- (a) fully displayed before the commencement of this Scheme; or*
- (b) displayed under a licence or other approval granted by the Council before the commencement of this Scheme.*

**29 NEED FOR PLANNING APPROVAL**

*A person shall not begin or continue to display an advertisement, other than an existing or exempted advertisement, without having first applied for and having obtained planning approval under Part 4.*

**30 EXISTING AND EXEMPTED ADVERTISEMENTS**

*Unless it is subject to a notice under Clause 31 –*

- (a) an exempted advertisement may be displayed; and*
- (b) an existing advertisement may continue to be displayed in accordance with the licence or approval, if any, granted by the Council.*

**31 NOTICES AFFECTING THE DISPLAY OF ADVERTISEMENTS**

*(1) Where, in the opinion of the Council, the display of an advertisement, including an exempted or existing advertisement, seriously conflicts with –*

- (a) the requirements of the Scheme;*
- (b) any relevant planning policies;*
- (c) the Scheme Map;*
- (d) the orderly and proper planning of a locality;*
- (e) the conservation of the amenities of a locality; and*
- (f) the design, scale and relationship of existing buildings or surroundings of the advertisement;*

*the Council may, by notice in writing, require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within the period specified in the notice.*

*(2) Where, in the opinion of the Council, an advertisement has deteriorated inappropriately having regard to the matters set out in sub-clause (1), or where the advertisement ceased to be effective for the purpose for which it was displayed, the Council may by notice in writing require the advertiser to –*

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the Council in the notice; or*
- (b) remove the advertisement.*

*(3) A notice under this clause is to –*

- (a) be given to the advertiser;*
- (b) refer to the advertisement which is the subject of the notice and give full details of the action or alternative courses to be taken by the advertiser to comply with the notice; and*
- (c) specify the period, not being less than 60 days, within which the action specified is to be completed by the advertiser.*

*(4) Subject to the provisions of the Act, a person on whom the notice is served under this clause has a right of appeal against the Council's decision to serve the notice."*

The Town has previously obtained legal advice regarding a similar matter. The legal advice is circulated confidentially to Council Members, for information.

**STRATEGIC IMPLICATIONS:**

Town of Vincent Strategic Plan 2009 – 2014 – Key Result Area One: Natural and Built Environment

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

*1.1.3 Enhance, maintain the character and heritage of the Town.*

*1.1.4 Minimise negative impacts on the community and environment”.*

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

The 2009/2010 Budget lists \$25,000 for Town Planning Administration - Legal Expenses. The costs associated with undertaking prosecution proceedings, including solicitors costs, are yet to be determined. If successful in the prosecution proceedings, the Town will be able to recover some of the associated costs.

**COMMENTS:**

The Advertising Agreement and attached Schedule and Tax Invoice dated 30 May 1993, between Australian Posters and the then owners of the subject property, appear to satisfy the requirement to provide suitable documentary evidence that signage existed on the property prior to 4 December 1998; however, it does not satisfy the requirement to show that the sign structure (that is the same structure currently used to carry the posters), was in place prior to 4 December 1998.

The extent of the signage and sign structures that previously existed on the southern wall of the subject property, was two (2), 6.3 metres by 3.2 metres panels. The advertising area of the two signs, based on those dimensions, would have been 40.32 square metres.

The dimensions of the advertising area of the current single format advertisement are approximately 5,848 millimetres by 6,130 millimetres (35.84 square metres).

Given the site inspection on 27 October 2009, whereby it was revealed that the original sign structures used to carry the posters prior to 4 December 1998, have been removed and replaced with a new galvanised material, it is considered that the subject sign and sign structure does not strictly comply with the requirements to be considered as an “exempted advertisement”, in accordance with TPS No. 1 and, therefore, in accordance with clause 29 of TPS No. 1, requires planning approval to be obtained. It should be noted that should such an application be received by the Town, it may be subject of clause 31 of TPS No. 1, if the advertisement is considered to seriously conflict with any of the matters referred to in that clause.

Should the Council form the view that the subject sign and sign structure can be considered as an “exempted advertisement”, then no further Planning Approval of the Town is required to be obtained.

**9.1.1 No. 407 (Lot 56, D/P 2454) Oxford Street, Mount Hawthorn - Proposed Demolition of Existing Single House and Construction of Three-Storey Mixed Use Development Comprising Two (2) Shops, Four (4) Multiple Dwellings and Associated Car Parking**

<b>Ward:</b>	North	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Mount Hawthorn Centre; P2	<b>File Ref:</b>	PRO3988; 5.2009.356.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	R Narroo, Senior Planning Officer		
<b>Responsible Officer:</b>	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 BY AN ABSOLUTE MAJORITY an the application submitted by Austracom Pty Ltd on behalf of the owner Kawamura Nominees Pty Ltd for proposed Demolition of Existing Single House and Construction of Three-Storey Mixed Use Development Comprising Two (2) Shops, Four (4) Multiple Dwellings and Associated Car Parking, at No. 407 (Lot 56, D/P 2454) Oxford Street, Mount Hawthorn, and as shown on plans stamp-dated 17 November 2009, 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;*
- (ii) 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 \$9,250 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$925,000); 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;*
- (iii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iv) *first obtaining the consent of the owners of No. 405 and Nos. 409-411 Oxford Street, Mount Hawthorn for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 405 and Nos. 409-411 Oxford Street, Mount Hawthorn in a good and clean condition;*
- (v) *all signage that does not comply with the Town's Policy 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;*
- (vi) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, parking of trade person vehicles, footpath access, traffic and heavy vehicle access via the Rights of Way and Oxford Street, dust and any other appropriate matters (such as notifying all affected landowners/occupiers of the commencement of construction works), shall be submitted to and approved by the Town;*
- (vii) *prior to the first occupation of the development, one (1) class one or two and one (1) class three, bicycle parking facilities, shall be provided at a location convenient to the entrance and within 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;*
- (viii) *the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
- (ix) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
- (a) *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*
- (b) *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units or office. 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;*

- (x) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. 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;*
- (xi) *doors, windows and adjacent floor areas of the shop component on the ground floor fronting Oxford Street shall maintain an active and interactive relationship with this street;*
- (xii) *prior to the first occupation of the development, 4 car parking spaces for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development;*
- (xiii) *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;*
- (xiv) *the maximum gross floor area of the non-residential component shall be limited to 142 square metres of shop, and further increase or decrease in the number of shop tenancies is allowed. 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;*
- (xv) *the car parking area for the shop components shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xvi) *prior to the first occupation of the development, each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
- (xvii) *archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (xviii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xix) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the bin compound being redesigned to accommodate the following bins:*
- Dwellings*
- 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); and*

*Commercial*

*General Waste: One (1) mobile garage bin or equal to 240 litres per commercial unit or 200 square metres of floor space, or part thereof; and*

*Recycle Waste: One (1) mobile garage bin or equal to 240 litres per commercial unit or 200 square metres of floor space, or part thereof; and*

*(b) the proposed awning over Oxford Street being a minimum height of 2.75 metres from the footpath level to the underside of the awning and a minimum of 500 millimetres from the kerb line of Oxford Street.*

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

*(xx) the car park shall be used only by employees, tenants, and visitors directly associated with the development;*

*(xxi) the undergrounding of powerlines for the subject development site along Oxford Street at the applicant's/owner's cost;*

*(xxii) prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town; and*

*(xxiii) any proposed vehicular entry gates to the car parking area shall have a minimum 50 per cent visually permeability and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the commercial tenancies at all times. Details of the management measures shall be submitted to and approved by the Town prior to the first occupation of the development.*

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**COUNCIL DECISION ITEM 9.1.1**

**Moved Cr Maier, Seconded Cr Harvey**

*That the recommendation be adopted.*

Debate ensued.

**MOTION PUT AND CARRIED**  
**BY AN ABSOLUTE MAJORITY (9-0)**

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<b>Landowner:</b>	Kawamura Nominees Pty Ltd
<b>Applicant:</b>	Austracom Pty Ltd
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Shop and Multiple Dwellings
<b>Use Classification:</b>	"P" and "AA"
<b>Lot Area:</b>	583 square metres
<b>Access to Right of Way</b>	Rear side, 5 metres wide, sealed, Town owned

**BACKGROUND:**

8 April 2008 The Council at its Ordinary Meeting refused the demolition of existing single house and construction of a three storey mixed use development comprising two shops, two multiple dwellings and associated car parking 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 plot ratio requirements of the Residential Design Codes and the Town’s Policy No. 3.1.2- Mount Hawthorn Centre Precinct; and
- (iii) consideration of the objections received.”

**DETAILS:**

The proposal involves the demolition of existing single house and construction of a three storey mixed use development comprising two shops, four multiple dwellings and associated car parking.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	3 multiple dwellings- R60	4 multiple dwellings- R 68 14 per cent density bonus= 82 square metres	Supported- Refer to comments below.
Plot Ratio	Plot Ratio for multiple dwellings= 0.7 -407	0.88 - 513 square metres	Supported- Refer to comments below.
Number of storeys	Two storeys are encouraged, a third storey can be considered.	Three storeys	Supported- The immediate surrounding area is characterised by a mix of commercial development fronting Oxford Street and existing residential housing. The proposed height of the development is considered consistent with development in the immediate area and Oxford Street generally.
Building Height	Two storeys- wall height= 6 metres Two storeys- roof height= 9 metres Three storeys- wall height= 9 metres Three storeys- roof height= 12 metres	Height of building= 10.73 metres	Supported- As above.

Privacy	Balconies- 7.5 metres to the boundary	Balconies to units 1, 2, 3 and 4 = 0.9 metre from the northern and southern boundaries.	Supported- The two adjacent northern and southern properties are commercial. No objections were received. The variation is therefore supported.
<b>Consultation Submissions</b>			
Support (1)	No comments.		Noted.
Objection (2)	<p>Density and Plot Ratio</p> <p>Object to variations.</p> <p>Number of Storeys and Height</p> <p>Object to variations.</p> <p>Privacy</p> <p>Given the proposal is for three storeys with balconies, there will be overlooking in the backyard of the rear residential properties.</p>		<p>Not supported- Refer to "Comments" section.</p> <p>Not supported- Refer to Assessment Table.</p> <p>Not supported- The privacy considerations from the balconies comply with the required 7.5 metres in relation to the rear residential properties. As explained in the Assessment Table however, the cone of vision will impact on the northern and southern properties, which are commercial properties.</p>
<b>Other Implications</b>			
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.

**Residential Car Parking**

The car parking requirements for the residential component of the development, have been calculated using the requirement for mixed use development in the Residential Design Codes (R Codes). The residential component requires 4 car bays, based on the standard of one (1) car bay for each of the 4 proposed multiple dwellings. Therefore, the number of car bays provided for the residential component will be 4 bays. A total of 11 car bays have been provided for the entire development; therefore, resulting in seven (7) car bays available for the commercial component.

### Commercial 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 142 square metres) = 9.5 car bays= 10 bays	10 car bays
Apply the parking adjustment factors. <ul style="list-style-type: none"> <li>▪ 0.80 (mix of uses with greater than 45 percent of the gross floor area is residential)</li> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.8 (within 400 metres of one or more existing public car parking place(s) with in excess of a total of 50 car parking spaces)</li> </ul>	(0.544)  5.44 car bays
Car parking provided on-site for commercial component	7 car bays
Minus the most recently approved on-site parking shortfall on-site	Nil
Resultant surplus	1.56 car bays

### Bicycle Parking

Requirements	Required	Provided
Shop 1 per 300 square metres (proposed 142 square metres) gross floor area for employees (class 1 or 2).	0.47= 1 space	Bicycle bays are provided on the ground floor
1 space per 200 square metres (proposed 142 square metres) for visitors (class 3).	0.71 = 1 space	Bicycle bays are provided on ground floor

### COMMENTS:

#### Demolition

The subject rendered brick and tile dwelling at No. 407 Oxford Street was constructed in the Inter-war Bungalow style of architecture. The subject place first appears in the Wise Post Office Directories in 1920. At this time and up until 1946, Claude Hayward is listed as the resident, and then Jas Walting is listed until at least 1949 when the directories cease.

It is interesting to note, that the subject place was originally contained within Swan Location 661, a 40 acre parcel of land bound by North Beach Road (now Scarborough Beach Road) and Government Road (now Anzac Road). Swan Location 661 was bought by ex-convict E Barrett for twenty pounds in 1876. The land was sold numerous times before 1903, when the subdivisional layout, that exists today, had taken shape. Further information about the Swan Location 661 prior to 1915 is contained within the text *Seventy Years of Cheers* by Valerie Everett.

Although generally representative of an early Interwar residence, the place is not an unusual or outstanding example of its period, and has been subject to alterations such as the removal of the original fenestration, and replacement with aluminium sliding windows. Moreover, there is no evidence that the dwelling is linked with any important persons or historical events. Overall, the dwelling is considered to have little cultural heritage significance and it is considered that the place does not warrant a full heritage assessment. It is recommended that the proposal to demolish the place be approved, subject to standard conditions.

### **Strategic Planning**

The proposed mixed-use development is consistent with the long term strategic direction of development within the Town. The subject property falls within the proposed Mount Hawthorn Town Centre Area, as outlined in the Local Planning Strategy (LPS). The LPS was endorsed by the Council at its Ordinary Meeting held on 14 April 2009, and is currently with the Western Australian Planning Commission for certification.

Oxford Street has been identified in the Local Planning Strategy as an Activity Corridor linking the key Activity Centres (Town Centres) of Leederville and Mount Hawthorn. The proposed development comprising both residential and commercial uses, is considered to support best practice principles relating to Activity Centres outlined in the Draft State Planning Policy relating to Activity Centres for Perth and Peel, and the key objectives of the future development of the Mount Hawthorn Town Centre outlined in the Local Planning Strategy.

In addition, the proposal is supported by the Town's Affordable Housing Strategy, which identifies the need to provide a range of housing choice in identified Activity Centres.

In view of the above, the application is supportable as it is not considered that the development will result in any undue impact on the amenity of the surrounding area, but rather, will contribute to the overarching vision for sustainable development for the Mount Hawthorn Town Centre.

### **Density and Plot Ratio**

There is a variation to the plot ratio as a result of the higher density proposed. Plot ratio is commonly used as a measure of bulk and scale, together with height which is addressed in the Assessment Table. The previous application was refused by the Council at its meeting held on 8 April 2008, due to the plot ratio being 1.01, which was considered to be excessive.

The plot ratio for this application is 0.88. It is noted that the existing mixed-use development at Nos.401-403 Oxford Street was approved with a plot ratio variation of 0.88. In this instance, this proposal has the same variation to the plot ratio approved for Nos. 401-403 Oxford Street. Moreover, it is considered that this development is in line with the strategic direction for Oxford Street, and as such, the variations to the density and plot ratio can be supported.

### **Absolute Majority**

Given the proposed density bonus, as per Clause (40)(3)(b) of the Town's Town Planning Scheme No. 1, the Council, in the event of approving the application, would be required to do by an absolute majority decision.

In view of the above, it is considered that the proposed development will not have an undue impact on the amenity of the surrounding area, and the proposal is recommended for approval.

**9.1.17 Bulwer Avenue Precinct - Draft Assessment Documentation for Possible Listing on the State Register of Heritage Places – Prepared by the Heritage Council of Western Australia**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Hyde Park Precinct; P12	<b>File Ref:</b>	PLA0130
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	S Kendall, Heritage/Planning Officer		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the Heritage Council of Western Australia's Draft Assessment Documentation for the Bulwer Avenue Precinct dated October 2009 as contained in Attachment 001;*
- (ii) *ACKNOWLEDGES that at its Ordinary Meeting held on 7 November 2006 the Council resolved to EXCLUDE the places at No. 1 (Lots 48 and 49) Bulwer Avenue, Perth and No. 21 (Lot 1) Bulwer Avenue, Perth from the Town's Municipal Heritage Inventory, as part of the Town's Bulwer Avenue Precinct; and*
- (iii) *ADVISES the Heritage Council of Western Australia that it SUPPORTS the proposed interim listing of the Bulwer Avenue Precinct, comprising the properties Nos. 1-21 Bulwer Avenue, Perth on the State Register of Heritage Places.*

---

**Moved Cr Farrell, Seconded Cr Maier**

*That the recommendation be adopted.*

Debate ensued.

**AMENDMENT**

**Moved Cr Farrell, Seconded Cr Burns**

*That clause (iii) be amended to read as follows:*

- “(iii) ADVISES the Heritage Council of Western Australia that;*
- (a) it SUPPORTS the proposed interim listing of the Bulwer Avenue Precinct, comprising the properties Nos. ~~1-21~~ 3-19 Bulwer Avenue, Perth on the State Register of Heritage Places; and*
  - (b) it DOES NOT SUPPORT the proposed interim listing of No. 1 (Lots 48 and 49) and No. 21 (Lot 1) Bulwer Avenue, Perth as part of the Bulwer Avenue Precinct, on the State Register of Heritage Places.”*

Debate ensued.

The Presiding Member, Mayor Nick Catania spoke.

The Chief Executive Officer advised the Mayor that he had spoken for five (5) minutes.

**PROCEDURAL MOTION**

**Moved Cr Farrell, Seconded Cr McGrath**

*That Mayor Catania be permitted to speak for a further five minutes.*

**PROCEDURAL MOTION PUT AND CARRIED (9-0)**

Debate ensued.

**AMENDMENT PUT AND CARRIED (6-3)**

**For:** Mayor Catania, Cr Buckels, Cr Burns, Cr Farrell, Cr Harvey, Cr Topelberg

**Against:** Cr Lake, Cr McGrath, Cr Maier

**MOTION AS AMENDED PUT AND CARRIED (9-0)**

**Reason for amendment:**

1. **Reflects the previous Council Decision made at the Ordinary Meeting of Council held on 7 November 2006.**
2. **The houses at No. 1 and No. 21 are considered not have the integrity and historical value as stated in the Heritage Council report.**

**COUNCIL DECISION ITEM 9.1.17**

*That the Council;*

- (i) *RECEIVES the Heritage Council of Western Australia's Draft Assessment Documentation for the Bulwer Avenue Precinct dated October 2009 as contained in Attachment 001;*
- (ii) *ACKNOWLEDGES that at its Ordinary Meeting held on 7 November 2006 the Council resolved to EXCLUDE the places at No. 1 (Lots 48 and 49) Bulwer Avenue, Perth and No. 21 (Lot 1) Bulwer Avenue, Perth from the Town's Municipal Heritage Inventory, as part of the Town's Bulwer Avenue Precinct; and*
- (iii) *ADVISES the Heritage Council of Western Australia that;*
  - (a) *it SUPPORTS the proposed interim listing of the Bulwer Avenue Precinct, comprising the properties Nos. 3-19 Bulwer Avenue, Perth on the State Register of Heritage Places; and*
  - (b) *it DOES NOT SUPPORT the proposed interim listing of No. 1 (Lots 48 and 49) and No. 21 (Lot 1) Bulwer Avenue, Perth as part of the Bulwer Avenue Precinct, on the State Register of Heritage Places.*

**ADDITIONAL INFORMATION:**

The applicant for No. 21 Bulwer Avenue has submitted two Structural Engineers' reports advising that the building is in poor condition and requires a significant amount of money to carry out repairs.

A copy of the Structural Reports will be "Laid on the Table".

**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council that the Heritage Council of Western Australia is considering the Bulwer Avenue Precinct, comprising the properties Nos. 1-21 Bulwer Avenue, Perth for possible entry onto the State Register of Heritage Places on an interim basis.

The report provides the Council with an opportunity to consider the Heritage Council of Western Australia's draft assessment documentation for the Bulwer Avenue Precinct comprising the properties at Nos. 1-21 Bulwer Avenue and to formulate a position on the proposed interim listing.

**BACKGROUND:**

13 November 1995 The Council at its Ordinary Meeting resolved to include the properties at Nos. 1-21 Bulwer Avenue (the Bulwer Avenue Precinct) onto the Town of Vincent Municipal Heritage Inventory (MHI).

2004 Under the Heritage of Western Australia Act 1990, there is a legal requirement for the Town to review and update its Municipal Heritage Inventory.

As part of the Municipal Heritage Inventory Review, the Hocking Planning and Architecture Collaboration reaffirmed the heritage value of the Bulwer Avenue Precinct, inclusive of Nos. 1-21 Bulwer Avenue, as a Category A Conservation Essential, being a notable intact turn of the twentieth century development of detached houses.

2006 During the ten-week period of community consultation, for the Municipal Heritage Inventory Review, objections were received from the owners of No. 1 and No. 21 Bulwer Avenue, Perth. Whilst noting the owner's objections, the Towns Officers is still considered that both No. 1 and No. 21 Bulwer Avenue were important components of the Precinct.

7 November 2006 As part of the MHI Review, the Town reconsidered the inclusion of the Bulwer Avenue Precinct (Nos. 1 - 21 Bulwer Avenue) onto the MHI and resolved as follows:

(i) *NOTES the submission(s) received regarding the proposed inclusion of the place at No. 1 (Lots 48 and 49) and No. 21 (Lot 1) Bulwer Avenue, Perth, on the Town's Municipal Heritage Inventory;*

(ii) *INCLUDES the following places on the Town's Municipal Heritage Inventory as Management Category A - Conservation Essential:*

- (a) *No. 3 (Lot 47) Bulwer Avenue, Perth;*
- (b) *No. 5 (Lot 4) Bulwer Avenue, Perth;*
- (c) *No. 9 (Lot 44) Bulwer Avenue, Perth;*
- (d) *No. 11 (Lot 1) Bulwer Avenue, Perth;*
- (e) *No. 13 (Lot 42) Bulwer Avenue, Perth;*
- (f) *No. 15 (Lot 41) Bulwer Avenue, Perth;*
- (g) *No. 17 (Lot 3) Bulwer Avenue, Perth;*
- (h) *No. 19 (Lot 2) Bulwer Avenue, Perth; and*

(iii) *EXCLUDES the places at No. 1 (Lots 48 and 49) Bulwer Avenue, Perth and No. 21 (Lot 1) Bulwer Avenue, Perth from the Town's Municipal Heritage Inventory.'*

**DETAILS:**

On 20 October 2009, the Town received correspondence from the Heritage Council of Western Australia advising that the Bulwer Avenue Precinct, comprising the properties at Nos. 1-21 Bulwer Avenue, Perth, was being considered for entry onto the State Register of Heritage Places. The documentation concerning the place is scheduled for presentation to a meeting of the Register Committee of the Heritage Council in the near future.

A copy of the accompanying documentation, which includes the proposed statement of significance, is included as shown in Appendix 9.1.17.

As shown in the Background section to this report, whilst the Town resolved to remove both No. 1 and No. 21 Bulwer Avenue from its heritage list on 7 November 2006, the grouping as a whole, inclusive of No. 1 and No. 21 Bulwer Avenue, remains on the Heritage Council of Western Australia's Assessment Program for potential inclusion into the State Register of Heritage Places.

**CONSULTATION/ADVERTISING:**

Nil.

**LEGAL/POLICY:**

*Heritage Council of Western Australia Act 1990*; and  
Town of Vincent Town Planning Scheme No. 1 and associated Policies.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2009-2014– Strategic Objectives: Natural and Built Environment:  
"*... 1.1.3 Enhance and maintain the character and heritage of the Town...*"

**FINANCIAL IMPLICATIONS:**

Nil.

**COMMENTS:**

The Town's Officers have had the opportunity to consider the draft assessment of cultural heritage significance for the Bulwer Avenue Precinct and concur with the statement of significance for the place. Particularly, that the collective visual cohesion achieved by the scale, form and rhythm of all dwellings, which front Bulwer Avenue are worthy of conservation.

It is recommended that the Council advises the Heritage Council of Western Australia that it supports the proposed entry of the Bulwer Avenue Precinct, inclusive of all the properties at Nos. 1-21 Bulwer Avenue, Perth on the State Register of Heritage Places.

**9.1.3 No. 51 (Lot 412, D/P 67433) Franklin Street, Leederville - Proposed Change of Use to Outdoor Market (Unlisted Use) (Application for Retrospective Approval)**

<b>Ward:</b>	North	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Leederville; P03	<b>File Ref:</b>	PRO0065; 5.2009.331.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	S Kendall, Heritage/Planning Officer		
<b>Responsible Officer:</b>	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 K Thomson on behalf of the owner Roman Catholic Archbishop of Perth for proposed Change of Use to Outdoor Market (Unlisted Use) (Application for Retrospective Approval), at No. 51 (Lot 412, D/P 67433) Franklin Street, Leederville, and as shown on plans stamp dated 25 August 2009 and 19 November 2009, subject to the following conditions:*

- (i) the market shall not promote smoking, alcohol, any use of illicit substances and/or adult “R” rated entertainment;*
- (ii) this approval for the Fields of Green Fresh Fare Market, is for a period of 12 months only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the Town prior to continuation of the use;*
- (iii) a maximum of 35 stalls shall be in operation at any one time. Any increase in the number of stalls shall require further consent from the Town (further Planning Approval is not required);*
- (iv) a Special Events Permit is required for all temporary food stalls/food vans. Application forms together with the relevant fees shall be submitted one month prior, or a minimum of 14 days prior to the commencement of trade. Full compliance with the provisions of Food Act 2008 and Food Regulations 2009, and compliance with the FSANZ Food Safety Standards is required for all temporary food stalls/food vans. No food must be sold to the public unless approved by the Town’s Health Services;*
- (v) compliance with all Technical Services, Building and Environmental Health specific requirements;*
- (vi) a separate approval must be obtained from the Town’s Health Services should there be any live music or any other activities that may impact the neighbouring properties;*
- (vii) the organiser is responsible for the collection, removal and disposal of all rubbish generated at the event, and from streets and other public areas around the venue. Rubbish may need to be collected several times during the event, and shall be completed within an hour of the event conclusion. The collection of refuse must not be undertaken prior to 7.00am Monday – Saturday, 9.00am Sundays and Public Holidays, and not after 7.00pm, in accordance with the Environmental Protection (Noise) Regulations 1997. Additional Town refuse and recycling bins may be obtained for an event, by contacting the Town’s Waste Management Section; and*
- (viii) the hours of operation for the outdoor market shall be limited to 8am to 12 noon on Sundays only. This excludes the setting up and packing up time.*

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**COUNCIL DECISION ITEM 9.1.3**

**Moved Cr Lake, Seconded Cr McGrath**

*That the recommendation be adopted.*

Debate ensued.

Cr Topelberg departed the Chamber at 8.13pm.

Debate ensued.

Cr Topelberg returned to the Chamber at 8.15pm.

Debate ensued.

**PROCEDURAL MOTION**

**Moved Cr McGrath, Seconded Cr Farrell**

*That the item be DEFERRED to clarify whether the Principal of Aranmore Catholic College will support the change of use and use of the Oval on a Sunday.*

**PROCEDURAL MOTION PUT AND CARRIED (8-1)**

**For:** Mayor Catania, Cr Buckels, Cr Burns, Cr Farrell, Cr Harvey, Cr McGrath,  
Cr Maier, Cr Topelberg

**Against:** Cr Lake

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<b>Landowner:</b>	Roman Catholic Archbishop of Perth
<b>Applicant:</b>	K Thomson
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Educational Establishment
<b>Use Class:</b>	Unlisted Use
<b>Use Classification:</b>	"SA"
<b>Lot Area:</b>	3650 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves utilising the central oval of Aranmore College for a produce market, held every Sunday for an indefinite period, between the hours of 8am and 12 noon. The proposal is run by the same organisers as the Oxford Street Reserve Markets, which promotes independent fashion designers, jewellery designers, photographers, painters and other creative arts.

The markets, called '*Fields of Green Fresh Fare Markets*', commenced on 2 August 2009 without planning approval, as the applicant was not aware that such approval had to be obtained.

**ASSESSMENT:**

<b>Consultation Submissions</b>		
Support (4)	No Comment.	Noted.
Objection (1)	<ul style="list-style-type: none"> <li>The stall holders are parking in the church car park, which may deter people from attending church.</li> <li>Concern that dogs are invited to the fresh produce market.</li> </ul>	<p>Noted - Refer to comments below.</p> <p>Noted - Health Services have advised that each food stall must meet minimum standards, which involves the stall being set up so that the likelihood of contamination is minimised. On a recent inspection to the markets, adequate barriers were observed and no problems were identified.</p>
General Comment	Parking from the church and markets on the verge creates issues. The Market will only exacerbate the issue.	Noted - This concern has been forwarded to Ranger Services for investigation.
<b>Other Implications</b>		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Sustainability Implications		Nil
Financial/Budget Implications		Nil
<b>Car Parking</b>		
Car parking requirement (nearest whole number) - Market - 3 spaces per stall provided (Maximum 35 stalls proposed).		105 car bays
Apply the adjustment factors. - 0.85 (within 400 metres of a bus stop) - 0.95 (the proposed development is within 400 metres of one or more public car parks in excess of a total of 25 car parking spaces).		(0.8075)  84.78 car bays
Minus the car parking provided on-site.		49
Minus the most recently approved on-site car parking shortfall.		Nil
Resultant shortfall		36 car bays

\* 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.

**COMMENTS:**

As per the Town's Policy No. 3.8.3 relating to Concerts and Events, adequate parking is to be made available, to minimise the inconvenience to neighbouring properties for the duration of the event. As outlined in the Assessment Table, if the requirements of the Town's Policy No. 3.7.1 relating to Parking and Access were to be applied, there would be a car parking shortfall of 36 car bays, which would attract a total cash in lieu requirement of \$98,000.

Consistent with the Town's approach to temporary and occasional events, the requirements of the Town's Policy No. 3.7.1 relating to Parking and Access are not applied, rather consideration is given to ensuring adequate transport and car parking spaces are provided, and applicants are required to seek the direction of the Town's Rangers and Community Safety Services in this respect. The Town's Rangers and Community Safety Services have advised that there are opportunities for kerb-side parking in the immediate vicinity. Recent inspections by Health Services have noted car parking bays within the site being available for the duration of the morning markets.

An objection to the proposal raised concern that the stall holders are utilising the St Mary's Catholic Church car park, which may impede the parishioners access to car parking bays. The applicant was requested to liaise directly with the Church, and develop a strategy for managing the car parking for the markets. In a letter dated 17 November 2009, the applicant advised:

*"Discussions have been undertaken with the Priest of St Mary's Catholic Church regarding car parking on Sundays.*

*It has been agreed that the stall holders will not use the schools parking lot which is opposite the Church due to an agreement made many years ago with the church use of this car park as their own on Sundays."*

In light of the above, and as the proposal is of an occasional nature, it is recommended that the proposal be approved without a cash- in-lieu car parking requirement, for a one year period to allow opportunities for the car parking situation to be reassessed, should problems arise.

**9.1.8 No. 28 (Lot 35, D/P 75749) Woodstock Street, corner of Matlock Street, Mount Hawthorn - Proposed Alterations and Additions to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Mount Hawthorn, P01	<b>File Ref:</b>	PRO4876; 5.2009.409.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	T Cappellucci, Statutory Planning Officer		
<b>Responsible Officer:</b>	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 I G Rowe on behalf of the owner I G Rowe for proposed Alterations and Additions to Existing Single House, at No. 28 (Lot 35, D/P 75749) Woodstock Street, corner of Matlock Street, Mount Hawthorn, and as shown on plans stamp-dated 2 October 2009, 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;*
- (ii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the removal of the proposed study and stud walls to ensure maintenance of the remaining existing veranda.*  
  
*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (iii) *any new street wall, fence and gate within the Woodstock Street and Matlock Street setback areas, including along the side boundaries within these street setback areas, shall comply with the Town's Policy provisions relating to Street Walls and Fences; and*
- (iv) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site.*

**Moved Cr McGrath, Seconded Cr Maier**

*That the recommendation be adopted.*

Debate ensued.

**AMENDMENT**

**Moved Cr Maier, Seconded Cr McGrath**

*That clause (ii) be amended to read as follows:*

- “(ii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating ~~the removal of the proposed study and stud walls to ensure maintenance of the remaining existing veranda~~ the inclusion of at least one (1) major opening (window) to each street frontage from the proposed study.*

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

Debate ensued.

**AMENDMENT PUT AND CARRIED (9-0)**

**MOTION AS AMENDED PUT AND CARRIED (9-0)**

**COUNCIL DECISION ITEM 9.1.8**

*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 I G Rowe on behalf of the owner I G Rowe for proposed Alterations and Additions to Existing Single House, at No. 28 (Lot 35, D/P 75749) Woodstock Street, corner of Matlock Street, Mount Hawthorn, and as shown on plans stamp-dated 2 October 2009, 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;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the inclusion of at least one (1) major opening (window) to each street frontage from the proposed study;*

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

- (iii) any new street wall, fence and gate within the Woodstock Street and Matlock Street setback areas, including along the side boundaries within these street setback areas, shall comply with the Town's Policy provisions relating to Street Walls and Fences; and*
- (iv) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site.*

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<b>Landowner:</b>	I G Rowe
<b>Applicant:</b>	I G Rowe
<b>Zoning:</b>	Metropolitan Region Scheme: (MRS) Urban Town Planning Scheme No. 1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	366 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The application seeks alterations and additions to an existing front verandah to be enclosed into a study and bathroom at the front and secondary street boundaries, at No. 28 Woodstock Street, corner of Matlock Street, Mount Hawthorn. The application is being referred to Council as it involves a variation to the Residential Design Codes Open Space requirements, and such variations are specified in the Town's Non-Variation of Specific Development Standards and Requirements Policy.

The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
<b>Building Setbacks:</b> Ground Floor  - Front (South) Facing Woodstock Street	Consistent with Streetscape	Nil	Not Supported – Considered to have a detrimental impact, as the proposed study wall, will enclose the existing verandah. As the proposed study does not facilitate passive surveillance through providing at least one major opening (window) facing Woodstock Street, the development does not enhance the safety and security of the surrounding area. Currently, there is existing palm vegetation in front of the proposed study towards Woodstock Street; however, if these were to be removed, as they are not within the lot boundaries of No. 28 Woodstock Street, no surveillance will be provided by the study. A condition has been placed for removal of proposed study and stud walls to maintain the remaining existing verandah.

<p>- Secondary Street (East) Facing Matlock Street</p>	<p>1.5 metres</p>	<p>Nil</p>	<p>Supported in Part – The study portion is considered to have an undue impact, as the proposed study wall will enclose an existing verandah. As the proposed study does not facilitate passive surveillance through providing at least one major opening (window) facing Matlock Street, the study does not enhance the safety and security of the surrounding area. Currently, there is existing palm vegetation in front of the proposed study and bathroom towards Matlock Street; however, if these were to be removed as they are not within the lot boundaries of No. 28 Woodstock Street, no surveillance will be provided by the study. A condition has been placed for removal of proposed study and stud walls and maintaining the existing verandah. Proposed bathroom addition is supported.</p>
<p><b>Street Walls:</b></p>	<p>Maximum Height of 1.8 metres with maximum height of solid portion of wall to be 1.2 metres.</p>	<p>Primary Street (Facing Woodstock Street). Propose a 2.64 metre high wall on the front Lot Boundary, with 1.954 metre high stud wall and windows above, to match existing</p>	<p>Not Supported – Considered to have a detrimental impact, as the proposed stud wall for the study, which is replacing the lattice of the existing verandah, does not facilitate passive surveillance through providing at least one major opening window facing Woodstock Street, as the development does not enhance the safety and security of the surrounding area.</p>
		<p>Secondary Street (Facing Matlock Street). Propose a 2.64 metre high wall on the front Lot Boundary, with 1.954 metre high stud wall and windows above, to match existing.</p>	<p>Supported in Part – Study portion considered to have a detrimental impact as the proposed stud wall, which is replacing the lattice of the existing verandah, does not facilitate passive surveillance through providing at least one major opening (window) facing Matlock Street, as the development does not enhance the safety and security of the surrounding area. The bathroom addition however, is supported.</p>

<b>Open Space:</b>	Minimum of 45 per cent of the proposed lot area.	39.2% of the lot area.	Supported – Not considered to have an undue impact on the amenity of the site. The development has an existing large verandah at the rear of the property as well as significant areas of private open space. In addition, the property is located adjacent to the large playing field of Mount Hawthorn Primary School located on Killarney Street.
<b>Consultation Submissions</b>			
Support (0)	Nil		Noted.
Objection (0)	Nil		Noted.
<b>Other Implications</b>			
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications		Nil	
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:**

The proposed study and bathroom additions to replace the existing verandah will, in particular for the study addition, reduce the safety and security of the surrounding area by not providing at least one major opening window facing the primary and secondary streets of Woodstock and Matlock Streets is respectively.

As the proposed study does not enhance the safety and security of the surrounding area, these concerns in relation to surveillance have been appropriately conditioned to this effect with the study addition to be removed, and the existing remaining verandah to be maintained. However, the bathroom addition is supported.

In light of the above, the proposal is supported, subject to standard and appropriate conditions to address the above matters.

**9.1.10 Nos. 64A and 64B (Strata Lots 1 and 2) Wasley Street, North Perth- Proposed Extension of Temporary Car Park Use and Use of Eastern Grouped Dwelling for Storage and Administration Purposes Associated with the Institutional Building (St Michael’s Nursing Home- Nos. 53-65 Wasley Street, North Perth) (Retrospective Application)**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Norfolk; P10	<b>File Ref:</b>	PRO3523; 5.2009.361.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	R Rasiah, Co-ordinator Statutory Planning		
<b>Responsible Officer:</b>	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, APPROVES the application submitted by Edgar Idle Wade Architects on behalf of the owner Mijude Nominees Pty Ltd for proposed Extension of Temporary Car Park Use and Use of Eastern Grouped Dwelling for Storage and Administration Purposes Associated with the Institutional Building (St Michael’s Nursing Home – Nos. 53-65 Wasley Street, North Perth) (Retrospective Application), at Nos. 64A and 64B (Strata Lots 1 and 2) Wasley Street, North Perth, and as shown on plans stamp-dated 8 September 2009, subject to the following conditions:*
- (a) *no administration use, other than storage use, shall occur on the subject property;*
  - (b) *the temporary car park and storage uses shall be directly associated with the St Michael Nursing Home at Nos. 53-65 Wasley Street, North Perth;*
  - (c) *the approval for the car park and storage uses is valid for two (2) years only, and the use should revert back to residential after expiration of the two (2) years, or upon the first occupation of the ‘stage 3’ basement car park of the development, at Nos. 53-65 Wasley Street, North Perth, whichever occurs first;*
  - (d) *the car park area shall be reinstated with landscaping or other development to the satisfaction of the Town within 60 days of the car park use ceasing on-site. All such works shall be undertaken at the applicant's cost and maintained thereafter by the owner(s)/occupier(s);*
  - (e) *the building shall be reinstated as a dwelling or developed consistent with the Town of Vincent Town Planning Scheme residential zoning of the lots to the satisfaction of the Town within 120 days of the storage use ceasing on-site;*
  - (f) *any new street wall, fence and gate within the Wasley 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;*
  - (g) *the car park shall be fenced and made secure outside the administration hours of the nursing home;*

- (h) *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;*
- (i) *the Operations Management Plan, dated 11 October 2006, for the operation of the temporary car park addressing loading and unloading operations (including delivery and service vehicle times), car park security, staff and visitors car parking, and the control of noise, traffic, litter, lighting or storage uses, shall still be applicable, and thereafter maintained by the owner(s)/occupier(s) for the entire duration of this use;*
- (j) *a detailed landscaping plan, including a list of plants and the landscaping of the Wasley Street verge adjacent to the subject property, shall be submitted by the applicant and approved by the Town. ~~prior to the issue of a Building License.~~ The landscaping of the verge shall 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 which do not rely on reticulation. Where reticulation is not used, the alternative method should be described. All such works shall be undertaken within 28 days of the issue of planning approval and maintained thereafter by the owner(s)/occupier(s);*
- (k) *car parking is not permitted on the Wasley Street verge adjacent to the subject property;*
- (l) *within 28 days of being notified by the Town, the owner(s) shall update the existing legal agreement with the Town that addresses the following undertakings, in addition to the undertaking approved at the Ordinary Meeting of the Council held on 25 July 2006, to the satisfaction of the Town:*
- (1) *the car park and storage uses to be directly associated with the St Michael Nursing Home;*
  - (2) *the property not to be used for administration purposes of any kind, other than storage use;*
  - (3) *the car park to be used only by the employees, customers and visitors of the St Michael Nursing Home, and not for use by construction related vehicles;*
  - (4) *the car park to be reinstated with landscaping or other development to the satisfaction of the Town;*
  - (5) *the building to be reinstated as a dwelling or developed consistent with the Town of Vincent Town Planning Scheme residential zoning of the lots to the satisfaction of the Town; and*
  - (6) *the approval for the car park and storage uses is valid for an additional two (2) years, commencing from 2 December 2009 only, and the use should revert back to residential after this time, or upon first occupation of stage 3 basement car park of the development at the St Michaels Nursing Home, whichever occurs first.*

*The legal agreement shall be secured by a caveat on the Certificate(s) of Title of the subject land. The legal documentation shall be prepared by the Town's solicitors or other solicitors agreed upon by the Town. All costs associated with this condition, including the cost of the Town's solicitors checking the documentation if prepared by the other solicitors, shall be borne by the applicant/owners(s);*

- (m) *compliance with the Deed of Agreement between the Town of Vincent and Mijude Nominees Pty Ltd, as per condition (l) above;*
  - (n) *the hours of operation of the car park and storage uses shall only be between 7am and 7 9pm, Monday to Sunday inclusive;*
  - (o) *within 28 days of being notified by the Town, all the side boundary fencing shall be repaired/or replaced where required on the subject property, with consent and agreement with the affected adjoining landowners. ~~All such works shall be undertaken at the owners cost and maintained thereafter by the owner(s)/occupier(s); and~~*
  - (p) *provision of an additional wheel stop for car bay No. 3; and*
- (ii) *the Council ADVISES the owners of the St Michael's Nursing Home that the Council is unlikely to favourably consider a further planning application at the expiry of the subject planning approval in 2011, for the temporary car park to operate beyond 2011.*

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

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**Moved Cr Farrell, Seconded Cr Harvey**

*That the recommendation be adopted.*

Debate ensued.

AMENDMENT

**Moved Cr Burns, Seconded Cr Buckels**

*That clause (i)(o) be amended to read as follows:*

*“(i)(o) within 28 days of being notified by the Town, the owner/occupier shall do all things reasonably necessary to procure the repair or replacement of the fence or shall repair or replace the fence ~~all the side boundary fencing shall be repaired/or replaced where required on the subject property, with consent and agreement with the affected adjoining landowners and maintained thereafter by the owner(s)/occupier(s); and~~”*

**AMENDMENT PUT AND CARRIED (9-0)**

Debate ensued.

**MOTION AS AMENDED PUT AND CARRIED (9-0)**

**COUNCIL DECISION ITEM 9.1.10**

*That the Council;*

- (i) *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 Edgar Idle Wade Architects on behalf of the owner Mijude Nominees Pty Ltd for proposed Extension of Temporary Car Park Use and Use of Eastern Grouped Dwelling for Storage and Administration Purposes Associated with the Institutional Building (St Michael's Nursing Home – Nos. 53-65 Wasley Street, North Perth) (Retrospective Application), at Nos. 64A and 64B (Strata Lots 1 and 2) Wasley Street, North Perth, and as shown on plans stamp-dated 8 September 2009, subject to the following conditions:*
- (a) *no administration use, other than storage use, shall occur on the subject property;*
- (b) *the temporary car park and storage uses shall be directly associated with the St Michael Nursing Home at Nos. 53-65 Wasley Street, North Perth;*
- (c) *the approval for the car park and storage uses is valid for two (2) years only, and the use should revert back to residential after expiration of the two (2) years, or upon the first occupation of the 'stage 3' basement car park of the development, at Nos. 53-65 Wasley Street, North Perth, whichever occurs first;*
- (d) *the car park area shall be reinstated with landscaping or other development to the satisfaction of the Town within 60 days of the car park use ceasing on-site. All such works shall be undertaken at the applicant's cost and maintained thereafter by the owner(s)/occupier(s);*
- (e) *the building shall be reinstated as a dwelling or developed consistent with the Town of Vincent Town Planning Scheme residential zoning of the lots to the satisfaction of the Town within 120 days of the storage use ceasing on-site;*
- (f) *any new street wall, fence and gate within the Wasley 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;*
- (g) *the car park shall be fenced and made secure outside the administration hours of the nursing home;*
- (h) *the car parking area(s) on the subject land shall be maintained by the owner(s)/occupier(s) to the satisfaction of the Town;*
- (i) *the Operations Management Plan, dated 11 October 2006, for the operation of the temporary car park addressing loading and unloading operations (including delivery and service vehicle times), car park security, staff and visitors car parking, and the control of noise, traffic, litter, lighting or storage uses, shall still be applicable, and thereafter maintained by the owner(s)/occupier(s) for the entire duration of this use;*

- (j) *a detailed landscaping plan, including a list of plants and the landscaping of the Wasley Street verge adjacent to the subject property, shall be submitted by the applicant and approved by the Town. The landscaping of the verge shall 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 which do not rely on reticulation. Where reticulation is not used, the alternative method should be described. All such works shall be undertaken within 28 days of the issue of planning approval and maintained thereafter by the owner(s)/occupier(s);*
- (k) *car parking is not permitted on the Wasley Street verge adjacent to the subject property;*
- (l) *within 28 days of being notified by the Town, the owner(s) shall update the existing legal agreement with the Town that addresses the following undertakings, in addition to the undertaking approved at the Ordinary Meeting of the Council held on 25 July 2006, to the satisfaction of the Town:*
- (1) *the car park and storage uses to be directly associated with the St Michael Nursing Home;*
  - (2) *the property not to be used for administration purposes of any kind, other than storage use;*
  - (3) *the car park to be used only by the employees, customers and visitors of the St Michael Nursing Home, and not for use by construction related vehicles;*
  - (4) *the car park to be reinstated with landscaping or other development to the satisfaction of the Town;*
  - (5) *the building to be reinstated as a dwelling or developed consistent with the Town of Vincent Town Planning Scheme residential zoning of the lots to the satisfaction of the Town; and*
  - (6) *the approval for the car park and storage uses is valid for an additional two (2) years, commencing from 2 December 2009 only, and the use should revert back to residential after this time, or upon first occupation of stage 3 basement car park of the development at the St Michaels Nursing Home, whichever occurs first.*
- The legal agreement shall be secured by a caveat on the Certificate(s) of Title of the subject land. The legal documentation shall be prepared by the Town's solicitors or other solicitors agreed upon by the Town. All costs associated with this condition, including the cost of the Town's solicitors checking the documentation if prepared by the other solicitors, shall be borne by the applicant/owners(s);*
- (m) *compliance with the Deed of Agreement between the Town of Vincent and Mijude Nominees Pty Ltd, as per condition (l) above;*
- (n) *the hours of operation of the car park and storage uses shall only be between 7am and 9pm, Monday to Sunday inclusive;*
- (o) *within 28 days of being notified by the Town, the owner/occupier shall do all things reasonably necessary to procure the repair or replacement of the fence or shall repair or replace the fence; and*

- (p) *provision of an additional wheel stop for car bay No. 3; and*
- (ii) *the Council ADVISES the owners of the St Michael's Nursing Home that the Council is unlikely to favourably consider a further planning application at the expiry of the subject planning approval in 2011, for the temporary car park to operate beyond 2011.*

<b>Landowner:</b>	Mijude Nominees Pty Ltd
<b>Applicant:</b>	Edgar Idle Wade Architects
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R40
<b>Existing Land Use:</b>	Western Portion (Lot 1) -Temporary Car Park; and Eastern Portion (Lot 2) - Temporary Storage and Administration Purposes
<b>Use Class:</b>	Use Associated with the Institutional Building
<b>Use Classification:</b>	Use Associated with Institutional Building -"SA"
<b>Lot Area:</b>	1011 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

- 25 July 2006                      The Council at its Ordinary Meeting granted approval for demolition of the western grouped dwelling and construction of a temporary car park, and change of use of the eastern grouped dwelling to temporary storage associated with the institutional building (St Michael's Nursing Home and Independent Living Units) at Nos. 53-65 Wasley Street, corner Norfolk Street and Forrest Street, North Perth, subject to several conditions, including the following condition:
- "(xi) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;"*
- 9 August 2006                      Approval to Commence Development Serial No. 5.2006.143.1 for demolition of the western grouped dwelling and construction of a temporary car park, and change of use of the eastern grouped dwelling to temporary storage associated with the institutional building (St Michael's Nursing Home and Independent Living Units) at Nos. 53-65 Wasley Street, corner Norfolk Street and Forrest Street, North Perth was issued by the Town.
- 1 May 2007                              The Town received a written complaint alleging non-compliance with a number of conditions of the abovementioned Approval.
- 3 May 2007                              A site inspection undertaken by the Town's Development Compliance Officer revealed that the western grouped dwelling had been demolished and the temporary car park had been constructed and was being utilised. A search of the Town's records revealed that a Demolition Licence for the subject development had not been applied for and obtained from the Town.

- 22 May 2007 The Council at its Ordinary Meeting authorised the Chief Executive Officer to instruct the Town's solicitors to commence legal proceedings against the owner of No. 64A (Lot 1) Wasley Street, North Perth for contravention of Section 374A (1) of the Local Government (Miscellaneous Provisions) Act 1960 for failing to obtain a Demolition Licence prior to demolishing the dwelling at No. 64A (Lot 1) Wasley Street, North Perth.
- 11 September 2007 The Council at its Ordinary Meeting considered an application for re-consideration of conditions imposed at the Ordinary Meeting of Council held on 25 July 2006.

**DETAILS:**

The proposal involves the continued use of the temporary car park of 24 car bays, (including one small car bay), and storage and administration facility, associated with the St Michael's Nursing Home at Nos. 53- 65 Wasley Street, corner Norfolk and Forrest Street, North Perth.

The applicant's response to the matters raised in the advertising submissions received, is as follows:

- *"The property in reality is no less appealing than numerous other properties in the street. Our maintenance person is on the property 2-3 times per week picking up waste matter and emptying out the letterboxes continually stuffed with advertising material. Our gardener tends the place monthly.*
- *The broken fence panel is on the western boundary approximately 35 metres from the road, it was repaired by us –at our expense – over a year ago, and within a month of that it was observed by our staff being reversed into again by the African tenants. The agents that manage the rental properties on behalf of the property owner have been informed.*
- *Approval for the use as a temporary car park was for 2 years. We intend to commence the third and final stage of the St. Michael's redevelopment in Feb/March 2010, the construction is a two storey development – car park underneath. Completion is to be May/June 2011. Therefore a 1 year extension to the temporary car park is not adequate given the size of the construction.*
- *The temporary car park is used only by our staff between 7.00 am and 9.30 pm, our security contractor secures the property on his first inspection nightly. There has never been any administration out of 64 Wasley Street. There are strict guidelines for the properties use while it's a temporary car park, besides providing temporary car parking exclusively for staff, St. Michael's does use the existing building for temporary storage.*

*I trust that our response to the comments will be of assistance to Council's deliberation over the extension to the temporary car park. As you may not be aware, we do not own 64 Wasley Street indeed we pay rent on a monthly basis. There is absolutely no intention from our stand point to extend this temporary arrangement beyond the completion of stage 3 when all parking will be on site."*

**ASSESSMENT:**

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
<b>Consultation Submissions</b>			
Support	Nil		Noted.

Objections (4)	The site is an eyesore and needs cleaning up.	Partly supported - A condition to this effect has previously been imposed; that is, condition (i). The applicant has stated that the property is maintained by workers employed by the St Michael's Nursing Home.
	Property including onsite and verge landscaping and fencing has not been maintained. The broken fences pose a security problem to adjoining properties. This should be a requirement, prior to any application being made.	Noted - A site inspection will be carried out by the Town's staff to ensure compliance with the relevant landscaping and maintenance conditions.
	The developer already had an approval for 3 years to complete the planned project, so that the site can be returned for residential purposes. Given the inconvenience to resident's amenity, any extension if granted should be for a 1 year period.	Not supported- A condition has been recommended that a further 2 years be given to enable completion of the remaining stage 3, which includes the basement car park.
	Inappropriate for the owners to extend operations to No. 64 Wasley Street. It will negatively impact on the amenity of residents on both sides of Wasley Street. The developer undertook to not use the property for administrative purposes.	Not supported- The property is not being used for administrative purposes.
<b>Other Implications</b>		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Sustainability 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.

### Technical Services

The Town's Technical Services have advised that an additional wheel stop needs to be installed for car bay No. 3.

### Storage and Administration

The continued storage of archival material and personal storage for staff on duty is supported in the remaining dwelling. However, the use of the premises for administration purposes associated with the nursing home is still not supported, as it results in an intensification of a commercial use, which can reasonably be accommodated within the existing nursing home site.

## **Car Park**

A car park use within a Residential zone, is considered an "X", a prohibited use. However, a car park use when associated with an Institutional Building (Nursing Home and Independent Living Units) can be considered, subject to compliance with the Town's Parking and Access Policy 3.7.1, which allows the provision of car parking serving a particular use.

## **Reciprocal Car Parking**

The Town's Policy relating to Parking and Access states the following in relation to reciprocal parking:

### *"ii) Reciprocal Parking*

*Reciprocal parking arrangements may be considered acceptable where the Town of Vincent is convinced that demand for parking by the uses proposed will not unreasonably coincide.*

*Where reciprocal parking is proposed, the Town of Vincent is to be satisfied that:*

- a) the parking facilities serving the proposed uses will be located on the one lot, or that parking arrangements are permanent (e.g. easement, amalgamation, legal agreement, restrictive covenant or any other formal arrangement the Town of Vincent may require);*
- b) parking demand both in the immediate and long term can be satisfied;*
- c) no substantial conflict will exist in the peak hours of operation of the uses for which the reciprocal parking arrangements are proposed;*
- d) the uses being served by the parking arrangements are compatible (i.e. no overlap demand for parking facilities);*
- e) the number of parking spaces which may be credited from one use to another use does not exceed the number of spaces reasonably anticipated to be in excess of the requirement of the first use during its peak hours of operation; and*
- f) a proposed change of use will comply with the reciprocal parking arrangements, or will satisfy the parking requirement by other means before approval is granted."*

The 24 car parking bays on the subject property that are to be provided for use by employees, customers and visitors of the St Michael's Nursing Home, at no cost to these users, is currently operated via a legal agreement secured by a caveat, which will be required to be updated, to reflect a further 2 year approval.

As such, the approach by the applicant to overcome the issue of a shortfall in car parking during the construction period, by providing alternative parking in close proximity to the proposed additions to the existing St Michael's Nursing Home, at Nos. 53-65 Wasley Street, corner Norfolk Street and Forrest Street, North Perth, is considered appropriate as an alternative, interim solution only. It is advised however, that no further extension should be considered or supported, as together with this approval, a total of 5 years for the temporary car park use has been permitted to allow completion of a staged development, which it has previously been stated, to have been completed within an earlier period of time.

On this basis, no objection is raised to the car parking and archival storage uses, subject to standard and appropriate conditions to address the above matters.

**9.1.12 No. 21 (Lot 1, D/P 2962) Bulwer Avenue, corner of Lincoln Street, Perth - Proposed Demolition of Existing Single House and Construction of Two (2), Two-Storey Grouped Dwellings**

<b>Ward:</b>	South	<b>Date:</b>	23 November 2009
<b>Precinct:</b>	Hyde Park Precinct; P12	<b>File Ref:</b>	PRO0009; 5.2009.280.1
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a>		
<b>Reporting Officer:</b>	D Pirone, Planning Officer; S Kendall, Planning/Heritage Officer		
<b>Responsible Officer:</b>	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 owner F Santalucia for proposed Demolition of Existing Single House and Construction of Two (2), Two-Storey Grouped Dwellings, at No. 21 (Lot 1, D/P 2962) Bulwer Avenue, corner of Lincoln Street, Perth, and as shown on plans stamp-dated 7 April 2009, 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 by virtue of the demolition of the existing building, which contributes to an important cultural landscape;*
  - (b) *the non-compliance with the clause 6 (3) (c) - Objectives and Intentions under Town of Vincent Town Planning Scheme No. 1 in terms of recognising the individual character and needs of localities within the Scheme zone area;*
  - (c) *the subject place, as part of the Bulwer Avenue Precinct (Nos. 1-21 Bulwer Avenue, Perth) is currently on the Heritage Council of Western Australia's Assessment Program and will be considered in due course for inclusion into the State Register of Heritage Places;*
  - (d) *the non-compliance with requirements of building setbacks, buildings on boundary, open space, outdoor living area and building height of the Residential Design Codes;*
  - (e) *the non-compliance with the requirements of the Town's Policy No. 3.2.1 relating to Residential Design Elements, in particular, building setbacks, vehicular access and carports and garages;*
  - (f) *the non-compliance with the Town's Policy No. 2.2.6 relating to Corner Truncations and Visual Truncations; and*
  - (g) *consideration of the objections received; and*
- (ii) *the applicant and landowners be advised that the Council is prepared to give consideration to a redevelopment proposal which includes the retention and upgrading of the existing dwelling on the site and where possible, a new dwelling to the rear.*

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**COUNCIL DECISION ITEM 9.1.12**

**Moved Cr Topelberg, Seconded Cr Farrell**

*That the recommendation be adopted.*

Debate ensued.

**PROCEDURAL MOTION**

**Moved Cr Topelberg, Seconded Cr Farrell**

*That the item be WITHDRAWN at the request of the applicant.*

**PROCEDURAL MOTION PUT AND CARRIED (8-1)**

**For:** Cr Buckels, Cr Burns, Cr Farrell, Cr Harvey, Cr Lake, Cr McGrath, Cr Maier,  
Cr Topelberg

**Against:** Mayor Catania

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<b>Landowner:</b>	F Santalucia
<b>Applicant:</b>	F Santalucia
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R80
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	546 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

13 November 1995 The Council at its Ordinary Meeting resolved to include the properties at Nos. 1-21 Bulwer Avenue, Perth (the Bulwer Avenue Precinct) onto the Town of Vincent Municipal Heritage Inventory (MHI).

18 March 1997 An application for demolition of existing single dwelling and construction of three grouped dwellings was deemed refused under delegated authority from the Council.

Commenced 2004 Under the Heritage of Western Australia Act 1990, there is a legal requirement for the Town to review and update its Municipal Heritage Inventory.

As part of the Municipal Heritage Inventory Review, the Hocking Planning and Architecture Collaboration reaffirmed the heritage value of the Bulwer Avenue Precinct, inclusive of Nos. 1-21 Bulwer Avenue, as a Category A Conservation Essential, being a notable intact turn of the twentieth century development of detached houses.

- June – August 2006 During the ten-week period of community consultation for the Municipal Heritage Inventory Review, objections were received from the owners of No. 1 and No. 21 Bulwer Avenue, Perth. Whilst noting the owner's objections, the Town's Officer still considered that both No. 1 and No. 21 Bulwer Avenue were important components of the Precinct.
- 7 November 2006 Under the *Heritage Council of Western Australia Act 1990*, there is a legal requirement for the Town to review and update its Municipal Heritage Inventory. As part of the MHI Review, the Town reconsidered the inclusion of the Bulwer Avenue Precinct (Nos. 1-21 Bulwer Avenue) onto the MHI and resolved as follows:
- '(i) *NOTES the submission(s) received regarding the proposed inclusion of the place at No. 1 (Lots 48 and 49) and No. 21 (Lot 1) Bulwer Avenue, Perth, on the Town's Municipal Heritage Inventory;*
  - (ii) *INCLUDES the following places on the Town's Municipal Heritage Inventory as Management Category A - Conservation Essential:*
    - (a) *No. 3 (Lot 47) Bulwer Avenue, Perth;*
    - (b) *No. 5 (Lot 4) Bulwer Avenue, Perth;*
    - (c) *No. 9 (Lot 44) Bulwer Avenue, Perth;*
    - (d) *No. 11 (Lot 1) Bulwer Avenue, Perth;*
    - (e) *No. 13 (Lot 42) Bulwer Avenue, Perth;*
    - (f) *No. 15 (Lot 41) Bulwer Avenue, Perth;*
    - (g) *No. 17 (Lot 3) Bulwer Avenue, Perth;*
    - (h) *No. 19 (Lot 2) Bulwer Avenue, Perth; and*
  - (iii) *EXCLUDES the places at No. 1 (Lots 48 and 49) Bulwer Avenue, Perth and No. 21 (Lot 1) Bulwer Avenue, Perth from the Town's Municipal Heritage Inventory.'*
- 20 October 2009 The Town received a letter from the Heritage Council of Western Australia advising that it is considering the Bulwer Avenue Precinct, comprising the properties Nos. 1-21 Bulwer Avenue, Perth for possible entry onto the State Register of Heritage Places on an interim basis. A report on this matter is also being considered at the Ordinary Meeting of Council on 17 November 2009.

#### **DETAILS:**

The proposal involves the demolition of No. 21 Bulwer Avenue, Perth and the construction of two grouped dwellings.

As outlined in the Background section to this report, whilst the Town resolved to remove both No. 1 and No. 21 Bulwer Avenue from its heritage list on 7 November 2006, the grouping as a whole, inclusive of No. 1 and No. 21 Bulwer Avenue, remains on the Heritage Council of Western Australia's Assessment Program for potential inclusion onto the State Register of Heritage Places.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density:	3.03 grouped dwellings	2 grouped dwellings.	Noted – no variation.
Plot Ratio:	N/A	N/A	Noted.
Building Setbacks: Unit A Ground Floor -South-West	1.5 metres	Nil – 1.04 metres	Not supported – see ‘Comments’.
Upper Floor -South-East (Bulwer Avenue) Main Building	2 metres behind the ground floor main building line.	0.8 metre behind to 1.5 metres behind the ground floor main building line.	Not supported – see ‘Comments’.
-South-West	1.5 metres	1.2 metres – 1.73 metres	Not supported – see ‘Comments’.
Unit B Ground Floor -North-West	1.5 metres	Nil – 2.9 metres	Not supported – see ‘Comments’.
-South-West	1.5 metres	1.19 metres – 1.57 metres	Not supported – see ‘Comments’.
Upper Floor -North-East (Lincoln Street) Main Building	1.5 metres behind the ground floor main building line.	In line to 1.7 metres behind the ground floor main building line.	Not supported – see ‘Comments’.
-North-West	3 metres	1.23 metres – 1.69 metres	Not supported – see ‘Comments’.

Buildings on Boundary:	Walls not higher than 3.5 metres with average of 3 metres for 2/3 (25.63 metres on the south-west boundary and 9.6 metres on the north-west boundary) of the length of the balance of the boundary behind the front setback, to one side boundary.	Walls proposed on two side boundaries. -South-West Wall Height – 3.2 metres – 3.5 metres (average height = 3.35 metres) Wall Length = 5.77 metres -North-West Wall Height – 3.5 metres – 3.6 metres (average height = 3.55 metres) Wall Length = 6.65 metres	Not supported – see ‘Comments’.
Open Space:	Minimum of 45 per cent of the proposed lot area.	Unit B – 42 per cent of the proposed lot area.	Not supported – see ‘Comments’.
Outdoor Living Area:	To be located behind the street setback area.	Unit B – located within the Lincoln Street setback area.	Not supported – see ‘Comments’.
Vehicular Access:	The crossovers are required to be a maximum aggregate width of 6 metres.	Proposed aggregate width is 10 metres.	Not supported – see ‘Comments’.
Carports and Garages:	Garages are required to be setback 0.5 metre behind the ground floor main building line.	Unit A – garage setback 0.3 metre behind the ground floor main building line.	Not supported – see ‘Comments’.
Building Height:	The building wall height is required to be a maximum height of 6 metres to the top of the eaves.	Maximum height proposed = 6.3 metres.	Not supported – see ‘Comments’.

**Consultation Submissions**

Support (1)	No comment.	Noted.
Objection (2)	<ul style="list-style-type: none"> <li>The demolition will rob this street of its northern entry statement, and diminish this special place.</li> <li>The loss of this building will have a negative impact on the rest of the dwellings by disrupting the balance of the street.</li> </ul>	<p>Supported.</p> <p>Supported.</p>

<b>Other Implications</b>	
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.

## **COMMENTS:**

### **Heritage**

The dwelling at No. 21 Bulwer Avenue forms part of an original row of detached dwellings constructed at the turn of the twentieth century in the Federation Anglo Dutch and Arts & Crafts styles. The original row of detached dwellings occupies the western side of Bulwer Avenue, opposite the Highgate Primary and Infant Schools.

It is noted that the subject place has had changes to its front façade over the years. However, it is not considered that such changes reduce the ability for the dwelling to contribute to the Bulwer Avenue Precinct. It is considered the previous changes to the building make a valuable contribution to an understanding of the history and development of the precinct.

Due to the homogeneity of design and historical pattern of development, the subject dwelling at No. 21 Bulwer Avenue, together with the dwellings at Nos. 1-19 Bulwer Avenue, continues to collectively form an important historical streetscape, considered rare within the Town of Vincent. Consistent with the Officer Recommendation at the Ordinary Meeting of Council on 7 November 2006, the Town's Officers consider that the subject place continues to form an important part of the Bulwer Avenue Precinct and the group as a whole meets the threshold for entry onto the Town's Municipal Heritage Inventory. It is considered that the demolition of the subject place will undermine the significance of the precinct and the justification for its protection in the first instance.

### **Heritage Council of Western Australia**

Whilst the Town resolved to remove both No. 1 and No. 21 Bulwer Avenue from its heritage list on 7 November 2006, the grouping as a whole, inclusive of No. 1 and 21 Bulwer Avenue, remains on the Heritage Council of Western Australia's Assessment Program for potential inclusion into the State Register of Heritage Places. In light of the status of the precinct on the Assessment Program, the subject application was referred to the Heritage Council for comment.

In a letter dated 19 October 2009, the Heritage Council advised that the subject application was considered at its September 2009 meeting, and resolved as follows:

1. *'Bulwer Avenue Precinct remains a precinct of interest to the Heritage Council;*
2. *The assessment documentation is updated and represented to the Council for consideration prior to being sent out for stakeholder consultation;*
3. *The Town of Vincent and the Minister for Heritage are informed of this resolution.'*

In light of the Heritage Council's advice, that the Bulwer Avenue Precinct as a whole remains of interest and will be further considered for inclusion onto the State Register of Heritage Places, it is not considered appropriate to approve the demolition of the subject place.

Whilst the place is not currently listed on the Town's Municipal Heritage Inventory (MHI), there are provisions under the Town's Town Planning Scheme No. 1 that enables the Council to refuse the demolition of a place, which is considered to be of value to the Town, whether individually or through their contribution to the streetscape. In this instance, the opportunity to retain the existing dwellings as part of the cohesive Bulwer Avenue streetscape is considered consistent with the orderly and proper planning of the locality.

To issue demolition approval for the existing dwelling would result in a lost opportunity to retain an intact streetscape of dwellings constructed in turn of the twentieth century Federation Anglo Dutch, and Arts & Crafts styles. In addition to this, the proposed replacement development is not consistent with the intent of the Town's Residential Design Elements Policy, as it has the potential to significantly impact the visual amenity of the area, particularly in its two-storey nature, which will create an imposing effect on the predominately single storey nature of Bulwer Avenue.

**9.1.20 Use of Forrest Park for Temporary Parking for Major Events at ME Bank Stadium**

<b>Ward:</b>	South	<b>Date:</b>	22 September 2009
<b>Precinct:</b>	Forrest, P14	<b>File Ref:</b>	RES0003/RES0022/ RES0102
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	J Maclean, Manager Ranger and Community Safety Services		
<b>Responsible Officer:</b>	R Boardman, Director Development Services		

**OFFICER RECOMMENDATION:**

*That the Council:*

- (i) *APPROVES the use of Forrest Park for temporary overflow parking when events (games and major concerts) with an expected number of patrons greater than 20,000, are being held at ME Bank Stadium;*
- (ii) *AUTHORISES the Chief Executive Officer to approve of the use of Forrest Park for temporary overflow parking purposes and to impose appropriate conditions for use including, but not limited to:*
- (a) *parking fees being charged as per clause (iii) below;*
  - (b) *Rugby WA carrying out appropriate pre-game advertising (print media, radio and game booklet) to the satisfaction of the Town;*
  - (c) *a shuttle bus service is to be provided between Forrest Park and the Stadium for 2 hours before the start of the game and at least 1 hour after the conclusion of the game;*
  - (d) *the Town being responsible for supervision of all parking; and*
  - (e) *the Chief Executive Officer to discontinue use of the Park for temporary parking, at his discretion if, damage to the park is caused or significant non-compliance of conditions occurs.*
- (iii) *subject to clauses (i) and (ii) above being approved, APPROVES BY AN ABSOLUTE MAJORITY the following fees for temporary overflow parking on Forrest Park:*
- *Vehicle with 1 person = \$20*
  - *Vehicle with 2 persons = \$19*
  - *Vehicle with 3 persons = \$17*
  - *Vehicle with 4 persons = \$16*
  - *Vehicle with more than 4 persons = \$15.*

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**Moved Cr Farrell, Seconded Cr Burns**

*That the recommendation be adopted.*

**Debate ensued.**

**AMENDMENT**

**Moved Cr Maier, Seconded Cr Topelberg**

*That clause (i) be amended and new clauses (iv), (v) and (vi) be inserted as follows:*

- “(i) APPROVES a trial period, until 30 April 2010, for the use of Forrest Park for temporary overflow parking when events (games and major concerts) with an expected number of patrons greater than 20,000, are being held at ME Bank Stadium;*
- (iv) REQUESTS the Chief Executive Officer to undertake a public survey of residents in the area bounded by Stirling, Harold, Curtis, Walcott, Lord and Bulwer Streets, at the end of the trial period shown at (i) above, to identify if any problems that were experienced and to include the results of this survey in a further report to the Council;*
- (v) REQUESTS the Chief Executive Officer to provide a report to Council prior to 30 June 2010 on:*
- (a) details of any complaints received from local residents;*
- (b) the impact that the trial has had on the playing surface of Forrest Park;*
- (c) use of public transport ; and*
- (d) any other matters deemed appropriate.*
- (vi) REQUIRES the Event Organisers and/or Stadium Managers, as part of their Management Plan, to monitor the streets around Members Equity Bank Stadium, primarily the area, bounded by Stirling, Harold, Curtis, Walcott, Lord and Bulwer Streets, as well as Forrest Park, when an event is being held at the Stadium ( and Forrest Park is used for temporary parking) and, if there is an identified litter problem, to make immediate arrangements for its removal.”*

**AMENDMENT PUT AND CARRIED (9-0)**

Debate ensued.

**MOTION AS AMENDED PUT AND CARRIED  
BY AN ABSOLUTE MAJORITY (9-0)**

**COUNCIL DECISION ITEM 9.1.20**

*That the Council:*

- (i) APPROVES a trial period, until 30 April 2010, for the use of Forrest Park for temporary overflow parking when events (games and major concerts) with an expected number of patrons greater than 20,000, are being held at ME Bank Stadium;*
- (ii) AUTHORISES the Chief Executive Officer to approve of the use of Forrest Park for temporary overflow parking purposes and to impose appropriate conditions for use including, but not limited to:*
- (a) parking fees being charged as per clause (iii) below;*

- (b) *Rugby WA carrying out appropriate pre-game advertising (print media, radio and game booklet) to the satisfaction of the Town;*
- (c) *a shuttle bus service is to be provided between Forrest Park and the Stadium for 2 hours before the start of the game and at least 1 hour after the conclusion of the game;*
- (d) *the Town being responsible for supervision of all parking; and*
- (e) *the Chief Executive Officer to discontinue use of the Park for temporary parking, at his discretion if, damage to the park is caused or significant non-compliance of conditions occurs;*
- (iii) *subject to clauses (i) and (ii) above being approved, APPROVES BY AN ABSOLUTE MAJORITY the following fees for temporary overflow parking on Forrest Park:*
- *Vehicle with 1 person = \$20*
  - *Vehicle with 2 persons = \$19*
  - *Vehicle with 3 persons = \$17*
  - *Vehicle with 4 persons = \$16*
  - *Vehicle with more than 4 persons = \$15;*
- (iv) *REQUESTS the Chief Executive Officer to undertake a public survey of residents in the area bounded by Stirling, Harold, Curtis, Walcott, Lord and Bulwer Streets, at the end of the trial period shown at (i) above, to identify if any problems that were experienced and to include the results of this survey in a further report to the Council;*
- (v) *REQUESTS the Chief Executive Officer to provide a report to Council prior to 30 June 2010 on:*
- (a) *details of any complaints received from local residents;*
- (b) *the impact that the trial has had on the playing surface of Forrest Park;*
- (c) *use of public transport ; and*
- (d) *any other matters deemed appropriate; and*
- (vi) *REQUIRES the Event Organisers and/or Stadium Managers, as part of their Management Plan, to monitor the streets around Members Equity Bank Stadium, primarily the area, bounded by Stirling, Harold, Curtis, Walcott, Lord and Bulwer Streets, as well as Forrest Park, when an event is being held at the Stadium ( and Forrest Park is used for temporary parking) and, if there is an identified litter problem, to make immediate arrangements for its removal.*

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**PURPOSE OF REPORT:**

To obtain the Council's approval to use Forrest Park for temporary overflow parking for major events at ME Bank Stadium, in order to ensure that inconvenience to residents, caused by patrons parking in the residential streets, is minimised.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 22 September 2009 (Item 14.4) the Council approved of the Rugby WA – Western Force, Super 14 team Deed of Licence to allow the playing of international games at ME Bank Stadium, in early 2010, with an expected average spectator number of around 21,150 patrons per game (which is the proposed maximum capacity with the interim works) and also interim upgrade works to the Stadium.

The Town recently received a request from Rugby WA to use Forrest Park, Weld Square and Birdwood Square for temporary parking for Super 14 games at ME Bank Stadium.

The existing Stadium Residential Parking Restrictions apply to the area, bounded by Newcastle Street, Lord Street, Harold Street, William Street, Bulwer Street, Beaufort Street, Brisbane Street and Stirling Street, but do not include William Street, or Stirling Streets themselves.

In recent years, ME Bank Stadium has been increasingly used to host large concert events, which attract patron numbers in excess of 20,000. Events of this nature create considerable parking pressures on the streets surrounding the Stadium. Perth Glory will continue to play their home games at ME Bank Stadium, with expected average spectator numbers of around 9,500 people. This will not cause any major problem.

The Town's Officers have investigated the available parking within a 1.5km radius around the Stadium and have determined that it is sufficient to meet the needs of crowds in the vicinity of 20,000.

The Council has previously approved of Forrest Park to be used for temporary overflow parking and no problems have been experienced. On these occasions, the organiser has arranged for a shuttle bus service between Forrest Park and the Stadium, mainly for elderly persons and those who find difficulty in walking the distance of approximately 1km. It is recommended that the request from Rugby WA be supported.

**DETAILS:**

Western Force play a Trial Game on 2 February 2010 (with a crowd of approximately 15,000 expected) and their first international rugby game at ME Bank Stadium on 14 February 2010, with an expected attendance of around 21,150 patrons. A further five (5) games are scheduled for 2010 - the dates being:

Saturday	27 February 2010	19:05pm	Waikato Chiefs
Saturday	20 March 2010	19:10pm	NSW Waratahs
Saturday	27 March 2010	19:10pm	South Africa Bulls
Friday	2 April 2010	18:06pm	Stormers
Friday	23 April 2010	19:45pm	Canterbury Crusaders

For events with an attendance of greater than 20,000 attendees, it has been experienced that, unless an overflow parking facility is established, it creates parking congestion in the streets surrounding ME Bank Stadium.

There are approximately 3,800 parking spaces, in car parks within a 1km radius of ME Bank Stadium, which should be able to accommodate an attendee number of around 10,000-20,000, but as this number increases, so too does the number of people that are driving around the area, seeking parking facilities. If an alternative facility is not provided, experience has shown that patrons will simply park in the restricted area surrounding the Stadium and accept the consequences of an infringement notice and also increasing the number of complaints from residents.

Rugby WA have requested the use of Forrest Park, Birdwood Square and Weld Square. They have been advised as follows:

#### Birdwood Square

Birdwood Square bounded by Bulwer, Beaufort, Brisbane Street and Baker Avenue is situated in close proximity (approximately 500 metres) to ME Bank Stadium so there would be no need for the promoters to arrange for shuttle buses to transport patrons to the venue. Up to 450 vehicles could be accommodated on Birdwood Square and the recently upgraded lighting would provide an added security bonus to users of the facility. However, there may be a need to provide a dedicated crossover to allow vehicles to gain access to the reserve.

It is a reserve which is used minimally, generally for out of season soccer training and it is proposed to be utilised by one (1) soccer team during the 2010 winter soccer season.

Birdwood Square was previously suggested as an overflow parking venue but because of a soil-borne fungal infection affecting many of the London Plane trees and complaints from local residents, its use for this purpose was previously refused by the Council.

Use of Birdwood Square for temporary overflow parking is therefore **not supported**.

#### Weld Square

Weld Square bounded by Parry, Pier, Newcastle and Beaufort Streets is a passive park used mainly in the evenings and at weekends and in close proximity to ME Bank Stadium. It has a number of large trees on the northern section of the reserve; however the southern section is a grassed area clear of obstructions and hazards. It is considered that around 120 vehicles could be accommodated on this reserve.

The only current entry crossover into Weld Square is off Parry Street and it is not recommended that vehicles be permitted to drive through the many mature trees to the southern side, which would be suitable for parking in the shorter term.

It should be noted that Weld Square is currently the subject of an upgrade proposal by the Town and should the landscape proposal be progressed it will not allow parking over the longer term.

Use of Weld Square for temporary overflow parking is therefore **not supported**.

#### Forrest Park

On a number of previous occasions the Council has approved the use of Forrest Park by patrons of events at ME Bank Stadium. Forrest Park is an extremely large reserve, where up to 700 - 750 vehicles can be accommodated. The Park has adequate illumination and crossovers already in place.

The use of Forrest Park is recommended subject to the following conditions:

1. parking fees being charged (as per use of Loton Park) as follows:
  - Vehicle with 1 person = \$20
  - Vehicle with 2 persons = \$19
  - Vehicle with 3 persons = \$17
  - Vehicle with 4 persons = \$16
  - Vehicle with more than 4 persons = \$15;
2. appropriate advertising (print media, radio and game booklet) being carried out by Rugby WA to the satisfaction of the Town;

3. shuttle bus service to be provided from Forrest Park to the Stadium and return for 2 hours before the start of the game and 1 hour after the conclusion of the game;
4. the Town being responsible for supervision of all parking; and
5. the Chief Executive Officer to withdraw approval for use of the Park at his discretion if, damage to the park is caused or significant non-compliance of conditions occurs.

The matter will be reviewed at the conclusion of the 2010 Super 14 Fixture Season in mid 2010.

**CONSULTATION/ADVERTISING:**

Rugby WA will be required to advertise this matter to the satisfaction of the Town (print media, radio and game booklet).

**LEGAL/POLICY:**

Nil relating to Forrest Park.

Rugby WA will use ME Bank Stadium for a period of 3 years with an option of 3 years in accordance with their Deed of Licence (approved at OMC 22 September 2009).

**STRATEGIC IMPLICATIONS:**

The above is in keeping with the Town's Strategic Plan 2009 - 2014, at:

Part 2.1.4(b) - *"Implement the Town's Car Parking Strategy"*.

Part 3.1.3(a) - *"Determine the requirements of the community and ensure that the services provided meet those needs"*.

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Increased revenue of approximately \$10,000 to \$12,000 per game (based on 750 cars at a cost of \$16).

Employee and other costs (e.g. electricity, signage etc.) will be approximately per game \$1,000.

Therefore 5 games will result in an additional \$50,000 to \$60,000 to the Town.

The Town will control parking on these reserves and the levy will be identical to that currently charged on Loton Park. As a result, the revenue generated would more than cover any costs for minor repair works to Forrest Park that may be necessary.

**COMMENTS:**

The use of ME Bank Stadium for Rugby Super 14 events is considered most appropriate for this rectangular stadium and is in keeping with the Council's previous position concerning this sports facility. The event is telecast nationally and internationally.

The relationship between the Town of Vincent and Rugby WA is most positive and the Council's approval of the use of Forrest Park for temporary overflow parking is recommended for the reasons outlined above.

**9.2.1 Possible Future Traffic Flow Alterations, William Street, Brisbane Street to Newcastle Street, and Other Adjoining Higher Order Roads Within the Town – Temporary Closure of the Horseshoe Bridge - Progress Report No. 3**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Beaufort P13	<b>File Ref:</b>	TES0473
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	C Wilson, Manager Asset & Design Services		
<b>Responsible Officer:</b>	R Lotznicker, Director Technical Services		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES progress report No 3 on possible traffic flow alterations in William Street, Brisbane Street to Newcastle Street, and other adjoining higher order roads within the Town; and*
- (ii) *ACKNOWLEDGES that the works are required and were scheduled to commence at the end of November 2009; and*
- (iii) *WRITES to Main Roads WA and the City of Perth expressing disappointment that the Horseshoe Bridge is to be closed in the pre Christmas period, and that the Town has concerns about the adverse impact of traffic on those roads north of Newcastle Street under the care, control and management of the Town.*

**Moved Cr Topelberg, Seconded Cr Lake**

*That the recommendation be adopted.*

Debate ensued.

**AMENDMENT NO 1**

**Moved Cr Lake, Seconded Cr McGrath**

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

**“(iv) INVITES representatives from the City of Perth to the Council Forum of 23 February 2010, to provide an update of the City’s proposed two way street proposals, in particular for William Street and Beaufort Street.”**

Debate ensued.

**AMENDMENT NO 1 PUT AND CARRIED (9-0)**

Debate ensued.

**AMENDMENT NO 2**

**Moved Cr Maier, Seconded Cr Buckels**

*That clause (iii) be deleted.*

Debate ensued.

**AMENDMENT NO 2 PUT AND CARRIED (9-0)**

**MOTION AS AMENDED PUT AND CARRIED (9-0)**

**COUNCIL DECISION ITEM 9.2.1**

*That the Council;*

- (i) *RECEIVES progress report No 3 on possible traffic flow alterations in William Street, Brisbane Street to Newcastle Street, and other adjoining higher order roads within the Town; and*
- (ii) *ACKNOWLEDGES that the works are required and were scheduled to commence at the end of November 2009; and*
- (iii) *INVITES representatives from the City of Perth to the Council Forum of 23 February 2010, to provide an update of the City's proposed two way street proposals, in particular for William Street and Beaufort Street.*

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**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council of the potential implications of the closure of the Horseshoe Bridge upon the Town's road network and roads in the immediate vicinity of Northbridge.

**BACKGROUND:**

As previously reported to Council, the William Street streetscape between Brisbane and Newcastle Streets, was significantly upgraded by the Town in 2006/2007, including the reduction of the carriageway from a four (4) lane one-way road to a two (2) lane road with permanent embayed parking.

Council is also aware of the City of Perth's proposal to convert William Street, between Roe and Newcastle Streets, from one-way to two-way traffic to complement the works undertaken in William Street in 2008/09 south of Wellington Street.

On 2 December 2008, the Council considered a report on an overview of the implications of modifying the traffic flow on William Street, Brisbane to Newcastle Streets, and other important roads in the immediate vicinity where the following decision, in part, was made:

- "(iii) AUTHORISES the Chief Executive Officer to enter into dialog with the City of Perth and other relevant parties (if required) as soon as possible to ensure that the requirements as outlined in clauses (ii) (c) and (ii) (i) above are progressed and that a unified approach is undertaken in progressing the City of Perth's proposal to ensure there is no adverse impact on any roads under the care control and management of the Town; and*
- (iv) *RECIEVES further progress reports on this matter as additional information becomes available."*

**DETAILS:**

The City of Perth is well advanced in its planning to convert William Street, between Newcastle to Roe Streets, from one-way southbound to two-way traffic in 2010.

Integral to the proposal is the refurbishment of the Horseshoe Bridge, spanning the railway lines between Wellington and Roe Streets.

It is acknowledged by both Main Roads WA (MRWA) and the City of Perth that the bridge is in a state of disrepair and in need of extensive remedial works. However, while the City of Perth is the instigator of the William Street changes, MRWA is the asset owner of the Horseshoe Bridge.

The City of Perth has for some time been requesting that MRWA refurbish the bridge as part of the wider scheme to convert many of the roads in the Central Business District (CBD) to two-way traffic. The City's idea is to change the balance of the use of the central streets away from high speed, high volume through traffic routes competing with pedestrians, to pedestrian friendly thoroughfares with low speed local traffic.

MRWA has recently advised the Town that it has secured funding for the upgrade of the bridge and that their contractor will be commencing work as of 30 November 2009, requiring a closure of the bridge to all modes of traffic (pedestrians, cyclists and vehicles) other than for peak hour buses.

The bridge will remain closed until April 2010, and when reopened, it will become two-way. Further, the bridge will carry only a single lane in either direction to allow for wider footpaths and bicycle lanes.

In recognition that the bridge closure will severely restrict the north/south traffic circulation and access to the CBD, MRWA intend to open a second south bound lane on the Barrack Street Bridge. Currently there are three (3) lanes north bound, leading into Beaufort Street, and one-way south bound. This will require changes to the signals and lane markings in both Roe and Wellington Streets as well as on the bridge itself.

The City of Perth has is actively pursuing a strategy of converting the majority of the remaining one-way streets in the Perth Central Business District to one-way traffic over the next 5 years. The conversion of William Street is the first stage of the project. The section between the river and Wellington Street was completed in 2008/09 and it is the City's intention to have the section from Wellington Street to Newcastle Street completed by April 2010, including the Horseshoe Bridge.

As the Horseshoe Bridge comes under the care and control of Main Roads WA they are responsible for works.

Further there is another imperative in that the water proofing on the bridge decking has broken down and the commercial tenancy's and offices under the bridge are subject minor flooding and rising damp issues each winter.

Therefore in light of the above Main Roads have scheduled the works over the coming summer period commencing 30 November 2009 and to this ends have already let the contract.

However they acknowledge that as a result of the recent of the criticism of the road closures for the World Triathlon Series and the Great Bike Ride that there will be a concerted effort to widely advertise the bridges closure.

### **Implications for the Town**

Essentially it means that all of the traffic heading into the CBD via Fitzgerald, William and Beaufort Streets will now be restricted to two entry points to the CBD, either the West Perth Subway at Sutherland Street or the Barrack Street Bridge. In the case of Beaufort Street traffic there is no direct route so it will be either via Brisbane Street, William Street and Roe Street doubling back to the Barrack Street Bridge or via Bulwer, Stirling and Roe Streets to the bridge, thereby potentially significantly increasing the volume of traffic using Stirling Street.

The Sunday Times of 22 November 2009 quotes MRWA as advising that "*diversions would be in place and warned motorists to expect gridlock – especially at peak times and weekends.*"

Ironically, while the Horseshow Bridge will be closed for four (4) months, the recently constructed bus only bridge spanning Fitzgerald Street and the railway lines at the Mitchell Freeway overpass also remain closed as the link roads are yet to be constructed. If it had been operational, it could have expected to alleviate some of the anticipated congestion.

**CONSULTATION/ADVERTISING:**

Main Roads WA will be responsible for this.

**LEGAL/POLICY:**

Fitzgerald, William and Beaufort Streets, to Newcastle Street, are District Distributor A roads under the care, control and management of the Town of Vincent.

**STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: 1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. "(i) *implement the William Street Upgrade (Brisbane Street to Newcastle Street).*"

**SUSTAINABILITY IMPLICATIONS:**

N/A.

**FINANCIAL/BUDGET IMPLICATIONS:**

Not applicable at this stage.

**COMMENTS:**

It is acknowledged by the relevant authorities, MRWA, the City of Perth and the East Perth Redevelopment Authority (as the bridge is within the Northbridge Link Project area) that the historic Horseshoe Bridge is in need of significant work in both a structural and aesthetic sense. Further, the City of Perth is pushing ahead with its William Street two-way traffic proposal and therefore the ideal time to undertake the bridge refurbishment work is before the two-way conversion is implemented in April 2010.

However, while the City has provided an undertaking to consult with the Town prior to William Street being converted to two-way traffic to Newcastle Street, there has been little consultation in respect of the closure of the Horseshoe Bridge. While the bridge is within the City of Perth, the closure will have a significant and immediate impact upon traffic in the Town.

While the Town's officers accept that the bridge is in need of refurbishment, the timing on the work commencing just before Christmas is questionable, due to the adverse impact it will cause to motorists and the Town of Vincent community.

The bridge is to be closed during one of the busiest periods of the year, the pre and post Christmas sales. Given that this project has been mooted for some considerable time would another month's delay have been an issue? Further, by delaying the start of works to January 2010, the traditional summer holiday period, it would have allowed for a transition period as traffic gradually built up over the month to the resumption of the school year at the beginning of February.

**9.3.2 Report on the Investigation of Hyde Park Tea Rooms – Progress Report No. 1**

<b>Ward:</b>	South	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	Hyde Park (12)	<b>File Ref:</b>	RES0042
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a>		
<b>Reporting Officer:</b>	Various		
<b>Responsible Officer:</b>	M Rootsey, Director Corporate Services		

**OFFICER RECOMMENDATION:**

*That the Council:*

- (i) *RECEIVES the progress report No. 1, as at 24 November 2009 concerning the investigation of the possibility of providing a “Tea Room” at Hyde Park, Perth;*
- (ii) *AUTHORISES the Chief Executive Officer to further investigate the proposal for a:*
  - (a) *permanent Tea Room at Hyde Park, Perth; and*
  - (b) *temporary portable/mobile food facility at Hyde Park Perth, on a trial basis; and*
- (iii) *NOTES that if the proposal in clause (ii) above is supported by the Council, a further report on the proposed Tea Rooms at Hyde Park will be submitted to the Council in March 2010.*

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**COUNCIL DECISION ITEM 9.3.2**

**Moved Cr Topelberg, Seconded Cr Farrell**

*That the recommendation be adopted.*

**Debate ensued.**

**MOTION PUT AND CARRIED (9-0)**

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**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council on the progress concerning the investigations carried out for the possibility of providing a “Tea Room” at Hyde Park, Perth.

**BACKGROUND:**

At the Ordinary Meeting of Council, held on 22 September 2009, a Notice of Motion was adopted regarding the investigation into the possibility of providing a “Tea Room” at Hyde Park. The Motion was adopted as follows:

- “(i) *the Council REQUESTS the Chief Executive Officer to investigate the possibility of providing a “Tea Room” at Hyde Park, Perth;*

- (ii) *a report be prepared and submitted to the Council in November 2009, and include (but not be limited to) the following information;*
- (a) *identification of a suitable location(s);*
  - (b) *planning and heritage requirements;*
  - (c) *operational and logistical matters (e.g. hours of operation, types of foods/produce to be sold, etc);*
  - (d) *preferred method for operators (e.g. private use, public operator);*
  - (e) *lease and legal requirements;*
  - (f) *community interest and public opinion;*
  - (g) *any potential impact on existing businesses providing a similar service in the area; and*
  - (h) *any other relevant matters.”*

#### **DETAILS:**

##### **Identification of a suitable location(s):**

Three (3) potential areas (see attached plan) have been identified by staff for the location of a Tea room within Hyde Park and are outlined as follows:

- **Option 1 - Throssel Street (Western end of Hyde Park)**

An existing building is located adjacent to the Throssel Street playground and consists of male/female toilets and storage shed. Large shady trees and views of the lake provide the most suitable and practicable location for a small tearoom.

##### **Officers Comments**

This is the officers preferred location if a tearoom is to be seriously considered for Hyde Park. The existing storage shed could be modified into a kitchen/servery without any additions to the actual building structure and the appropriate facilities provided. Waste, water and electrical services are already on site and it is considered by staff that the tea room/seating area could be included in this location without being too intrusive.

In addition, this area of the park with proposed universal playground upgrade, exiting water playground, BBQ's, picnic tables and toilet facilities is where the majority of patrons tend to congregate, particularly during the busy summer months.

- **Option 2 - William Street (Eastern end of Hyde Park)**

An existing building is also located at this end of Hyde Park and consists of male/female toilets and staff works compound. Large shady trees and a reasonably level area provide an alternative location for a tea room within Hyde Park.

##### **Officers Comments**

Again this location has all the required waste, water and electrical services required, although a kitchen/servery would actually have to be added to the existing structure. This may possibly be an issue with the Heritage Council of WA as previous proposed additions to this structure (accessible toilet) were not supported.

Whilst patrons regular wander throughout and around the pathways located within Hyde Park, unless a specific event is being held at the stage area it is unlikely that this location will attract the patronage that the Throssel Street option would.

- Option 3 - Causeway (between the Eastern and Western Lakes)

Whilst there has been previous thoughts of a tearoom located within the actual lake area of Hyde Park it is not considered appropriate with the current and future potential issues surrounding the lakes. Alternatively with the proposal to decrease the actual size of the lakes there is an opportunity to construct a tearoom on the causeway between both lakes at either the north- eastern corner or the south western corner.

#### Officers Comments

This location is the least preferred by officers and most likely the most difficult given that a new/additional facility will have to be constructed within the park and all services provided to the site.

Should temporary food premises (i.e. food vans) be considered an appropriate interim solution, temporary locations and relevant approval conditions could be determined by the Council and specified on the 'Special Events Permit' approval issued by Health Services.

#### **Temporary Portable/mobile service**

Consideration should be given to the use of a mobile or portable service on a trial basis, at Hyde Park.

This would provide a service to the users of the park while the arrangements for a more permanent facility are being installed or constructed and also gauge the usage trends of such a service. It will also allow for the "testing" of various locations.

The Town would be able to charge a hire charge for the use of the park. Any monies received would be placed in the reserve fund for the lakes. Accordingly, it is recommended that the Chief Executive Officer be authorised to further investigate this option.

#### **Planning and Heritage requirements:**

Hyde Park is included on the Heritage Council of Western Australia's Register of Heritage Places. The place has significant scientific and historic importance as a remnant of the former chain of wetlands that extended north of Perth and is valued as an important source of aesthetic and recreational enjoyment for the community. In accordance with the Heritage of Western Australia Act 1990, any proposed alteration or development, including the provision of a tea room to Hyde Park would require to be referred to and approved by the Heritage Council of Western Australia.

In the consideration of the proposed tea rooms the requirements and recommendations of the Hyde Park Conservation Plan, which was prepared by Kelsall Binet Architects in 2003, should be acknowledge and addressed. The Policy 74 of the Conservation Plan states that the *'preferred uses for Hyde Park are those that maintain its traditional uses as a place for passive public recreation and relaxation'* and that for this reason *'it will not be possible for a building to be erected in the park for a café, sporting club or any other private business'*.

In light of this provision of the Conservation Plan, preliminary advice was sought from the Heritage Council on the concept of a tea room at Hyde Park. In an email received on 19 October 2009, the Heritage Council's Officers advised that they *'are generally supportive of a tea room if it is done in such a manner with refined detailing and low visual impact. Location would be an important matter obviously.'* It was further advised in light of the deviation from the Conservation Plan the matter would need to be considered and approved by the Heritage Council's Development Committee.

The following policies of the Conservation Plan should inform the design of the proposed tea room facility:

- Policy 18     New work, such as the construction of new buildings or structures within the park, may be acceptable where they do not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation. New work should be readily identifiable.
- Policy 28     There should be no new works in open space areas which will adversely affect the nature of the landscape or obscure important views to and from the site.
- Policy 44     The proportion of hard to soft landscaping is not to be increased beyond current levels. No new paths or paved areas without historical precedent are to be established.
- Policy 45     Where essential new structures or buildings need to be constructed in the park they should be limited in size and scale and when possible they should be of a lightweight construction that could easily be removed when required with the least damage to significant fabric.

In addition to the above, Hyde Park is a Parks and Recreation Reserve under the Metropolitan Region Scheme. Therefore any development would require to be submitted as a planning application, that would be determined by the Western Australian Planning Commission.

**Operational and logistical matters (e.g. hours of operation, types of foods/produce to be sold, etc.):**

It is recommended that the community survey responses are considered in relation to proposed operating hours for a tea room facility, however the following limitations should also be considered, for the benefit of the community:

- noise levels emitted from the tea room should be at a minimum between the hours of 7pm and 7am;
- deliveries should occur only whilst the tea room is open for trade, to minimise the potential of tampering/spoilage of unattended products and noise associated with early morning/late evening deliveries.

A 'tea room' operates as a low – medium risk food business, predominantly preparing and serving tea, coffee and similar beverages; and food which does not require cooking on the premises. It is considered that a 'tea room' is appropriate for the location due to the following reasons:

- kitchen fit out requirements are considerably less expensive and arduous than a premises undertaking food preparation;
- no grease trap would be required (i.e. avoid ongoing costs and regular servicing required);
- minimal wet (food) waste produced (i.e. majority would be packaging), less problems with odour complaints and potential scavenging by animals/rodents; and
- smaller number of deliveries and less storage space required.

It is recommended that the majority of seating be provided external to the tea room facility, and that permanent seating be considered. This seating could then be used outside of the hours of operation by other park users, and is likely to be more complimentary to, and interactive with the park.

**Preferred method for operators (e.g. private use, public operator):**

Given that this is a new operation with an untested market there is considerable financial risk associated with this venture of this nature and it would therefore prudent that the Town does not invest ratepayer funds into this business. The operation of a Tea Room is not considered to be core business for a local government.

As a result it considered more appropriate that this business be operated by a private operator rather than a public operator (i.e. the Town of Vincent).

Private interest has already been shown in this matter following the release of this proposal in the media.

If approval was given to proceed with this project, an expression of interest in the operations of the tea rooms would be sought in accordance with the Local Government Act 1995 Section.

**Lease and legal requirements:**

The lease period will be a minimum five (5) year period to attract the necessary private investment with the possible option of a further five years.

The annual lease payment would be at commercial rates and the funds received will be retained in the Hyde Park Lake Reserve Fund to assist with any future capital improvements of the lakes.

The operator of the tea room would be required to complete a 'Food Business Notification' form, and pay an annual Food Premises assessment fee to the Town. The Town's Environmental Health Officers are required to undertake regular unannounced inspections based on the risk classification applied to the food premises (i.e. high/medium/low).

As the tea room will be associated with the Town, whether privately operated or not, the lease agreement should specify requirements in terms of the method of operation acceptable to the Council. As such, the following should be considered as a minimum:

- provision of food that complies with **Healthy +** principles (healthy eating program sponsored by Healthway grant, currently in pilot stage); and
- operators be required to undertake the Town's online food safety training programme (nationally accredited, in conjunction with Challenger TAFE), or demonstrate equivalent or higher qualifications received within the past two years.

**Community interest and opinion:**

Community consultation was undertaken through a prepared questionnaire that was advertised in the local newspapers and made available on the Town's website. The questionnaire was also distributed to residents around Hyde Park who lived in the following streets;

- Chatsworth Road;
- Fitzgerald Street;
- Glendower Street;
- Harley Street;
- Lake Street;
- Lincoln Street;
- Mary Street;
- Palmerston Street;
- Primrose Street;
- Throssell Street;
- Vincent Street; and
- William Street.

An officer interviewed park users at Hyde Park on three different times and days, collecting a total of 59 surveys.

The total number of surveys received at the closing date of 30 October 2009 was 157.

The response to the survey questions are as follows;

1. *How often do you use Hyde Park?*

120 (76.43%) respondents stated that they use the park weekly.

2. *Do you currently bring your own pre-purchased food/drink when you come to Hyde Park?*

Yes 96 (61.15%) No 58 (36.94%)

3. *Would you support a "Tea Room" facility at Hyde Park?*

Yes 115 (73.25%) No 39 (24.84%)

4. *If a "Tea Room" was available in Hyde Park, would you use it for the following reasons?*

Purchase drinks/beverages	Yes	113 (71.97%)	No	25 (15.92%)
Purchase food	Yes	96 (61.15%)	No	40 (25.48%)
Breakfast	Yes	79 (50.32%)	No	57 (36.31%)
Morning/Afternoon tea	Yes	93 (59.24%)	No	41 (26.11%)
Lunch	Yes	76 (48.41%)	No	55 (35%)
Business meetings	Yes	27 (17.2%)	No	86 (54.78%)
As a meeting place to get together with friends/family socially	Yes	107 (68.15%)	No	34 (21.66%)

5. *During which months would you most likely use the "Tea Room" if available?*

January	99
February	96
March	99
April	95
May	81
June	67
July	64
August	68
September	91
October	105
November	105
December	100

6. *What sorts of items would you like to see available for purchase if there was a "Tea Room" in Hyde Park?*

The sort of items that respondents preferred to be available for purchase at the Tea Rooms were coffee, tea, drinks, juice, cakes, ice-cream, sandwiches, rolls, salads, scones, cakes, breakfast items, cafe style food, light lunches, pastries and healthy meals for children.

The majority of responses stressed the importance of good quality food and not having any fast food.

7. *Do you have any comments or suggestions in considering a "Tea Room" for Hyde Park e.g. location, operating hours?*

Respondents were also asked if they have comments or suggestions in terms of location, operating hours or anything else in general.

The majority of comments favoured the BBQ area and the playground, some citing views of the lakes and proximity of the toilets.

Most respondents only wanted the facility to be open during the day and felt that such a building should be as unobtrusive as possible and designed to blend in with existing facilities.

The respondents who were opposed to the Tea Rooms expressed concerns with regards to possible increase in littering, parking difficulties, anti-social behaviour and the negative impact on the park affecting its tranquillity and unique parkland qualities.

8. *Do you live close to Hyde Park (within 500 metres)?*

Yes 96 (61.15%) No 56 (35.67%)

9. *If yes to Q8, please name the street that you live in*

- Brisbane Terrace
- Bulwer Street
- Chelmsford Road
- Daphne Street
- Federation Street
- Glendower Street
- Harley Street
- Hyde Street
- Lincoln Street
- Lord Street
- Palmerston Street
- Robinson Avenue
- Throssell Street
- Walcott Street
- Broome Street
- Chatsworth Road
- Claverton Street
- Wasley Street
- Fitzgerald Street
- Grosvenor Road
- Harold Street
- Lake Street
- Loftus Street
- Mary Street
- Primrose Street
- St. Albans Avenue
- Vincent Street
- William Street

10. *Which suburb do you live in?*

- Perth (25%)
- Highgate (17%)
- Northbridge (2.5%)
- Mt Hawthorn (1.9%)
- Tuart Hill (1.3%)
- Inglewood (1.3%)
- West Perth
- Floreat
- Greenwood
- Alexandra Heights
- Scarborough
- Belmont
- Wanneroo
- Mirrabooka
- Lathlain
- Balga
- Mt Lawley (18%)
- North Perth (10%)
- Morley (1.9%)
- Leederville (1.3%)
- Gidgegannup (1.3%)
- Osborne Park (1.3%)
- East Perth
- Hocking
- Bibra Lake
- Bentley
- Merriwa
- City Beach
- Yokine
- Dianella
- Stirling
- Marangaroo

11. Please indicate which age bracket you are in by ticking one of the boxes below;

Under 12 years	1 (0.64%)
12-18 years	1 (0.64%)
18- 25 years	9 (5.73%)
26-40 years	45 (28.66%)
41-55 years	57 (36.31%)
56 years & above	41 (26.11%)

12. Gender

Male	69 (43.95%)	Female	83 (52.87%)
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In addition to the questionnaire the Town received correspondence on the issue as outlined below:

**Peter and Liz McKenzie 15 Throssell Street**

*Object to the proposal for the following reasons:*

- (1) There are around 50 dining/drinking establishments within walking distance;*
- (2) In Claremont, "Club Bayview", was originally approved as, "an after hours mature age piano bar." Ask the local business residents what they think of this facility and how it has affected them;*
- (3) If these facilities are successful – they get bigger. A small one is the, "thin edge of a wedge";*
- (4) There is no parking left on a nice day as it is;*
- (5) To install something in the park – you have to take a bit of what's already there, away. It is not a big park;*
- (6) The park is surrounded by residents – is it fair to them? We are two of them;*
- (7) The best part of the Park is the quiet grassed and garden areas. Not the paved barbecue, playground, toilet block area;*
- (8) Fix the lakes and change the location of the Throssell Street oversized toilet block if the council wants to improve the park. Maybe get the lake fountains working again;*
- (9) Cafes need parking, bin areas, service ways, hard stand areas etc. They add to litter, food odours, noise, crowding etc.*

**John Viska of 148 Chelmsford Road emailed:**

*As a member of the original Hyde Park Patrons and one of the consultants of the Hyde Park Conservation Plan commissioned by the Town of Vincent I am deeply concerned about the recent discussion on the provision of a tea Room facility in the park.*

*This concept was rejected soundly on both occasions when community consultation was sought on the same topic in preparation of two former reports.*

*Historically there has never been a tea room/kiosk in the park, with the City of Perth setting a precedent in the early years of the park by rejecting attempts to set up commercial activities. Why does the council need to provide a duplication of a service that already exists in the small cafes that operate within 500 metres of the park's boundary?*

*As Hyde Park is listed on the State Heritage Register has the Heritage Council been informed of the Town's intention?*

*Vandalism, theft, advertising, rubbish and rubbish disposal as well as the inevitable expansion of the tea rooms into a larger eating premises will be the long term outcomes if the council gives its approval.*

*These will detract from the original purpose of the park, which has for over a century been able to provide park patrons with a unique parkland that has survived relatively intact as well as fulfilling its function of passive recreation without commercial ventures.*

Note the Town has no record of the two former reports referred to in this correspondence. However, it does have reference to a meeting of the Hyde Park Patrons in 1991 when the matter was raised and due to “community objections” the matter was not pursued.

**Any potential impact on existing businesses providing a similar service in the area:**

The following existing local food businesses provide a similar variety of food to that likely to be available in a proposed tea room on Hyde Park:

- Amore Patisserie – 318-330 Bulwer Street, Perth
- Pearl of Highgate – 189 Lincoln Street, Highgate
- Hyde Park Deli – 498 William Street, Highgate
- Le Papillon – 274 Bulwer Street, Perth

**Any other relevant matters:**

It is proposed that the Town of Vincent will construct and own the building for the ‘Tea Rooms’.

No estimate of construction costs have been undertaken until such time that a concept design proposed for the building has been established.

The proposed redevelopment of the Hyde Park Lakes will have a major impact on the amenity of the park during the actual dredging and construction works. Therefore, use of the park during this period may be restricted around the Lakes and adjoining surrounds.

**CONSULTATION/ADVERTISING:**

The questionnaire on the provision of ‘Tea Rooms’ at Hyde Park was advertised in The Guardian Express newspaper on 20 October 2009.

The questionnaire was also distributed to residents of the streets surrounding Hyde Park as detailed in the report.

In-person interviews were also held with park users on three separate days, at differing times.

**LEGAL/POLICY:**

- Food Act 2008 and Food Regulations 2009
- Environmental Protection (Noise) Regulations 1997
- Local Government Act (1995) Tender Regulations.

**STRATEGIC IMPLICATIONS:**

Plan for the Future Strategic Plan 2009–2014, Key Result Area One – Natural and Built Environment: “1.1.1 *Improve and Maintain the Environment and Infrastructure.*”

Key Result Area Two–Eco Economic Development: “2.1.1 *Promote the Town of Vincent as a place for investment appropriate to the vision for the Town.*”

**SUSTAINABILITY IMPLICATION:**

The building will take cognisance of its environmental surrounds and will be low impact.

The project will have to be economically sustainable to be retained as the Tea Rooms.

**FINANCIAL/BUDGET IMPLICATIONS:**

Ad the Notice of Motion was received after the adoption of the Budget, no funds have been listed for this project in the 2009/10 Annual Budget.

If approved by the Council the project would be required to be listed for funding consideration in the Draft 2010/11 Budget.

**COMMENTS:**

The Community consultation has confirmed a significant support for the Tea Room concept, providing it blends in with the Park’s environment and is tastefully constructed.

The Heritage Council is also supportive of the Tea Room, if it is done with refined detailing and a low visual impact. Their support for this concept is crucial to the project going forward.

It is important to note that the Western Australian Planning Commission is the determining Planning body as Hyde Park is a Parks and Recreation reserve under the Metropolitan Region Scheme.

The initial community support and the fact that there appears to be no regulatory restriction to this concept suggests that the project is worth further investigating to the next stage.

If the Council supports the concept, a further report will be submitted to the Council in March 2010 detailing:

- a preferred site;
- building concept and indicative costs; and
- indicative timeline.

There are no funds listed in the Budget 2009/10, therefore funds would need to be provided if the Council approves of the Officer Recommendation.

**9.4.2 Delegated Authority – 2009-2010 Council Recess Period**

<b>Ward:</b>	-	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0018
<b>Attachments:</b>	-		
<b>Reporting Officer:</b>	A Radici, Executive Assistant		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That pursuant to Section 5.42 of the Local Government Act 1995, the Council APPROVES BY AN ABSOLUTE MAJORITY, delegated authority to the Chief Executive Officer to deal with any items of business (other than those requiring an Absolute Majority) that may arise from 16 December 2009 to 8 February 2010, subject to:*

- (i) the action taken being in accordance with the Officer's recommendation;*
- (ii) the Chief Executive Officer being authorised to make minor amendments to the Officer Recommendation which may be necessary, as a result of responses received from Council Members;*
- (iii) reports being issued to all available Council Members for a period of three (3) days prior to approval and a simple majority of the responses received be accepted;*
- (iv) items being displayed in the Town of Vincent Administration Centre, the Library and on the Town's website for a period of three (3) days prior to approval;*
- (v) a report summarising the items of business dealt with under delegated authority being submitted for information to the Council at its meeting to be held in February 2010; and*
- (vi) a delegation register of items being kept and made available for public inspection during the period that the delegation applies.*

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**COUNCIL DECISION ITEM 9.4.2**

**Moved Cr Farrell, Seconded Cr Buckels**

*That the recommendation be adopted.*

**Debate ensued.**

**MOTION PUT AND CARRIED**  
**BY AN ABSOLUTE MAJORITY (9-0)**

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**PURPOSE OF REPORT:**

To obtain the Council's approval for Delegated Authority to deal with matters during the Council recess period 2009-2010.

**BACKGROUND:**

The Council will be in recess from 16 December 2009 to 8 February 2010. Therefore, it will be necessary to make arrangements to enable items of business that may arise during that period to be dealt with. This procedure has operated satisfactorily in previous years and is identical to that which operated during the 2008-2009 recess period.

**CONSULTATION/ADVERTISING:**

Whilst there is no statutory requirement to do so, items being processed under delegated authority will be advertised for a period of three (3) days.

**LEGAL/POLICY:**

The Local Government Act 1995 states:

*“Delegation of some powers and duties to CEO  
5.42(1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act (other than those referred to in section 5.43 and this power of delegation).”*

Matters requiring an Absolute Majority decision of the Council cannot be approved under Delegated Authority.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town’s Strategic Plan 2009-2014 - Objective 4 – *“Leadership, Governance & Management and 4.1.2 – Manage the organisation in a responsible, efficient and accountable manner”*.

**SUSTAINABILITY IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The Council is in recess from 16 December 2009 until 8 February 2010. A Council resolution is required to approve of matters which may arise under delegated authority (other than those matters which require an Absolute Majority decision).

In keeping with the Council’s philosophy of providing a high standard of customer service, it is appropriate to continue processing ratepayer requests and development applications. Where possible, these should be determined as soon as practicable, in order to minimise any delays or inconvenience.

In keeping with the Town’s previous practice, reports will be issued to all available Council Members for a period of three (3) days, (usually on a Thursday evening). The reports will be placed on the Town’s webpage on the Friday (usually by midday). Responses from Council Members are required to be received by the Chief Executive Officer by midday on the Monday (following issue). The item will be processed if a simple majority of the written responses received is achieved. The procedure is identical to that which was approved for the 2009-2009.

It is therefore recommended that the Council approve of the arrangements to be made to deal with items of business that may arise during the 2009-2010 recess period.

**9.4.3 Urgent Works: Administration & Civic Centre - Installation of Hearing Loop and Associated Works/Repairs and Department of Sport and Recreation Building - Replacement of Air Conditioning Control Panel**

<b>Ward:</b>	-	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	CVC0011/PRO1226/ RES0071
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	K Steicke, Property Maintenance Officer John Giorgi, Chief Executive Officer		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That the Council APPROVES BY AN ABSOLUTE MAJORITY to fund the following urgent works;*

- (i) *Administration & Civic Centre:*
  - (a) *installation of a Hearing Loop in the Town of Vincent Administration & Civic Centre Function Room, at an estimated cost of \$4,693;*
  - (b) *replacement of the Hearing Loop in the Public Gallery of the Council Chamber at an estimated cost of \$2,683;*
  - (c) *repairs to the Public Address System in the Function Room at an estimated cost of \$418; and*
  - (d) *repairs and upgrade of Receptionist's Counter Security System at an estimated cost of \$985;*

*totalling \$8,779 (including GST) from the Building Maintenance Emergency Fund to carry out the following; and*
- (ii) *Department of Sport and Recreation (DSR) Building - replacement of air conditioning control panel at a cost of \$14,600 to be funded from the DSR Office Building Reserve Fund.*

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**COUNCIL DECISION ITEM 9.4.3**

**Moved Cr Farrell, Seconded Cr Topelberg**

*That the recommendation be adopted.*

**MOTION PUT AND CARRIED**  
**BY AN ABSOLUTE MAJORITY (9-0)**

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**PURPOSE OF REPORT:**

The purpose of the report is to seek the Council's approval to install a Hearing Loop in the Town of Vincent Administration and Civic Centre's Function Area, replacement of the Hearing Loop in the Public Gallery of the Council chamber and repair the Public Address System in the Function Room and replacement of the air conditioning control panel in the DSR office building.

## **BACKGROUND:**

### **Town of Vincent Administration & Civic Centre**

The Town's Administration & Civic Centre Function Room is regularly used for numerous functions and events, including community and "not-for-profit" organisations, e.g. Annual General Meetings (AGMs).

Recently, People with Disabilities (WA) Inc held their Annual General Meeting 2009 at the Administration & Civic Centre. This organisation has been holding their AGM at the Town for at least the past five years. Recently, the Town received a letter from People with Disabilities (WA) Inc, thanking the Town for the use of the room and recommending that a Hearing Loop be installed in the Function Room. They advised that a Hearing Loop is used by many organisations and would obviate the need for each to bring in their own portable Hearing Loop (which currently occurs).

When the Administration & Civic Centre was constructed in 1995, a Hearing Loop was installed in the Public Gallery of the Council Chamber. This has been recently tested and found to be performing unsatisfactorily, due to a high level of background noise. Due to the age of the unit, repairs are not possible and a new replacement unit is required. Also the Public Address System in the Function Room Microphone requires to be replaced.

### Reception Counter Security System

The annual audit of the Town's Administration & Civic Centre has revealed that the Reception Counter's Security System ("Panic Buttons") are required to be upgraded to meet the current WA Police standard. The Town's Security Consultant has estimated this upgrade work to cost \$985.

### **DSR Office Building**

On 25 October 2009, a fault occurred with the Western Power (Richmond Street sub-station) electrical supply, resulting in a "spike" which affected most of Leederville. Following this "spike", the Town's air conditioning consultants inspected the DSR building and have reported that it allegedly destroyed the computerised control panel on the air conditioning unit. They attributed this to the electrical "spike" and recommended that an insurance claim be lodged with Western Power, as the unit was completely destroyed and was required to be replaced from a supplier based in the Eastern States at a cost of \$14,600. As only one unit was available in Australia, the Chief Executive Officer authorised the ordering of this part - otherwise a unit would not be available unless sourced from overseas, which could take approximately 2-3 months.

As required by the Lease, the Town is responsible for the building repairs of this nature and the unit was replaced. An insurance claim has been submitted to Western Power and the Town is awaiting the outcome of this claim. However, as the claim will take some time to determine and with the summer season well upon us, the Town was required to carry out the essential works in accordance with the Lease.

Funds were expended from the DSR Office Building Reserve Fund and will be replaced if the insurance claim is successful.

As these works were unforeseen, an absolute majority decision of the Council will be required.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Town has a legal requirement to ensure that it does not discriminate against persons who attend the Administration & Civic Centre.

The Town of Vincent's Disability Access and Inclusion Plan Objective 2 specifies the following - *"People with Disabilities have opportunities to access the buildings and other facilities of the Town"*, and 2.2 - *"From the Access Audit undertaken, develop a plan to ensure buildings are upgraded to make them accessible"*.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Plan for the Future - Strategic Plan 2009-2014, Key Objective 3.1 - *"Enhance and promote community development and wellbeing"* and in particular, 3.1.3 - *"Determine the requirements of the Community and focus on needs, value, engagement and involvement"*, and 3.1.4 - *"Continued implementation of the principles of universal access"*.

**SUSTAINABILITY IMPLICATIONS:**

Not applicable.

**FINANCIAL/BUDGET IMPLICATIONS:**

The Town's Budget 2009-2010 contains an amount of \$60,000 for emergency building works/repairs.

The DSR Office Building Reserve Fund contained an amount of \$234,181 as at 31 October 2009. The Administration and Civic Centre Reserve Fund contains an amount of \$36,895. This amount should not be further reduced at this stage.

As these Items have arisen after the adoption of the Town's Budget 2009/2010, an Absolute Majority decision is required to approve of the works/repairs.

**COMMENTS:**

The requested works are in keeping with the Town's Disability Access and Inclusion Plan and it is recommended that the Council approve the installation of a Hearing Loop and associated works/repairs, for the reasons outlined in this report.

### 9.4.6 Information Bulletin

<b>Ward:</b>	-	<b>Date:</b>	24 November 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	-
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer:</b>	A Radici, Executive Assistant		
<b>Responsible Officer:</b>	John Giorgi, Chief Executive Officer		

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Information Bulletin dated 1 December 2009, as distributed with the Agenda.*

**COUNCIL DECISION ITEM 9.4.6**

**Moved Cr Maier, Seconded Cr Burns**

*That the recommendation be adopted.*

**Debate ensued.**

**MOTION PUT AND CARRIED (9-0)**

**DETAILS:**

The items included in the Information Bulletin dated 1 December 2009 are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>
IB01	Climate Change Adaptation Actions for Local Government (PLA0096)
IB02	Letter to Mr Tom Pinder of 10 Strathcona Street, West Perth - Response to Questions taken on Notice at the Ordinary Meeting of Council held on 17 November 2009
IB03	Letter of Appreciation from the Heritage Council of Western Australia regarding Heritage Seminar 2009
IB04	Letter of Appreciation from the Department of Health regarding Hawthorn House
IB05	Letter of Appreciation from the Mount Lawley Society regarding the purchase of the Old North Perth Police Station
IB06	Letter of Appreciation from St Rocco Association Inc. regarding St Rocco Festivities
IB07	Register of Petitions - Progress Report - December 2009
IB08	Register of Notices of Motion - Progress Report - December 2009
IB09	Register of Reports to be Actioned - Progress Report - December 2009
IB10	Register of Legal Action - Progress Report - December 2009
IB11	Register of State Administrative Tribunal Appeals - Progress Report - December 2009
IB12	Notice of Forum - 8 December 2009

**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.

**13. URGENT BUSINESS**

Nil.

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

Nil.

**15. CLOSURE**

**The Presiding Member, Mayor Nick Catania, declared the meeting closed at 9.08pm with the following persons present:**

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Anka Burns	South 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 1 December 2009.

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

Dated this ..... day of ..... 2009