



TOWN OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

10 AUGUST 2010

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 10 August 2010, commencing at 6.00pm.

1. DECLARATION OF OPENING

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

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

Cr Taryn Harvey – apology – arriving late due to work commitments.

(b) Present:

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Anka Burns	South Ward (until 8.45pm)
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward (from 6.10pm)
Cr Sally Lake (<i>Deputy Mayor</i>)	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)
Amanda Lawrence	Administration Officer (Trainee Minutes Secretary) (until approximately 8.05pm)
<u>Employee of the Month Recipient</u>	
Shelley Rutherford	Waste Management Officer (until approximately 6.45pm)
Graeme Slattery	Solicitor from Minter Ellison (from 7.55pm until 8.50pm)
Ross McRae	Journalist – “ <i>The Guardian Express</i> ” (until approximately 7.40pm)

Approximately 16 Members of the Public

(c) Members on Approved Leave of Absence:

Cr Warren McGrath – approved leave of absence for personal reasons.

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

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

1. Sylvia Moore of 71 Clieveden Street, North Perth – Item 9.1.5. Submitted a petition signed by 55 people who all live on close proximity, objecting to the development. Advised that she gave signatories of the petition a copy of the plans to show how the development extends along the whole block along Clieveden Street and on to Selkirk Street and, they were horrified and very angry that they had not heard anything about this earlier. Advised that nobody informed them of what was happening at

458 Charles Street and they are objecting to the development. Stated that the small frontage is taken up by the bus stop and shelter and believed the position of this site is only suitable for 3 better quality homes, which will allow the moveability of cars and people on that site. Stated that the presence of the bus stop and shelter demands a school crossing, buses slowing down and cars stopping to enter and exit from Selkirk and Clieveden Streets. Explained that they now suddenly have 12 or more cars coming and going from this site onto busy Charles Street, parking with four 2 bedroom and two 1 bedroom houses. Stated that the 1 bedroom rooms only have one car space and they will use the only 2 visitor car spaces on this site. Stated that there is no parking on Charles Street and also none available on Selkirk or Clieveden Streets as regular people already park and take the bus to work. Stated that all people who signed the petition thanked her for initiating it. Asked the Council to stand by the Recommendation to refuse the application. Believed as long standing residents, that the proposal not be supported in its current form as per the recommendation.

2. Yet Chee Wong of 6 Cuthbert Street, Shenton Park – Item 9.1.1. Also speaking on behalf of her sister/co-owner, Evelyn who has a 7 month old baby could not attend. Seeking the Council's support to remove the caveat condition. Advised that they work very well with the Town to retain the front two rooms, verandah, roof by extensive renovation, they have set the 2nd floor back to maintain a single story presentation and the end result was because of the constant consultation with Planning and a good outcome has been achieved, credit to Planning. Requested a "fair go" on the application as the old dwellings have been demolished and the new development is not bound by a caveat. Advised that they are retaining the whole façade and front rooms. Stated that the property is not heritage listed and they could have demolished the house to build a brand new building like their neighbours. Advised that they have always wanted to stay close to each other for family support and with 2 units on the property, it suits them very well. Requested the support of the Council to removal the caveat condition as per the Recommendation.
3. David Hartree of 34 Queen Street, Perth – Item 9.1.4. Advised that the property mentioned has a new owner and the new owner has instructed them, as architects to rationalise the parking that was previously approved, on the basis that the underground water levels are significantly lower than what was originally consider. Stated that the new owner is very keen to keep residential and commercial parking separate where possible, understanding there will be reciprocal parking happening after hours. Advised that he would like to see clause (vi)(h)(1) amended where it states the platform width of the car bays being "2.9 metres" as, according to the manufacturer, it should in fact be 2.7.
4. Elenie Christov of 70 Clieveden Street, North Perth – Item 9.1.5. Expressed her disappointment that the developers have pulled down the fence without telling them anything and they did not know what was going on. Stated that she supported all other signatories to the petition. Believed that the value of her house may be reduced due to the development. Thanked the Council for their time.
5. Mr Jordan Ennis of Greg Rowe & Associates, 3/369 Newcastle Street, Northbridge – Item 9.1.2, on behalf of Mr Dragojevich who is in favour of the Town amending Condition (vi). Requested approval of one resident parking permit for Strata Lot 1 which, contains an original dwelling construction in the early twentieth century. Stated that whilst the dwelling is not listed on the MHI they believe it is a valuable asset to the Carr Street Streetscape. Advised that originally 2 on-site car bays were approved for Strata Lot 1 however, it was considered that the best design outcome for both the streetscape and vehicle egress was to provide a separate driveway to Strata Lot 1. Advised that 2 onsite bays could not be provided and the request for 1 parking permit largely comes about given the dwelling within Strata Lot 1 is of a

scale which will accommodate either a family or professional couple and, therefore warrants the need for 2 parking bays. Stated that their findings have found that the street parking bays within proximity to Strata Lot 1 have been readily available and can accommodate the proposal. Requested approval of the application as the development at No. 148 has made substantial contribution to the Streetscape and there is an availability of some on street car bays. Thank you for their consideration.

6. Brian Bedwell of 45 Stuart Street, Perth – Item 9.1.4. Read out the following letter on behalf of David McDermott:

“I write in on behalf of the residents of units 1, 2, 11 and 12, 45/47 Stuart Street. These residents have been most affected by a development coming up as they are immediately adjacent to the east elevation of the development and are affected by the balconies on the north and south elevations. I am a resident of Unit 1, I have already made written comments to the Town of Vincent regarding the need for suitable opaque glazing on the bedroom windows on the east elevation of the development, and on Levels 3-6. I have also commented on the need for full setbacks of 7.5m of the balconies to the north and south elevations Levels 3-6. If they remain at the current 7m then under the R Codes they should be screened. These balconies will look directly into the front yards of Units 1 and 2 and the backyards of 11 and 12, and I am in 12. The balconies along the southern side of the townhouses of 45-47 Stuart Street where required to be opaque screen for up to 1.6m for the same reason and the Council should be consistent in applying for this requirement of this development as well. From returning home after viewing the plans of the actual development and being able to look at the scale and the design of what is proposed, I make the following comments;

1. *The development is opportunistic. The current Town of Vincent Planning Guidelines Appendix 16 allows up to 6 storeys for developments with frontage to both Fitzgerald Street and Pandal Lane - this development only fronts Fitzgerald Street which is not specifically covered in the guideline. We do not have a problem with the need for higher density and business and residential development in the area as long as the existing and future residential nature of the area is not compromised. The planning Guidelines state in Section (v)(1) - facade and interface, that it is desirable the buildings facing Stuart Street take full advantage of the views over the park with balconies to the residential components. The balconies to the commercial uses may be considered where they do not unduly impact on the amenity of the area and the adjacent residential area. This development does not face Stuart Street – it faces Fitzgerald Street. It gets its ability to be 6 storeys because it faces Fitzgerald Street however, it has balconies on Levels 3-6 that do face Stuart Street, even though it is one lot back from Stuart Street, which is Lot 2, 158 Fitzgerald Street.*
2. *The development is also opportunistic for two reasons the first is:*
 - (a) *The development has used its front use to Fitzgerald Street to go to 6 storeys but has then provided helicopter views over the residential areas both in a north to Robinson Park and south in the city direction. The building is set back from Stuart Street by the intervening Lot 2 – brick business building. If this development had been built on this Lot 2 then any balconies would have to be setback by the same distance as those on the 10 adjacent Units at 45-47 Stuart Street, no overlooking problem would have occurred because of the similar setback as it is. The balconies are affectively setback as the width of Lot 2 is 7m, so that they now overlook the front yards of the Stuart Street Units.*
 - (b) *The second opportunistic features the buildings north and south views that may be short lived. Presumably any development on Lot 2 which directly faces both Fitzgerald and Stuart Street could apply 6 storeys and blot out the views of this development on the north elevations 3-6.*

This is poor planning and provides considerable uncertainty for perspective clients.”

7. Terry Pearce of North Perth Pty Ltd – Item 9.1.5. Stated that this proposal was already approved in a December meeting, and it was approved with the crossover staircases. The Council requested it be reviewed and he put it forward without those staircases to see if it would improve the design and, this evenings application is the result of that. Stated that the investors that hold this property own a further five properties within the Town and have done up to approx. 70 individual properties over the last 4 or 5 years of which some include:
- 8 strata title properties at 495 William Street which was very rundown before it was touched;
 - 36 Monmouth Street, Mt Lawley; and
 - recently completed 305 Walcott Street.
- Advised that they are achieving good quality without “*pushing the envelope*” on the key factors of privacy, overlooking, setbacks or density. Believed the issue is basically because the development is not regarded as a multiple dwelling due to the amendment put through late last year by the Council under 3.4.8 therefore it is regarded as group dwellings which causes issues with density. Referred to the Planner’s comments within the Agenda as it meets every criteria except density and that is solely because of this aspect. Stated that the current approvals are exactly the same footprint, design and set to the same façade which will still proceed. Advised that he has engaged adjoining resident about their concerns and has spoken to them individually – apologised for the fence issue. Stated that he spoke to the tenants when the temporary fence was erected and has left his contact details with the tenants to make sure they contact him with any issues. Stated that the fence has not yet been fixed as the sewer needs to be relined which will undermine part of the fence.
8. Rosa Peranovic – 456 Charles Street, North Perth – Item 9.1.5. Supported comments made by Mrs Moore. Referred to the block behind her and asked the Council to consider the safety issues for all (not just her). Believed the development was too large for the lot. Asked the Council to consider saving the children’s lives and all of their lives. Advised that she is not just concerned about making money.

There being no further speakers, public question time closed at approx. 6.27pm.

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS

- 5.1 A petition was received from Ms M. Anwyl (and residents of the area around Palmerston Street) C/- South Vincent Precinct Group, PO Box 7505, Cloisters Square, Perth along with 6 signatures, requesting that the Town installs additional traffic calming measures, speed restrictions and a pedestrian crossing in Palmerston Street, Perth.

The Chief Executive Officer recommended that this petition be received and referred to the Director Technical Services for investigation and report.

- 5.2 A petition was received from Mr D. Carrick of Roy Street, Mt Lawley, along with 22 signatures, expressing opposition to the partial closure of the right-of-way between 630 and 634 Beaufort Street, Mt Lawley.

The Chief Executive Officer recommended that this petition be received and referred to the Director Technical Services for investigation and report.

- 5.3 A petition was received from Mr H. Robinson of Planet Video, Beaufort Street, Mt Lawley, along with 34 signatures, expressing support of the partial closure of the right-of-way between 630 and 634 Beaufort Street, Mt Lawley.

The Chief Executive Officer recommended that this petition be received and referred to the Director Technical Services for investigation and report.

- 5.4 A petition was received from Ms S. Moore of Clieveden Street, North Perth, along with 55 signatures, objecting to the development at 458 Charles Street, North Perth.

The Chief Executive Officer recommended that this petition be received and as it relates to Item 9.1.5 on this Agenda, that it be considered during the debate on the Item.

Moved Cr Topelberg, Seconded Cr Harvey

That the petitions be received as recommended.

CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

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

Moved Cr Farrell, Seconded Cr Maier

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

CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.1 WALGA Honours 2009 – Mr John Giorgi, JP

I am pleased to announce that WALGA has honoured the Town's Chief Executive Officer, John Giorgi, in the 2009 WALGA Honours Awards with a "Certificate of Appreciation"

The Certificate of Appreciation Award recognises "*personal commitment, eminent service and contribution to the Association as a President, Executive Member, Elected Member or Servicing Officer, of the Association or Member Council.*"

In making the Award, WALGA has recognised that John Giorgi has devoted his entire working career to serving the community and is a well-respected, committed, proactive and astute Local Government Chief Executive Officer.

With over 39 years of dedicated service to the local government sector, with particular service to City of Perth (23 years) and Town of Vincent (16) years, John began his career in Local Government on 20 September 1970, at the City of Perth as a Junior Records Officer (mail boy!). After 23 years at the City and, at the time of the former City of Perth's forced restructure, John was the head of the City's Health Services Department, a position he was appointed to at the age of 29.

John was appointed Chief Executive Officer of the newly formed Town of Vincent on 8 August 1994, a position he continues to hold.

Under John's leadership, the Town has developed and progressed into a well respected Local Government, receiving numerous Awards. John has fostered and developed a loyal and dedicated team of employees, many who have now been with the Town for over 10 years.

John was the President of the Australian Institute of Environmental Health (WA Division) for five (5) years and the National Vice-President of the Institute for two (2) years. He is also a Fellow of both the Local Government Managers Australia and the Australian Institute of Environmental Health and is an active Justice of the Peace.

John credits his career highlights as follows;

- creating the Town of Vincent from its inception, including even having to purchase stationery on day 1!;
- the design and construction of the award-winning Town of Vincent Administration & Civic Centre;
- negotiating the purchase of part of the former City of Perth's Osborne Park Works Depot;
- numerous infrastructure and upgrade projects (nib Stadium, Department of Sport and Recreation (DSR) building, Loftus Centre Redevelopment, new Library and Local History Centre) - many of which have been award winning at a State and National level;
- working with the Town's Executive Management Team (Rob, Mike and Rick) who are loyal and committed professionals in the true sense, dedicated employees at the Town of Vincent and also with his personal staff in the CEO's Directorate - Manuela, Anita, Annie, Natalie, Kristie and Amanda; and
- also working with the Elected Members both at the former City of Perth and currently at the Town of Vincent.

On behalf of the Council, Executive Management and staff of the Town of Vincent, may I offer our sincere congratulations to the CEO, John Giorgi, on receiving this well deserved Award!

Received with Acclamation!

The Chief Executive Officer, John Giorgi, JP responded as follows:

"Let me state that I feel deeply honoured to have received the WALGA Certificate of Appreciation Award.

In receiving this Award, I wish to express my appreciation to Mayor Nick Catania and my Directors who supported my nomination, to Public Relations Officer Natalie Greaves, who I understand wrote the submission and to my Personal Assistant Manuela McKahey for keeping it all a big secret. May I also thank the various Councillors that I have worked with over the many years-both current and former - for their support.

May I say that my that my 39 years service to the former City of Perth, Town of Vincent and the Local Government industry in general has been a pleasure.

It has not always been easy, but I have always enjoyed my work, even though at times it is most stressful, and believe that the Town of Vincent is one of the best Local Governments in Australia.

But let me say, it would all be to no avail without all the support provided by the Mayor and Councillors, Directors, my personal Staff in the Chief Executive Officer's Directorate, along with the great employees at Vincent.

I must also acknowledge the tremendous support given to me by my wife Jacqueline for the 30 years (plus) we have been married and to my three adult children-Caroline, Michelle and Andrew. I should also include Uggsy Muggsy - our 17 year old cat.

I am extremely proud to be the inaugural Chief Executive Officer at Vincent and hope that we can continue for many years to come, for the betterment of the Vincent community and to local government in general."

7.2 Employee of the Month Award for the Town of Vincent for August 2010

As members of the public will know, the Council recognises its employees by giving a monthly award for outstanding service to the Ratepayers and Residents of the Town. The recipients receive a \$100 voucher, kindly donated by the North Perth Community Bank, and a Certificate.

For AUGUST 2010, the award is presented to Michele (Shelley) Rutherford, Waste Management Officer, in the Town's Technical Services Section. Shelley was nominated by the Manager Asset & Design Services, Craig Wilson, for her excellent customer service and following a call received from a member of the public, as follows;

"Michael Evans called the Town to compliment Shelley on her excellent customer service.

A friend of Mr Evans, doing his thesis on Waste Management and Recycling, required extensive information and contacted Shelly seeking her assistance. In Mr Evans' own words, "Shelley went out of her way to help."

Further, he requested that Shelley be acknowledged for going the "extra mile" and providing such excellent service.'

In addition, Shelley has always provided accurate, timely and friendly service, to internal and external customers alike, under what can be testing circumstances.

In recognition of Shelley's integral role in Waste Management and her contribution to the Town, the Manager Asset & Design Services, Craig Wilson, has no hesitation in nominating Shelley for Employee of the Month.

These comments were also endorsed by the Director Technical Services, Rick Lotznicker.

Congratulations Shelley and well done!

Received with Acclamation!

7.3 Banners in the Terrace Competition

The Town of Vincent has won best Digital/Professional category in the Western Australian Local Government Association "Banners in the Terrace Competition".

Category winners in this year's Banners in the Terrace Competition were:

- Best Junior Primary School: City of Bayswater
- Best Upper Primary School (overall winner): Shire of Irwin
- Best Secondary School: Shire of Moora
- Best Community Group/Non professional: Shire of Corrigin
- Best Digital/Professional: Town of Vincent

The banner design was by artist/designer Chris Williamson and celebrates the Town of Vincent Wetlands Heritage Trail. Chris has brought a life time of artistic experience to create a banner that captures the spirit of the trail; to encourage reflection on the natural and social history of the Town.

This year there was a record 92 entrants in the competition. The banners are currently on display in St. Georges Terrace until Saturday 14 August.

As well as the Trophy, the Town was presented with a beautiful art book on the paintings of "Michelangelo". This will be displayed at the Town's Library and Local History Centre.

I would like to pass on our appreciation to the Manager Community Development, Jacinta Anthony and her team and, in particular, the Town's Arts Officer, Richard Gunning, for their fine efforts.

7.4 Town Congratulated for Recycling

The Town has received a certificate from Mobile Muster to congratulate it for recycling 12kg of mobile phones and accessories between July 2009 and June 2010.

May I express a big thank you to everyone who participated in the "Old phones, more trees" campaign during the months of May and June this year, where for each kilogram of phones and accessories collected and sent to Mobile Muster, a tree is planted through Landcare Australia.

Due to an overwhelming response, Mobile Muster has extended the "Old phones, more trees" campaign until October 2010.

All residents and Town's staff are encouraged to dig deep in the draws at home and bring in any old mobile phones, charges and batteries for recycling, and spread the word about the benefits of diverting these types of hazardous waste from landfill.

Received with Acclamation!

7.5 Item 9.1.7 – Amendment No. 74 to Planning and Building Policies – Policy No. 3.1.4 – Relating to the Oxford Centre

Item 9.1.7 has been WITHDRAWN from the Agenda by the Chief Executive Officer, for the following reasons;

1. The location of the high voltage lines will be shown on the Town's internal GIS system.
2. The Town will include information in the Planning Application Checklists to advise applicants to contact Western Power and other State agencies prior to submitting a planning application, for land dealings affected by the Policy.
3. The information will not be included in the Town's Planning Policies as the location and implications for development relating to the high voltage power lines is the responsibility of Western Power, and not part of the Town's assessment process.
4. If the Town amends the Oxford Centre Precinct Policy for this one item, then the Town may find themselves having to amend all the other Policies for similar requests- it is considered better if the information is included just on the Planning Application Checklist.
5. Furthermore, it is considered that the Town needs to make a stand with Western Power, in that their requests cannot just simply be added to the Town's Planning Policies. As such, to further amend the Oxford Centre Precinct Policy is now considered superfluous.

7.6 Notice of Forum – 17 August 2010 – Amendment

May I draw your attention to the fact that Item 4.1.1 relating to a Proposed Application for No. 381 Beaufort Street, Perth has been WITHDRAWN from the Notice of Forum, in the Information Bulletin on tonight's Agenda, at the request of the applicant, Taylor Burrell Barnett, as they are still organising the additional information for their revised proposal.

The presentation will be made at a future Forum, on a date to be fixed.

8. DECLARATIONS OF INTERESTS

- 8.1 Mayor Catania declared a Financial interest in Item 9.3.1 – Investment Report. The extent of his interest being that he is the chairperson of the North Perth Community Bank in which the Town has investment shares.
- 8.2 Cr Burns declared a Financial interest in Item 9.3.1 – Investment Report. The extent of her interest being that she is a shareholder and her father is a director in the North Perth Community Bank in which the Town has investment shares.

- 8.3 Cr Burns declared a Financial interest in Item 9.1.2 – No. 148 (Lot 1; STR: 57977) Carr Street, West Perth- Reconsideration of Condition (vi) of Planning Approval dated 10 March 2009. The extent of her interest being that the owner is her brother-in-law.
- 8.4 Cr Lake declared a Proximity interest in Item 9.3.2 – Annual Plan – Capital Works Programme 2010/2011. The extent of her interest being that the footpath outside her home is to be upgraded.
- 8.5 Cr Maier declared a Proximity interest in Item 9.3.2 – Annual Plan – Capital Works Programme 2010/2011. The extent of his interest being that he owns a property on a street that will have the footpath upgraded.
- 8.6 Cr Topelberg declared an Impartiality interest in Item 9.3.3 – Lease for Dental Health Services, Western Australia Special Needs Dental Health Clinic – No 31 (Lot 100) Sydney Street, (Cnr Haynes Street), North Perth – Progress Report. The extent of his interest being that he is an acquaintance of one of the Dental Practitioners associated with this Item.
- 8.7 The Chief Executive Officer, John Giorgi declared an Impartiality interest in Item 9.3.3 – Lease for Dental Health Services, Western Australia Special Needs Dental Health Clinic – No 31 (Lot 100) Sydney Street, (Cnr Haynes Street), North Perth – Progress Report. The extent of his interest being that one of his brother-in-laws is a paediatric periodontist consultant to the Dental Health Services of W.A. The Chief Executive Officer stated that he did not have any involvement with the report other than overseeing the compilation of the Agenda.

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 9.1.5, 9.1.1, 9.1.4 and 9.1.2.

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 9.4.2 and 9.4.5.

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

Items 9.1.2, 9.3.1 and 9.3.2.

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	Item 9.2.4.
Cr Topelberg	Nil.
Cr Buckels	Nil.
Cr Harvey	Nil.
Cr Lake	Items 9.1.8 and 9.3.3.
Cr Burns	Nil.
Cr Maier	Items 9.1.3, 9.1.6, 9.2.1 and 9.4.3.
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 9.1.9, 9.2.2, 9.2.3, 9.2.5, 9.4.1, 9.4.4 and 9.4.6.

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

Item 14.1.

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 9.1.9, 9.2.2, 9.2.3, 9.2.5, 9.4.1, 9.4.4 and 9.4.6.

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

Items 9.1.5, 9.1.1, 9.1.4 and 9.1.2.

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

Moved Cr Topelberg, Seconded Cr Burns

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

Items 9.1.9, 9.2.2, 9.2.3, 9.2.5, 9.4.1, 9.4.4 and 9.4.6.

CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

ITEM WITHDRAWN BY THE CHIEF EXECUTIVE OFFICER

(For the reasons stated by the Presiding Member during his announcements,
at Item 7.5. Refer to page 9.)

9.1.7 Amendment No. 74 to Planning and Building Policies – Policy No. 3.1.4 Relating to the Oxford Centre Precinct

Ward:	South	Date:	2 August 2010
Precinct:	Oxford Centre, P4	File Ref:	PLA0218
Attachments:	001		
Reporting Officer:	R Marie, Planning Officer (Strategic)		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That;

- (i) *RECEIVES the Draft Amended Policy No. 3.1.4 relating to the Oxford Centre Precinct, as shown in Attachment 001;*
- (ii) *ADVERTISES the Draft Amended Policy No. 3.1.4 relating to the Oxford Centre Precinct 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;*
 - (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. 3.1.4 relating to the Oxford Centre Precinct, having regard to any written submissions; and*
 - (b) *DETERMINES the Draft Amended Policy No. 3.1.4 relating to the Oxford Centre Precinct, with or without amendment, to or not to proceed with it.*

PURPOSE OF REPORT:

The purpose of this report is to present Draft Amended Policy No. 3.1.4 relating to the Oxford Centre Precinct, and to seek the Council's approval to advertise the revised Draft Policy.

BACKGROUND:

23 February 2010 The Council at its Ordinary Meeting resolved to advertise the draft amended version of the Oxford Centre Precinct Policy.

25 May 2010 The Council at its Ordinary Meeting resolved to adopt the amended version of Policy No. 3.1.4 relating to the Oxford Centre Precinct.

DETAILS:

The Council at its Ordinary Meeting held on 23 February 2010, resolved to advertise the Draft amended version of the Oxford Centre Precinct Policy. During the formal four (4) week advertising period, the Town received a submission from Western Power stating the following:

'Western Power have two High Voltage Transmission lines traversing the Oxford Centre Precinct.

...

- *The Herdsman to Shenton Park (71) 66kV transmission line traverses Bourke Street and*
- *The Cook Street to North Perth (81) 132kV transmission line traverses Vincent Street.*

Recently, Western Power commented on the Town of Vincent's new "Masterplan and Built Form Guidelines" and would once again like to point out the need for setbacks on properties affected by these lines.'

Following this advice to the Town, new clauses were inserted into the Policy which outlined that setbacks would be required along Vincent Street and Bourke Street, subject to approval by Western Power.

Before the final adoption of the Policy by the Council, the clauses relating to overhead power lines were removed, as it was believed that the powerlines fell outside the precinct boundary.

Following the adoption of the Policy, the Town was contacted by Western Power who advised that whilst the 132kV transmission line was on the southern side of Vincent Street, and therefore outside the Oxford Centre Precinct boundary, the 66kV transmission line was on the southern side of Bourke Street and therefore within the Oxford Centre Precinct boundary.

As a result of the advice received from Western Power, clause (3)(iv)(c) of the Town's Policy No. 3.1.4 relating to the Oxford Centre Precinct, is proposed to be further amended to include a clause relating to setbacks along Bourke Street, as outlined below.

'c) Setbacks – Front

Mandatory front setback is to be nil to any street reserve boundary.

It is recommended that development applications for properties along the southern side of Bourke Street consult with Western Power in regards to setbacks, prior to submitting their application. ...'

CONSULTATION/ADVERTISING:

Any new or rescinded or amended Planning Policy is required to be advertised for public comment in accordance with Clause 47 of the Town's Town Planning Scheme No. 1.

LEGAL/POLICY:

Town of Vincent Town Planning Scheme No. 1 and associated Policies;
Town of Vincent Policy No. 2.2.2 – Undergrounding Power; and
ENA C (b) 1-2006: Guidelines for Design and Maintenance of overhead Distribution and Transmission Lines.

STRATEGIC IMPLICATIONS:

The 2009-2014 Strategic Plan states:

“Natural and Built Environment

1.1 Improve and maintain the environment and infrastructure.

1.1.1 Capitalise on the Town’s strategic location, its centres and commercial areas.

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

SUSTAINABILITY IMPLICATIONS:

It is considered that the inclusion of the clause will ensure that future developments are not adversely impacted by the presence of the overhead powerlines.

FINANCIAL/BUDGET IMPLICATIONS:

The current 2010/2011 Budget allocates \$58,200 for Town Planning Scheme Amendments and Policies.

COMMENTS:

Following the advice received from Western Power on 15 June 2010, the Town wrote to Western Power in a letter dated 6 July 2010, seeking further direction in relation to their requirements relating to setbacks. To date, the Town has not received a response.

Western Power has however provided the Town with mapping data, to be uploaded onto the Town’s internal IntraMaps system. This will allow the Town’s Officers to determine where the transmission lines are. This will be uploaded by the Town’s GIS consultant in August 2010.

It is noted that the transmission lines are present in other areas of the Town, and therefore could impact on setbacks of proposed developments. At this point in time, it is considered unnecessary to amend all of the Town’s Precinct Policies to include a general clause relating to overhead powerlines. As an interim practice, the Town’s internal Development Assessment Team will be mindful of the presence of the overhead powerlines, and information will be included in the checklist for Planning Applications and Building Licences. Further to this, it is noted that the following specific engineering requirement is placed on planning approvals at the Town;

“(4) The Town accepts no liability for the cost of relocating any services that may be required as a consequence of this development. The applicant shall ensure that all services are identified prior to submitting a Building Licence application and that the cost of any service relocations is to be borne by the applicant/owner(s).”

It is also noted that the Town’s Officers are investigating amending the planning checklist to ensure that applicants are mindful of overhead powerlines and to recommend they contact Western Power.

In light of the above, it is recommended that the Council receives, and advertises the Draft Amended Policy in accordance with the Officer Recommendation.

9.1.9 Western Australian Local Government Association – Draft Swan River Trust Development Control Area Review

Ward:	-	Date:	3 August 2010
Precinct:	-	File Ref:	ORG0016
Attachments:	001		
Reporting Officer:	E Lebbos, Strategic Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

(i) **RECEIVES:**

- (a) *the report relating to the Western Australian Local Government Association (WALGA) – Draft Swan River Trust Development Control Area (DCA) Review; and*
- (b) *the map outlining the proposed DCA boundary changes within the Town’s jurisdiction, as shown in Attachment 001; and*

(ii) *advises the WALGA and the Swan River Trust that it **SUPPORTS** the Draft Swan River Trust DCA Review as outlined in this report, as the proposed boundary changes will not have a substantial impact on the Town of Vincent.*

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

COUNCIL DECISION ITEM 9.1.9

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to inform the Council of the Swan River Trust’s DCA boundary review currently being advertised for public comment, and to provide a summary of the proposed changes affecting the Town.

BACKGROUND:

The Swan River Trust is reviewing the DCA, in order to address anomalies between the Metropolitan Region Scheme (MRS) Parks and Recreation Reserves, cadastral boundaries, identified floodways and the DCA boundary. This review examines the following boundaries:

- *‘the entire length of the northern bank of the Swan River (Stage 1);*
- *the southern bank of the Swan River from the confluence of Moondyne Brook downstream to Fremantle Bridge, Fremantle (Stage 2);*
- *the entire length of the Helena River (Stage 1);*
- *the entire length of the Canning River (Stage 2); and*
- *the entire length of the Southern River (Stage 2).’*

The review has been undertaken in two stages. Stage 1 of the boundary review was endorsed by the Swan River Trust for the purpose of consultation on 14 July 2008. Stage 2 of the boundary review was endorsed by the Swan River Trust for the purpose of consultation on 13 October 2008. A total of 124 changes to the alignment of the DCA boundary were proposed in Stage 1 of the review, with 107 changes being proposed in Stage 2 of the review.

Preliminary consultation was carried out with relevant Local Governments, State Government agencies and landowners, between 14 July 2008 and 31 January 2009. The Swan River Trust received a total of 14 submissions from private landowners, Local Government and government agencies. The Swan River Trust assessed these submissions, and where appropriate, adjusted the proposed DCA re-alignment.

The proposed changes to the DCA boundaries for Stages 1 and 2 have been endorsed by the Swan River Trust for the purpose of general public consultation. The proposed DCA boundary changes are available for public comment, with submissions closing on 27 August 2010. A list of the maps and proposed changes are available on the Swan River Trust website. A map illustrating proposed DCA boundary changes within the Town's jurisdiction is shown in Attachment 001.

The Town has received a letter from the WALGA, dated 25 June 2010, inviting the Town to comment on the DCA, with submissions closing on 13 August 2010, in order for the Town's comments to be incorporated in a submission from the WALGA to the Swan River Trust.

DETAILS:

The Swan River Trust DCA, previously called the Swan River Trust Management Area, includes the water of the Swan and Canning Rivers and adjoining land reserved for Parks and Recreation under the MRS. This extends upstream from the Fremantle Traffic Bridge to Moondyne Brook on the Avon River, to the Lower Division Dam on the Helena River, along Southern River to the Allen Road crossing and the Canning River to its confluence with Stinton Creek.

The DCA has been established to protect the Swan and Canning Rivers and associated land and permit effective management and provision of integrated planning. The proposed changes will help the Swan River Trust in its planning and provision of advice to other planning agencies, such as the Western Australian Planning Commission (WAPC) and Local Governments, on town planning and environmental issues affecting the rivers.

A review of the DCA boundary was required to address some existing anomalies, and where possible, to align the DCA boundary with the MRS Parks and Recreation reserves, cadastral boundaries, or the identified floodway.

The review of the DCA boundary was based on a set of principles to ensure consistency and equity. These principles were endorsed by the Swan River Trust on 14 July 2008, and are as follows:

1. *The DCA boundary shall coincide with the boundary of the Metropolitan Region Scheme P&R reserves;*
2. *Where a reserve consists of multiple lots, the DCA boundary shall extend to the outermost boundary of the P&R reserve. In exception to this rule where the P&R reserve is dissected by a road, the areas reserved for P&R on the landward side of the road is generally not included in the DCA;*
3. *Where there is no land reserved for P&R, the DCA boundary shall align with the cadastral boundary of the lot which identifies the riverbank;*

4. *Where there is a Crown reserve abutting the river that is not reserved for P&R under the MRS (i.e. the Crown reserve is zoned either Rural or Urban) the Crown reserve shall be included in the DCA;*
5. *Where a bridge crosses the river, the DCA shall follow the cadastral boundary defining the riverbank immediately under the bridge structure. The riverbed and waterway under the bridge structure shall be included in the DCA;*
6. *Where a road reserve with a defined cadastral boundary is located on the edge of a reserve, and the road reserve is reserved for P&R under the MRS, the road reserve shall be excluded from the DCA.'*

As mentioned in the Background Section above, a total of 124 changes to the alignment of the DCA boundary were proposed in Stage 1 of the review, with 107 changes being proposed in Stage 2 of the review. Of these, only a single change in Stage 1 affects the Town of Vincent, with no changes in Stage 2 affecting the Town. A map outlining the proposed DCA boundary change is shown in Attachment 001.

CONSULTATION/ADVERTISING:

The Swan River Trust is currently advertising the proposed DCA boundary changes for public comment, which closes on 27 August 2010.

The Town has received a letter from the WALGA, dated 25 June 2010, inviting the Town to comment on the DCA, with submissions closing on 13 August 2010, in order for the Town's comments to be incorporated in a submission from the WALGA to the Swan River Trust.

LEGAL/POLICY:

The Metropolitan Regional Scheme.

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.

1.1.5 Enhance and maintain parks, landscaping and community facilities.

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

SUSTAINABILITY IMPLICATIONS:

The DCA has been established to protect the Swan and Canning Rivers and associated land, in order to permit effective management and provision of integrated planning. It is envisaged that the proposed changes to the DCA boundary will help the Swan River Trust in its planning and provision of advice to other planning agencies and Local Governments on environmental issues affecting the rivers.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Town's Officers have examined the list of maps outlining the proposed DCA boundary changes available on the Swan River Trust website. In light of this, only one map was identified as being of significance to the Town (shown in Attachment 001), relating to incorporating an additional portion of Joel Terrace, Mount Lawley, within the DCA boundary.

Following discussion with the Town's Technical Services, it was identified that other than having to inform the Swan River Trust of any proposed development within the DCA area (already undertaken for the portion of Joel Terrace currently within the DCA), the proposed boundary changes will not have a substantial impact on the Town of Vincent.

In light of the above, it is recommended that the Council receive the Report, and support the Officer Recommendation to advise the WALGA that the Town of Vincent supports in principle, the intent and content of the Swan River Trust's DCA boundary review, as outlined in the Report.

9.2.2 Town of Vincent 2010 Streetlight Audit

Ward:	Both	Date:	3 August 2010
Precinct:	All	File Ref:	TES0175
Attachments:	-		
Reporting Officer(s):	C Wilson, Manager Asset & Design Services		
Checked/Endorsed by:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *NOTES the report on the 2010 Streetlight Audit; and*
- (ii) *WRITES to the Minister for Energy and Chief Executive Officer of Western Power Corporation, expressing concern at the percentage of faulty streetlights in the Town, and that the length of time it is still taking to repair faults is excessive and not in accordance with the Western Power Corporation Customer Service Charter.*

COUNCIL DECISION ITEM 9.2.2

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the results of the Town's 2010 Streetlight Audit.

BACKGROUND:

Over the past decade, the provision of street lighting has evolved into a core function of Local Government. Whilst the actual installation and maintenance of streetlights is undertaken by Western Power Corporation, the cost of installation and the annual running costs are borne by Local Government.

Until the mid 1990s, Western Power personnel regularly inspected the network to ensure a high level of service. However, Western Power no longer carry out this function and the onus has been shifted to Local Government and the general public to advise Western Power of any faulty streetlights by way of telephone, email or facsimile.

As a result, and as widely acknowledged, the level of service has diminished as the public are generally unaware that they are expected to report faulty streetlights in lieu of Western Power actively inspecting the network.

In 2001, in order to determine if there was an excessive number of streetlights not working within the Town, the Council endorsed a proposal for Technical Services to undertake an annual streetlight audit.

DETAILS:

Over three (3) consecutive nights, commencing 19 July 2010, a systematic streetlight audit was undertaken within the Town. The Town was divided into three (3) zones and every streetlight (within the Town) inspected under operating conditions. The primary aim of the audit was to identify those lights not working, while the secondary aim was to assess the adequacy of the lighting and to make recommendations, where necessary, to install improved or additional lighting.

The streetlight audit is undertaken in the winter months to take advantage of the early sunset and thereby ensuring that the contractor finishes at a reasonable hour.

The results of the audit are as follows, with comparative figures from 2009:

Year	No. of Lights	No. Not Working	% Not Working
2010	3063	180	5.9%
2009	3038	177	5.8%

Table 1

A spreadsheet of the audit results was forwarded to Western Power on 4 August 2010 for action.

In addition to the audit, Technical Services regularly reports streetlight faults to Western Power throughout the year.

Under Western Power's Customer Service Charter, they have five (5) working days in which to repair streetlights, however, anecdotal evidence indicates that Western Power is currently taking, on average, well in excess of ten (10) working days, to repair a fault. Further, for streetlights in a central median, such as Beaufort Street in the Mt Lawley Centre Precinct and Scarborough Beach Road through the Mt Hawthorn Centre Precinct, repairs are taking considerably longer.

Number of Streetlights

Synergy provides the Town with an annual schedule of the total number of streetlights by wattage and filament type. According to Synergy's records, there are currently 3,063 streetlights within the Town.

The difference between 2010 and 2009, an increase of 25 streetlights, can be mainly attributed to the last of the new Highgate East SUPP Project lights being included in the schedule (after 1 July 2009).

Results

As can be seen from Table 1 above, that while the total number of streetlights has increased marginally, the number of recorded faults, as a percentage, has remained static indicating that up to 5.8% of all streetlights within the Town are not working at any given time.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

The Town's Policy No. 2.2.9 "Street Lighting" states the objectives of this policy are to provide effective and efficient street lighting throughout the Town and to provide a mechanism by which street lighting requests and designs can be assessed and sets out the minimum standard according to road classification.

STRATEGIC IMPLICATIONS:

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

SUSTAINABILITY IMPLICATIONS:

Synergy and Western Power are currently investigating the use of more environmentally sustainable lighting such as compact fluorescent (CFL) and light emitting diodes (LED) lamps.

FINANCIAL/BUDGET IMPLICATIONS:

The cost to undertake the 2010 streetlight audit was \$935. The streetlight installation program, maintenance and annual running costs are reviewed as part of the annual budget preparation process.

COMMENTS:

When there are a number of streetlights not working within a small area, it can cause residents anxiety, particularly for the elderly, as there is a perception that unlit areas are unsafe.

Western Power relies upon the public and Local Government to advise them when a street light is not working. While it is considered that Western Power should be more proactive in maintaining the street lighting infrastructure, it is understood that they are not currently intending to re-introduce their own inspection system.

9.2.3 Progress Report - Bus Shelter Grants Scheme

Ward:	Both	Date:	3 August 2010
Precinct:	All	File Ref:	TES0028
Attachments:	-		
Reporting Officer:	R Lotznicker, Director Technical Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council;

(i) *NOTES the:*

(a) *advice received from the Public Transport Authority regarding the discontinuance of the current "Bus Shelter Grants Scheme" where applications are made for specific sites on an annual basis;*

(b) *Public Transport Authority may still be in a position to share the cost of replacing a bus shelter on a 50/50 basis, as part of their new "Bus Stop Accessibility Works Program", if warranted, subject to the local government agreeing to fund 50% of the cost and agreeing to continue to maintain the bus shelter; and*

(c) *2010/2011 budget has an allocation of \$60,000 for the Bus Shelter Replacement Program, comprising \$30,000 municipal funding and \$30,000 Grant funding;*

(ii) *PLACES a hold on undertaking any further work on bus shelter upgrades/replacement until such time as the Public Transport Authority has developed its "Bus Stop Accessibility Works Program";*

(iii) *REQUESTS that the Public Transport Authority submit its "Bus Stop Accessibility Works Program" for works within the Town as soon as possible to determine what bus shelter projects, if any, will be incorporated in the program for 2010/2011; and*

(iv) *RECEIVES a further report on the matter once the information requested in clause (iii) above is available.*

COUNCIL DECISION ITEM 9.2.3

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Cr McGrath was on approved leave of absence.)

PURPOSE:

The purpose of this report is to update the Council on recent advice received from the Public Transport Authority regarding the discontinuance of the Bus Shelter Grants Scheme.

BACKGROUND:

The Council was previously advised that in March 2002, the (former) Department for Planning and Infrastructure (DPI) Metropolitan Infrastructure Directorate invited Local Governments to apply for funding grants under the newly introduced Bus Shelter Grants Scheme. The scheme launched to encourage the use of public transport in partnership with Local Government through the provision of suitable facilities for the community.

At the time, DPI committed to funding the scheme to a maximum of \$500,000 per year over four (4) years, commencing in 2001/02. The funding was made available to all Local Governments on a 50/50 shared funding basis. To ensure an even distribution of funds, DPI imposed a limitation of \$10,000 per shelter (\$5,000 LA/\$5,000 DPI) based upon the cost of commercially produced shelters currently available at the time.

DETAILS:

To date the Town has installed twenty seven (27) shelters with the following four (4) shelters planned to be installed in 2010/2011.

- Scarborough Beach Road, Mt Hawthorn, city bound, near Dunedin Street
- William Street, Mt Lawley, city bound, near Forrest Street
- Lord Street, Highgate, outward bound, near Phelps Lane
- William Street, Perth, inward bound, between Ruth and Brisbane Streets

Letter from the Public Transport Authority

On 23 July 2010 a letter was received from the Public Transport Authority in response to the Town's 2010/2011 Bus shelter Grant funding application. An extract from the letter is included below:

"Thank you for your application to the Public Transport Authority (PTA) 2010/11 Bus Shelter Grant Scheme at the following locations:

1. *Scarborough Beach Road, Mt Hawthorn, city bound, near Dunedin Street*
2. *William Street, Mt Lawley, city bound, near Forrest Street*
3. *Lord Street, Highgate, outward bound, near Phelps Lane*
4. *William Street, Perth, inward bound, between Ruth and Brisbane Streets*

Unfortunately your application has not been approved due to the circumstances described below. As a consequence of the Government's new 'Bus Stop Accessibility Works Program' (BSAWP), which is administered by the PTA and commenced late last year, significant changes have to be made to the operation of this scheme.

The BSAWP was introduced following significant negotiations with the Western Australian Local Government Association (WALGA) with regard to how public transport bus stops across the State will be progressively upgraded over time to meet the requirements of the Disability Discrimination Act and the associated Disability Standards for Accessible Public Transport 2002 (Disability Standards).

*Due to the introduction of the BSAWP, the Bus Shelter Grant Scheme **will no longer be available in its current form** where applications are made for specific sites on an annual basis.*

Instead, the PTA will use this annual funding allocation to resolve bus shelter issues identified in the BSAWP. Under the BSAWP, the Government has initially allocated over \$3 million per annum to the PTA to undertake upgrades to its network of 13,000 bus stops so that over time they will all meet the requirements of the Disability Standards. In essence, the Bus Shelter Grant Scheme will transition from an "applicant based scheme" to an "offer based scheme".

The PTA has identified that as the BSAWP is rolled out, there will be many existing bus shelters/locations that will not meet the requirements of the Disability Standards, and as a consequence, will either need to be modified, relocated, or dismantled/destroyed and replaced with a new shelter.

The PTA recognises that this will be a considerable impost and if it is not possible for the PTA to economically upgrade the existing bus shelter (with the agreement of the shelter owner), subject to suitability of the site, the PTA may agree to share the cost of replacing the bus shelter on a 50/50 basis.

In such circumstances, the owner will be contacted (usually Local Government) and asked to contribute to the cost of purchase and installation of a compliant bus shelter on this basis subject to the owner agreeing to continue to maintain the bus shelter.

Recognising that you have identified a bus shelter requirement for this location, the PTA may undertake a detailed survey of the bus stop location as part of the 2010/11 BSAWP to determine if the PTA is agreeable to the provision of a shelter at the location. It is intended that if the PTA wishes to progress works at a previously nominated location, the PTA will enter into negotiations with the relevant Local Government to determine if they are still agreeable to constructing a new shelter.

If agreement is reached the PTA will prepare detailed construction drawings for the site and the cost of construction and installation of the shelter will be shared on a 50/50 basis.

Please also note that the cost of constructing the general concrete hard stand area and installation of tactile ground surface indicators will be met by the PTA under the BSAWP so that under these revised arrangements your costs will be considerably reduced.

Even though the PTA is not continuing with the Bus Shelter Grant Scheme in its current form, Local Governments, or any other entity, will still have the opportunity to request assistance with shelters on a similar basis outlined above (50/50 cost share basis) where there is a genuine requirement for a shelter, the location is physically suitable, and the required works can be incorporated into the BSAWP."

Officer's Comments:

As per their letter, the PTA has advised that the "Bus Shelter Grant Scheme" will no longer be available where applications are made for specific sites on an annual basis. They have, however, advised that there may be existing bus shelters/locations that will not meet the requirements of the Disability Standards and, as a consequence, will either need to be modified, relocated, or dismantled/destroyed and replaced with a new shelter.

In these instances the PTA have advised they may agree to still share the cost of replacing a bus shelter on a 50/50 basis, subject to the owner agreeing to continue to maintain the bus shelter. This will be determined as part of the PTA "Bus Shelter Grant Scheme" which will be commencing this year.

CONSULTATION/ADVERTISING:

N/A

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. *“(a) implement adopted annual infrastructure upgrade programs, including streetscape enhancements, footpaths, rights of way, car parking and roads.”*

FINANCIAL/BUDGET IMPLICATIONS:

The 2010/2011 budget has made an allowance of \$60,000 for the Bus Shelter Replacement Program i.e. \$30,000 Town, \$30,000 Grant.

The Town has been notified that it will not be receiving the \$30,000 grant therefore the actual funds available on budget are \$30,000.

COMMENTS:

As mentioned above, the PTA has advised that the "Bus Shelter Grant Scheme" will no longer be available where applications are made for specific sites on an annual basis. However, the PTA may still be in a position to share the cost of replacing a bus shelter on a 50/50 basis, as part of their Bus Stop Accessibility Works Program, if warranted, subject to the local government agreeing to fund 50% of the cost and agreeing to continue to maintain the bus shelter.

It is therefore considered that the Town should place a hold on undertaking any further work on bus shelter upgrades/replacement until such time as the PTA have further developed Bus Stop Accessibility Works Program.

9.2.5 Proposed Introduction of a "No Parking" Restriction in Richmond Street, North Perth, Loftus Street to Barnet Street

Ward:	South	Date:	4 August 2010
Precinct:	Smith's Lake P6	File Ref:	TES0132/PKG0079
Attachments:	-		
Reporting Officer:	C Wilson, Manager Asset & Design Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council APPROVES;

- (i) *the introduction of a "No Parking" restriction along the northern side of Richmond Street, between Loftus and Barnet Streets;*
- (ii) *advising the respondents of its decision; and*
- (iii) *the issuing of Cautions to offending vehicles for a period of two (2) weeks and thereafter, the issuing of infringement notice.*

COUNCIL DECISION ITEM 9.2.5

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of a proposal to install a "No Parking" restriction along the northern side of Richmond Street, between Loftus and Barnet Streets, in response to residents' complaints about commuter parking, access, vehicle damage and safety.

BACKGROUND:

At its Ordinary Meeting held on 15 December 2009, the Council considered a report on the introduction of new parking restrictions in Farr Avenue and decided to retain the existing restrictions in Morrision and Emmerson Streets, North Perth.

This was in response to residents' concerns that all day commuters (*in particular Water Corporation Workers*) had moved from parking in Morrision Street and Emmerson Street to parking all day on the southern side of Farr Avenue.

As a consequence of the above decision, a small percentage of the all day commuters started parking in Richmond Street, between Loftus and Barnet Streets, which is currently unrestricted.

This resulted in the Town receiving a number of complaints from residents of the aforementioned section of Richmond Street. However, the complaints were not specifically related to the all day parking but rather the problems, both perceived and real, driving down Richmond Street when vehicles are parked on both sides of the road.

DETAILS:

Over the course of the past six (6) months the Town has received a number of complaints about the on-road parking in Richmond Street, between Loftus and Barnett Streets.

However, rather than seeking timed parking restrictions, the complainants were more concerned about the narrowness of the street and difficulty in safely accessing their properties when vehicles were parked on either side of the road.

Richmond Street is 6.3m wide, other than the approach to the Loftus Street intersection where it was widened by the (then) City of Perth to accommodate an island. If a vehicle is parked either side of the road, which frequently occurs, it leaves only 2.7m of trafficable carriageway with few passing opportunities. Whilst this has not lead directly to any (reported) accidents, as most drivers display common sense, it can be extremely difficult for larger vehicles, such as the rubbish truck, to negotiate the street.

It was therefore suggested by several of the residents that the parking should be banned on one side of the road.

However, as would be expected, whilst many residents tend to support similar measures, they are usually divided as to which side of the street the ban should be imposed.

A site assessment indicated that with recent residential developments, the number of crossovers had increased significantly, as had paved verge areas, particularly along the northern side of street, and as a consequence the number of on-road parking spaces is diminishing. Therefore, it was proposed to ban parking along the northern side of Richmond Street, between Loftus and Barnett Streets, excluding the first bay closest to Loftus Street where the road has been widened.

This was on the understanding that residents can park on their own verge (immediately adjacent their property) and have the right to refuse others permission to park there.

The northern side of Richmond Street was considered the more appropriate of the two sides to restrict the parking as it has a wider verge that can accommodate a standard vehicle without obstructing the footpath, and a greater number of crossovers and paved areas used for vehicle parking. The proposed "No Parking" restriction will ensure that vehicles parked on the verge will not be "blocked in" by vehicles parking behind them on the road.

Community Consultation:

In accordance with the Council's policy, 22 letters were distributed to the residents of Richmond Street between Loftus and Barnett Streets, being those directly affected by the proposal.

At the close of consultation on 16 July 2010, some seven (7) responses had been received, representing a 32% response rate.

Of the seven (7) responses received, six (6) were in favour, with one (1) against.

Of the six (6) in favour three (3) live on the northern side of the street, the side on which the "No Parking" restriction would be imposed, and three (3) on the southern side.

The one (1) provided no other comments.

CONSULTATION/ADVERTISING:

The respondents will be advised of the Council decision.

LEGAL/POLICY:

There is no legal consequence of the recommendation.

STRATEGIC IMPLICATIONS:

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

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The cost of the stencilling and line-marking would be approximately \$500.00.

COMMENTS:

As discussed in the body of the report, Richmond Street is only 6.3m wide, making it difficult to negotiate the street when there are vehicles parked on either side of the road.

Whilst all the residents between Loftus and Barnet Streets received a consultation letter, only seven (7) responded of which six (6) were in favour, equally divided between both sides of the street.

However, given that the residents initiated the proposal to ban parking on one-side of the street and that it will improve the situation in respect of access and safety, a "No Parking" restriction along the northern side of the Richmond Street is recommended.

9.4.1 Use of the Council's Common Seal

Ward:	-	Date:	31 July 2010
Precinct:	-	File Ref:	ADM0042
Attachments:	-		
Reporting Officer:	M McKahey, Personal Assistant		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

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

COUNCIL DECISION ITEM 9.4.1

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Cr McGrath was on approved leave of absence.)

BACKGROUND:

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

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

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

Date	Document	No of copies	Details
09/07/2010	Application for New Titles	1	Town of Vincent and Complex Land Solutions Pty Ltd of PO Box 613, Joondalup WA 6919 re: Transfer of Land Parcels and Rights of Way (ROW) to Town of Vincent from City of Perth - <i>Certificates of Title Volume 2740, Folio 101, 102, 103, 104, 105, and 106</i>
09/07/2010	Deed of Easement	3	Town of Vincent and W A Howe and T M Rate of No. 98 Matlock Street, Mount Hawthorn re: Granting of a Right of Carriageway over Lot 350 on Plan 2503 to the owners of Lot 245 (No. 98) Matlock Street, Mount Hawthorn
09/07/2010	Lease of Crown Land (Form L1C)	7	Town of Vincent and Belgravia Leisure Group Pty Ltd of Level 11, 380 St Kilda Road, Melbourne, Victoria 3004 re: Loftus Recreation Centre - <i>For 10 years from 1 January 2007 to 31 December 2016 and a further 10 years from 1 January 2017 to 31 December 2026 – Re-signing of original lease</i>

Date	Document	No of copies	Details
09/07/2010	Deed of Contract	3	Town of Vincent and Belgravia Leisure Group Pty Ltd, Terres December Nominees Pty Ltd and Pacific Coast Leisure Pty Ltd of Level 11, 380 St Kilda Road, Melbourne, Victoria 3004 re: Loftus Recreation Centre - <i>For 10 years from 1 January 2007 to 31 December 2016 and a further 10 years from 1 January 2017 to 31 December 2026</i> – Re-signing of original lease
09/07/2010	Lease	4	Town of Vincent and Belgravia Leisure Group Pty Ltd, Terres December Nominees Pty Ltd and Pacific Coast Leisure Pty Ltd of Level 11, 380 St Kilda Road, Melbourne, Victoria 3004 re: Loftus Recreation Centre - <i>For 10 years from 1 January 2007 to 31 December 2016 and a further 10 years from 1 January 2017 to 31 December 2026</i> – Re-signing of original lease
13/07/2010	Deed of Extension and Variation of Licence	3	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta and Okewood Pty Ltd of 18 Oxford Close, West Leederville trading as PG Partnership and Perth Glory re: Use of Licensed Area at nib Stadium for the period commencing 1 July 2010
14/07/2010	Withdrawal of Caveat	1	Town of Vincent and Downings Legal of Level 11, 2 Mill Street, Perth 6000 re: No. 196 (Strata Lot 1 on Strata Plan 53812) Anzac Road, Mount Hawthorn
14/07/2010	Deed of Covenant	3	Town of Vincent and T Ricciardello and B & M Ricciardello Nominees Pty Ltd of 74 Shannon Road, Dianella re: No. 538 (Lot 2: D/P 2486 and Lot 401: D/P 35437) William Street, Mount Lawley - Demolition of Existing Single House and Construction of Four (4) Storey Two-Storey Grouped Dwellings - Legal Agreement/Deed of Covenant for Amalgamation
22/07/2010	Deed of Extension and Variation of Licence	3	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta and Western Australian Rugby League Ltd of nib Stadium, 310 Pier Street, Perth re: Use of Licensed Area at nib Stadium for the period commencing 1 July 2010
23/07/2010	Deed of Licence	1	Town of Vincent, Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: Main Roads Meetings - 27 and 28 July 2010 (Gareth Naven Room)
26/07/2010	Deed	3	Town of Vincent and P J Ingvorsen of 196 Anzac Road, Mount Hawthorn and Commonwealth Bank of Australia of 150 St Georges Terrace, Perth re: No. 196 Anzac Road, Mount Hawthorn - Deed in Relation to Conservation of Existing Dwelling
30/07/2010	Deed of Covenant	4	Town of Vincent and Royalla Enterprises Pty Ltd as trustee for the Edelman Property Trust, Elsegood Pty Ltd as trustee for The Silbert Property Trust, Bolgo Pty Ltd as trustee for the Bowles Superannuation Fund, T A Fay and J L Fay as trustees for The Fay Family Trust and the Western Australian Planning Commission of 469 Wellington Street, Perth re: No. 435 (Lot 3) Fitzgerald Street, North Perth - <i>To satisfy Clause (vii) of conditional approval of the Planning Approval issued on 30 October 2008 for change of use from consulting rooms, shop, recreational facility and incidental and ancillary consulting rooms to medical consulting rooms and associated alterations and signage on the subject property</i>

9.4.4 Loftus Centre, 99 Loftus Street, Leederville – Management Committee

Ward:	South	Date:	3 August 2010
Precinct:	Oxford Centre	File Ref:	PRO3829
Attachments:	001		
Reporting Officer:	M Rootsey, Director Corporate Services		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council RECEIVES the Unconfirmed Minutes of the Loftus Centre Management Committee Meeting held on 3 August 2010, as shown in Appendix 9.4.4.

COUNCIL DECISION ITEM 9.4.4

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of the report is for the Council to receive the Unconfirmed Minutes of the Loftus Centre Management Committee meeting held on the 3 August 2010.

BACKGROUND:

At the Ordinary Meeting of Council held on 19 December 2006, Item 10.4.9 the Council approved of a Management Committee for the Loftus Centre, as follows:

“OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY;

- (i) *pursuant to Section 5.9(2)(c) of the Local Government Act 1995, to establish a Committee to determine the day-to-day operational issues of the Loftus Centre, 99 Loftus Street, Leederville;*
- (ii) *the Committee shall comprise of the following persons;*
 - (a) *the Town's Chief Executive Officer or his representative;*
 - (b) *a representative of Belgravia Leisure Pty Ltd;*
 - (c) *a representative of Gymnastics WA;*
 - (d) *a representative of the Loftus Community Centre; and*
 - (e) *the Town's Manager Library and Information Services;*
- (iii) *in accordance with the Lease between the Town and Belgravia Leisure Pty Ltd, to APPOINT the Chief Executive Officer (with the and Executive Manager Corporate Services as Deputy) to the Committee; and*

- (iv) *to delegate the following functions to the Committee;*
- (a) *to determine day to day operational issues (including without limitation, use of the Premises, Common Areas cleaning, security issues, and use of the car park) which may arise as a result of the Lessee's use of the Loftus Centre Facilities with a view to ensuring the safe and efficient use of the Centre's Facilities by all users;*
 - (b) *to establish and review risk management plans for the Centre's Facilities;*
 - (c) *to consider and approve, if satisfactory, temporary structures within the Centre's Facilities;*
 - (d) *to make recommendations for the maintenance of Common Areas;*
 - (e) *to make recommendations for any capital improvements to the Centre's Facilities; and*
 - (f) *to do all such other things and to determine all such other issues in respect of the Centre's Facilities as are incidental or conducive to the above objects or any of them."*

CONSULTATION/ADVERTISING:

N/A.

LEGAL/POLICY

It is the Town's practice that Committee Meeting Minutes be reported to the Council.

STRATEGIC IMPLICATIONS:

The Town of Vincent's Plan for the Future, Strategic Plan 2009 – 2014:

*"Key Result Area Four – Leadership, Governance and Management - Objective 4.1: Provide Good Strategic Decision-Making, Governance, Leadership And Professional Management:
4.1.2 Manage the organisation in a responsible, efficient and accountable manner."*

SUSTAINABILITY IMPLICATIONS:

N/A.

FINANCIAL/BUDGET IMPLICATIONS:

N/A.

COMMENTS:

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

9.4.6 Information Bulletin

Ward:	-	Date:	4 August 2010
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer:	A Radici, Executive Assistant		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council RECEIVES the Information Bulletin dated 10 August 2010, as distributed with the Agenda.

COUNCIL DECISION ITEM 9.4.6

Moved Cr Topelberg, Seconded Cr Burns

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Cr McGrath was on approved leave of absence.)

DETAILS:

The items included in the Information Bulletin dated 10 August 2010 are as follows:

ITEM	DESCRIPTION
IB01	Letter from the City of Stirling regarding the City of Stirling Local Planning Scheme No. 3 – Gazettal
IB02	Letter from Tourism Western Australia regarding New Focus for Tourism Development in WA
IB03	Letter of Appreciation from the Hon Simon O’Brien MLC Minister for Transport; Disability Services regarding Road Reservations – Beaufort Street and Fitzgerald Street
IB04	Letter of Appreciation and Certificate from Mobile Muster regarding Mobile Phone Industry’s Official Recycling Program
IB05	Report on the 2010 International Climate Change Adaptation Conference – 29 June to 1 July 2010 – Gold Coast Convention Centre, Queensland and Visit to Skilled Park Stadium, Gold Coast
IB06	Unconfirmed Minutes of the Sustainability Advisory Group Meeting held on 19 July 2010
IB07	Register of Petitions - Progress Report - August 2010
IB08	Register of Notices of Motion - Progress Report - August 2010
IB09	Register of Reports to be Actioned - Progress Report - August 2010
IB10	Register of Legal Action (Confidential – Council Members Only) - Progress Report - August 2010
IB11	Register of State Administrative Tribunal Appeals - Progress Report - August 2010
IB12	Forum Notes - 20 July 2010
IB13	Notice of Forum - 17 August 2010

9.1.5 No. 458 (Lot 172 D/P: 3784) Charles Street, North Perth - Proposed Construction of Four (4) Two (2) Storey Grouped Dwellings and Two (2), Two-Storey Single Bedroom Grouped Dwellings

Ward:	North	Date:	3 August 2010
Precinct:	North Perth: P08	File Ref:	PRO4709; 5.2010.164.2
Attachments:	001		
Reporting Officer:	A Dyson, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES the application submitted by North Perth Pty Ltd on behalf of the owner North Perth Pty Ltd for the proposed Construction of Four (4) Two (2) Storey Grouped Dwellings and Two (2) Two-Storey Single Bedroom Grouped Dwellings, at No. 458 (Lot 172 D/P: 3784(1)) Charles Street, North Perth, and as shown on plans stamp-dated 26 July 2010, for the following reasons:

- (i) *the development is not consistent with the orderly and proper planning and the preservation of amenities in the locality;*
- (ii) *the development does not comply with the Minimum Site Area requirements of the Residential Design Codes 2008; and*
- (iii) *consideration of the objections received.*

Moved Cr Farrell, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND LOST (0-8)

(Cr McGrath was on approved leave of absence.)

Reason:

1. **The design provides better amenity for potential occupants, without increasing the impact on the neighbouring community, than the plans that were previously approved for the site.**

ALTERNATIVE RECOMMENDATION - COUNCIL DECISION ITEM 9.1.5

Moved Cr Maier, Seconded Cr Burns

That the Council;

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 North Perth Pty Ltd on behalf of the owner North Perth Pty Ltd for the proposed Construction of Four (4) Two (2) Storey Grouped Dwellings and Two (2) Two-Storey Single Bedroom Grouped Dwellings, at No. 458 (Lot 172 D/P: 3784(1)) Charles Street, North Perth, and as shown on plans stamp-dated 26 July 2010, subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive to Charles Street;*
- (ii) *no development shall occur within 1 metre of the right of way on the northern boundary of No. 458 Charles Street;*
- (iii) **PRIOR TO THE ISSUE OF A BUILDING LICENCE**, revised plans shall be submitted and approved demonstrating the following:

(a) **Construction Management Plan**

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

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

(b) **Landscape and Reticulation Plan**

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

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

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

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

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

(c) Single Bedroom Dwellings

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 single bedroom dwellings that:

1. *a maximum of one (1) bedroom and two (2) occupants are permitted in each single bedroom dwelling at any one time;*
2. *the floor plan layout of each single bedroom dwelling shall be maintained in accordance with the Planning Approval plans; and*
3. *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential unit/dwellings;*

(d) External Fixtures

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;

(e) Front Fencing

The front fence within Charles Street setback area, including along the side boundaries within this street setback area, shall be a maximum of 1.8 metres in height and incorporate 2 design features;

(f) Visitor Car Parking

Provision of one (1) compliant car parking bay within the front visitor parking area, complying with AS2890.1;

(g) Family Room on Unit 5

The proposed family room on the ground floor of unit 5 shall not be used for habitable purposes unless it can be demonstrated through revised plans that these rooms comply with Building Code of Australia;

(h) Right of Way

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

(i) DoP/WAPC Requirements

The applicant/owner shall obtain the support/approval of the Department of Planning and/or Western Australian Planning Commission of the proposed development, including:

1. *complying with its comments and conditions at the applicant(s)/owner(s)' full expense; and*
2. *all requirements recommended by the Department of Planning and/or Western Australian Planning Commission; and*

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

(a) **Vehicular Entry Gates**

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

(b) **Car Parking**

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.

Debate ensued.

ALTERNATIVE MOTION PUT AND CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

Landowner:	North Perth Pty Ltd
Applicant:	North Perth Pty Ltd
Zoning:	Residential R60
Existing Land Use:	Vacant Site
Use Class:	Grouped Dwelling and Single Bedroom Dwellings
Use Classification:	"P"
Lot Area:	1037 square metres
Right of Way:	North Side, 5 metres wide, sealed, Town owned

PURPOSE OF REPORT:

The proposal requires referral to the Council for determination.

BACKGROUND:

The current planning approval was considered by the Council at its Ordinary Meeting held on 17 November 2009.

The Council considered an application for proposed demolition of existing single house and construction of two (2), two-storey grouped dwellings, two (2), two-storey multiple dwellings and two (2), two-storey single bedroom multiple dwellings at its Ordinary Meeting held on 20 October 2009, and resolved as follows:

"That the item be DEFERRED to allow the Town's Officers to further discuss the item with the Applicant."

At the Ordinary Meeting of Council held on 20 October 2009, the Council deferred the application to allow the Town's Officers to discuss with the Applicant, amending the plans to change the proposed multiple dwellings into grouped dwellings. This change however, would result in a further variation to the Residential Design Codes, and given the application would be non-compliant with the minimum site area requirements of the R60 zoning, the applicant did not wish to create any more variations to what is currently proposed, and accordingly did not wish to amend the plans.

Following support of the application at the Ordinary Meeting of Council, the Applicant, following discussions with Elected Members, decided to resubmit the application with a change to the proposal, so that instead of multiple dwellings, grouped dwellings and single bedroom dwellings, the development would include only grouped and single bedroom dwellings. The layout and appearance of the proposed dwellings remain similar to the previous application.

The applicant has provided the following background:

- *“Original Application was lodged in September 2009 complying with all R Code requirements including the TOV Policy Manual (specifically 3.4.8 50% above each other to comply with the TOV definition of multiple dwelling);*
- *Application went to Council in Nov 2009 and it was deferred seeking a better solution to the cross over stairs (requirement to achieve general R Code requirements and TOV 3.4.8)*
- *We then spoke to TOV Planning who said they would not support the amendment and the proposal was forwarded unchanged which the TOV Councillors reluctantly approved;*
- *This original approval allowed us to demolish which was also pushed by Council as itinerants had moved in and made the site a health hazard (unfit for habitation notice issued 8/02/2010 by TOV).”*

DETAILS:

The proposal involves the construction of four (4), two- storey grouped dwellings (Units 1,2,5,6) and two (2), two storey single bedroom grouped dwellings (Units 3 and 4). The four front dwellings are accessed from an access-way from Charles Street, whilst the two rear dwellings are accessed via the rear Right of Way.

The site is currently vacant. The previous dwelling on the property was of a brick and tile construction; however, following the approval of a Demolition Licence in early 2010, the dwelling was demolished.

COMPLIANCE:

****Note: The following Compliance Table was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.***

NON-COMPLIANT REQUIREMENTS		
REQUIREMENTS	REQUIRED	PROPOSED
Site Area Requirements:		
Minimum Site Area Residential R60	Minimum – 160 square metres Average – 180 square metres	Unit 1 – 120.6 square metres Unit 2- 119.63 square metres
<u>Density</u>	<u>R60</u>	<u>R51.4</u>
Single Bedroom Dwellings	2/3 Area of R60 – <u>106.7 square metres</u> 120 square metres (Density Bonus)	Unit 3 – 83.25 square metres (Single Bedroom Dwelling)

NON-COMPLIANT REQUIREMENTS		
REQUIREMENTS	REQUIRED	PROPOSED
		Unit 4 – 83.25 square metres (Single Bedroom Dwelling) (Unit 5 & 6 Meet Minimum Site Area Requirements)
<i>Officer Comments:</i>		
Not Supported: It is considered that given the proposed lots do not meet the requirements of the Residential Design Codes for Single Bedroom Dwellings, the variation cannot be supported. In addition, neither the benefit of a five per cent reduction as provided in the Performance Criteria of the R Codes, or sufficient justification that the open areas of the remaining lot, justify the shortfall.		
Front Setbacks: Unit 1 Lower Floor Upper Floor	Average of Five (5) Properties Either Side of the Development: 9.0 metres Upper Floor – 2.0 metres behind the ground floor level: 11.0m Upper Floor	6.0 metres – 12.849 metres 6.0 metres - 12.849 metres
<i>Officer Comments:</i>		
Supported: The variations to the lower and upper floor setbacks are not considered to have an undue impact on the amenity of the immediate area, which comprises single and two storey dwellings. No objections were raised with regard to the setbacks. The front setback is consistent with the previously approved plans for the property, which were approved by the Council at its Ordinary Meeting held on 17 November 2009.		
Building Heights: Ridge Height	7.0 metres	8.0 metres
<i>Officer Comments:</i>		
Supported: The maximum height of the skillion roof at 8.0 metres is not consistent across the block. It is considered that as the height varies and follows the rise of the block towards the rear; it will not detrimentally affect the adjoining properties. The proposed heights have not been amended from the previously approved plans for the property, which was approved by the Council at its Ordinary Meeting held on 17 November 2009.		
Roof Forms Roof Pitch	30 degrees to 45 degrees	Mainly Flat Skillion Roof – 10 degrees to 15 degrees
<i>Officer Comments:</i>		
Supported: The Residential Design Elements Policy states that: <i>'the Town recognises that in some residential areas there may be more opportunity for innovative design and architectural styles and, in these instances, the Town may consider alternative roof forms to a pitch roof style'</i> . In this instance, the proposal illustrates an innovative and contemporary design that is appropriate for the evolving Charles Street streetscape. The presence of two shopfronts and flat roof designs adjacent to this property, further adds to the range of roofing styles available in this vicinity. The roof pitch and design matches the previously approved plans for the property, which was approved by the Council at its Ordinary Meeting held on 17 November 2009.		

NON-COMPLIANT REQUIREMENTS		
REQUIREMENTS	REQUIRED	PROPOSED
Front Fencing	Street Walls and Fences – Maximum Height of 1.8metres with 2.0metres for Piers.	Front Wall – 2.4 metres in height
Officer Comments		
Supported In Part: The proposed front fencing is solid to a height of 2.4 metres and provides a screen for the visitor parking at the front of the property. It is considered given Charles Street is a Primary Distributor Road, that solid fencing can be supported. However given the height of the wall is not compliant with the requirements of the Town of Vincent Residential Design Elements Policy, a maximum height of 2.0 metres should be supported and conditioned in any approval of the application.		
Essential Facilities – Grouped Dwellings:		
Storage	Accessible from Outside Dwelling	Only accessible from inside each individual Dwelling.
Officer Comments:		
Supported: It is considered that the proposed storage areas, albeit accessible from inside, have adequate space and provide appropriate storage to each dwelling.		

The above Officer Comments are provided pursuant to Clause 38(5) of TPS No. 1

Consultation Submissions		
Item	Comments Received	Officer Comments
Density	<ul style="list-style-type: none"> • <i>Feel that there are too many units on the size of the block.</i> • <i>Units 1, 2, 3, 4 all propose variations to the minimum site area requirements and this aberration should not be approved.</i> • <i>Two or three dwellings would be adequate for the site.</i> 	<p>Supported: Of the Four Grouped Dwellings and Two (2) Single Bedroom Dwellings only Two of the Grouped Dwellings comply with the Minimum Site Area proposed. Given that the proposed variations to the minimum site areas are 160 square metres and 180 square metres respectively, the variation is not supported. Not Supported. The proposal for 6 dwellings on-site complies in terms of density for the site.</p> <p>Supported. See Above <u>Of the four Grouped Dwellings and two (2) Single Bedroom Dwellings, only two of the Grouped Dwellings comply with the minimum site area required.</u></p> <p>Not supported: The property is coded Residential R60 and given the size of the block and the minimum and average site area requirements of the R Codes, more than three dwellings can be accommodated on the site.</p>

Consultation Submissions		
Item	Comments Received Objector (2)	Officer Comments
Parking/Traffic	<ul style="list-style-type: none"> • <i>Have concerns about the parking for occupiers and visitors.</i> • <i>Extra cars would most likely be parked around the corner in Clieveden Street where there are already cars from people parking and catching the bus to work.</i> • <i>Consideration could be given to making Clieveden Street Resident only parking between Union and Charles Streets.</i> • <i>The immediate footpath area at the front of the property is a designated Transperth bus stop complete with bus shelter. The crossover proposed for these units will be ungainly and encroach on any sort of safety aspect the Shelter Offers its users. It is too close to the driveway and has the probability of Excess Traffic.</i> • <i>As parking on Charles Street is out of the question, some of the users of the bus services are known to park their cars in both Clieveden and Selkirk Streets.</i> • <i>Concerns that the use of the two bedroom dwellings by two separate couples will provide extra pressure on the parking provided on site.</i> 	<p>Not supported: The Residential Design Codes require two (2) bays for each grouped dwelling; two bays for each dwelling are proposed. In addition, for every four grouped dwellings, a minimum of one extra visitor bay is required. Visitor bays are available at the front of the property.</p> <p>Noted. It is a by product of any development that extra cars visiting the site will be generated by the development. However, it is considered the development complies with the parking requirements of the Residential Design Codes.</p> <p>Not Supported: Is not a relevant planning consideration.</p> <p>Not supported. The proposed crossover provides adequate clearance to the bus shelter. Other developments within the Town, which have bus shelters at the front of the property, are still able to adequately ingress and egress from the property.</p> <p>Noted. See above.</p> <p>Not Supported. The Residential Design Codes require that dwellings of two or more bedrooms provide a minimum of two bays;. Two bays are provided for each of the four grouped dwellings in this case.</p>

Consultation Submissions		
Item	Comments Received Objector (2)	Officer Comments
	<ul style="list-style-type: none"> • <i>Traffic generated by the site will have impact on an already congested Charles Street.</i> • <i>Issues with use of the rear right of way and the dangerous reversing angles.</i> • <i>Impact of this property on the area along with the existing impact of the Church on traffic on Saturdays and some evenings.</i> • <i>Issues with only 2 proposed visitors bays for all the extra people to the site.</i> 	<p>Noted. Any future development of properties along Charles Street will have an impact on the traffic flows of Charles Street. However, given the close proximity to the City, the density of the lot and the ability for developers of the site to propose more than one dwelling on-site, this is a by product of the development.</p> <p>Not supported. The proposed two grouped dwellings at the rear of the property have been designed with adequate clearance from the Right of Way (ROW) to achieve the required manoeuvrability stipulated by the Australian Standards.</p> <p>Not supported. The development of the lot in whatever form will add to the traffic of the surrounding area.</p> <p>Not supported. The visitors bays provided meet the requirements of the Residential Design Codes, which is one additional visitor bay per four dwellings.</p>

CONSULTATION/ADVERTISING:

Advertising for a period of 14 days was carried out as per the Town's Policy No 4.1.5 – relating to Community Consultation.

LEGAL/POLICY:

Town Planning Scheme No. 1 and Associated Policies, and Residential Design Codes (R Codes).

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Department of Planning

No comments were received from the Department of Planning at the time this Agenda Report was prepared.

Planning Control Area No. 88

****Note: The following Comments were corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.***

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) 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. No development is proposed within the 3.86 metre road widening area. Recent discussions with the WAPC regarding the PCA have noted that where there is no development within the Road Widening Area and where the new development abuts it, no determination by the Department of Planning is required. Following further discussions with the DoP/WAPC on 6 August 2010, the Town has been advised that the WAPC determination is also required.

Planning Comments

It is noted that the site has a current planning approval. The proposed development is essentially similar in both appearance and layout to this approval; however, it proposes significant cumulative variations to the minimum site area requirements of the Residential Design Codes. The previous configuration of grouped, multiple and single bedroom dwellings complied with the density requirements of the R Codes. Given the significant areas of non-compliance, it is considered, along with the strong objections of the adjoining landowners, the proposal should not be supported in its current form. It is therefore recommended that the application be refused.

9.1.1 No. 9 (Lot 16; D/P 953) Bruce Street, Leederville - Proposed Partial Demolition of, and Alterations and Two Storey Addition to Existing Single House and Additional One (1), Two-Storey Grouped Dwelling – Reconsideration of Condition

Ward:	South	Date:	2 August 2010
Precinct:	Leederville; P03	File Ref:	PRO1160; 5.2010.365.1
Attachments:	001		
Reporting Officer:	D Pirone, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Y C Wong on behalf of the owner Y C & E Y Wong for proposed Partial Demolition of and Alterations and Two Storey Addition to Existing Single House and Additional One (1) Two-Storey Grouped Dwelling, at No. 9 (Lot 16; D/P 953) Bruce Street, Leederville, and as shown on plans stamp-dated 29 July 2010, subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Bruce Street;*
- (ii) *any new street/front wall, fence and gate within the Bruce 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 Nos. 5 and 11 Bruce Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 5 and 11 Bruce Street in a good and clean condition; and*
- (iv) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to, and approved by the Town:**
 - (a) **Construction Management Plan**
A Construction Management Plan shall be submitted to and approved by the Town, addressing the following issues:
 1. *public safety, amenity and site security;*
 2. *contact details of essential site personnel;*
 3. *construction operating hours;*
 4. *noise control and vibration management;*
 5. *Dilapidation Reports of nearby properties;*
 6. *air and dust management;*
 7. *waste management and materials re-use;*
 8. *parking arrangements for contractors and subcontractors;*
 9. *Consultation Plan with nearby properties; and*
 10. *any other matters deemed appropriate by the Town.*

(b) Landscaping and Reticulation Plan

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

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

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

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

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

(c) Privacy Screening

The balcony on the western 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 No. 11 Bruce Street, Leederville, stating no objection to the respective proposed privacy encroachments; and

(d) Carport and Garage Doors

The Carport and Garage Doors fronting Ragen Alley shall have a minimum of 80 percent visual permeability.

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

COUNCIL DECISION ITEM 9.1.1

Moved Cr Lake, Seconded Cr Farrell

That the recommendation be adopted.

Debate ensued.

AMENDMENT NO 1

Moved Cr Maier, Seconded Cr Burns

That a new clause (v) be inserted as follows:

“(v) 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 grouped dwelling adjacent to Bruce Street of the following:

- (a) the front two rooms of the existing dwelling, which fronts Bruce Street, inclusive of the façade detail, iron roof and weatherboard cladding shall be retained. Should the detail be required to be removed as a result of poor condition, the replacement detail shall be undertaken in a like for like manner.*

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

Debate ensued.

Cr Maier advised that he wished to include the words *“secured by a caveat on the Certificate(s) of title of the subject land, prepared by the Town’s solicitors”* to his amendment.

The Presiding Member, Mayor Nick Catania advised that he could not accept this change to the amendment, as it is substantially different.

Debate ensued.

The Mover, Cr Maier advised that he wished to withdraw his amendment. The Secunder, Cr Burns agreed. Cr Maier withdrew his amendment.

Debate ensued.

AMENDMENT NO 2

Moved Cr Burns, Seconded Cr Topelberg

That a new clause (v) be inserted as follows:

“(v) prior to the issue of a Building Licence, the owner(s) shall enter into a legal agreement that the front two rooms of the existing dwelling, which fronts Bruce Street, inclusive of the façade detail, iron roof and weatherboard cladding shall be retained . Should the detail be required to be removed as a result of poor condition or any other reason, the replacement detail shall be undertaken in a like for like manner which will be secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town’s solicitors or other solicitors agreed upon by the Town, for the conservation of the existing dwelling (Unit 1). All costs associated with this condition shall be borne by the applicant/owner(s). The requirement contained in the legal agreement and secured by the Caveat, shall expire upon completion of the development of the property to the satisfaction of the Town.”

Debate ensued.

AMENDMENT NO 2 PUT AND LOST (3-5)

For: Cr Burns, Cr Lake, Cr Maier

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

(Cr McGrath was on approved leave of absence.)

MOTION PUT AND CARRIED (7-1)

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

Against: Cr Maier

(Cr McGrath was on approved leave of absence.)

Landowner:	Y C & E Y Wong
Applicant:	Y C Wong
Zoning:	Town Planning Scheme No. 1 (TPS 1): Residential R60
Existing Land Use:	Single House
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	329 square metres
Right of Way:	South side, 10 metres wide, sealed, and privately owned.

PURPOSE OF REPORT:

The purpose of this report is for the Council to reconsider condition (v) that was approved by the Council at its Ordinary Meeting held on 13 July 2010.

BACKGROUND:

13 July 2010 The Council at its Ordinary Meeting resolved to conditionally approve an application for Proposed Partial Demolition of, and Alterations and Two Storey Addition to Existing Single House and Additional One (1) Two-Storey Grouped Dwelling.

DETAILS:

The purpose of this report is for the Council to reconsider the following condition that was approved by the Council at its Ordinary Meeting held on 13 July 2010:

“(v) *prior to the issue of a Building Licence, the owner(s) shall enter into a legal agreement to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town’s solicitors or other solicitors agreed upon by the Town, for the conservation of the existing dwelling (Unit 1). All costs associated with this condition shall be borne by the applicant/owner(s).*”

COMPLIANCE:

The subject application for reconsideration of condition, does not result in any further variations to the application approved by the Council at its Ordinary Meeting held on 13 July 2010.

CONSULTATION/ADVERTISING:

Consultation was not required in this instance as the subject application for reconsideration of condition, does not result in any further variations to the application approved by the Council at its Ordinary Meeting held on 13 July 2010.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies and Residential Design Codes.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The existing dwelling at No. 9 Bruce Street was assessed by the Town's Heritage Officers, who have advised that the subject weatherboard and iron house was constructed circa 1914 in the Federation Georgian style of architecture. The existing dwelling is considered worthy of retention as it contributes to the evolution and pattern of the history of the Town of Vincent and is a representative example of the timber housing stock that was common to the Leederville locality during this time. In light of the above, it was recommended that the density bonus be approved for the site.

The Town's Officers have reviewed the placement of the caveat condition No. (v) on the existing dwelling and have determined that it is not considered appropriate in this instance, as the applicant is proposing extensive regeneration works to the existing dwelling, and that it is extremely un-likely the existing dwelling will be demolished in the near future. The applicant has proposed to retain the two front rooms, the verandah and the roof line of the existing weatherboard cottage, and has setback the upper floor a significant distance from the street, to maintain a single storey presentation from Bruce Avenue.

Furthermore, the Council have recently approved a number of density bonuses where the existing dwellings have been demolished and the new development is not bound by a caveat. Therefore, it is considered inappropriate that a caveat to retain the existing dwelling on No. 9 Bruce Street be applied, when the applicant is attempting to maintain a dwelling that contributes to the evolution and pattern of the history of the Town of Vincent.

In light of the above, it is recommended that the Council approve the application for reconsideration of condition, and approve of the application with the same conditions as previously imposed, however delete the caveat condition No. (v) from the application approved by the Council at its Ordinary Meeting held on 13 July 2010.

9.1.4 Nos. 152-158 (Lots 1 and 3) Fitzgerald Street, Perth - Proposed Construction of Six-Storey Mixed Use Development Comprising Eight (8) Offices, Twenty-two (22) Multiple Dwellings and Associated Basement Car Parking

Ward:	South	Date:	3 August 2010
Precinct:	Beaufort; P 13	File Ref:	PRO3278; 5.2010.298.1
Attachments:	001		
Reporting Officer:	R Rasiah, Coordinator Statutory Planning		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Hartree & Associates Architects on behalf of the owner Peppermint Gardens Pty Ltd for proposed Construction of a Six-Storey Mixed Use Development Comprising Eight (8) Offices, Twenty- two (22) Multiple Dwellings and Associated Basement Car Parking, at Nos. 152-158 (Lots 1 and 3) Fitzgerald Street, Perth, and as shown on revised plans stamp-dated 29 July 2010, subject to the following conditions:

- (i) **Building**
- (a) *all new external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Fitzgerald Street;*
 - (b) *if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street in a good and clean condition;*
 - (c) *doors, windows and adjacent floor areas of the office fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
 - (d) *the maximum gross floor area for the non-residential/office component shall be limited to 1191 square metres; and*
 - (e) *the awnings being a minimum height of 2.75 metres above the thoroughfare to the underside of the awning and a minimum of 500 millimetres from the kerb line of Fitzgerald Street;*

(ii) Car Parking and Accessways

- (a) *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;*
- (b) *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;*
- (c) *all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (d) *the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (e) *all at grade car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";*
- (f) *the provision of a minimum of 36 car bays on-site, and a minimum of 22 car bays are to be specifically allocated for the 22 multiple dwellings;*
- (g) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$16,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing; and*
- (h) *vehicular access to the site off Fitzgerald Street shall be left in and left out only;*

(iii) Public Art

The owner(s), or the applicant on behalf of the owner(s), shall comply with the Town's Policy No. 3.5.13 relating to Percent for Public Art 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 \$120,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$12,000,000); 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;*

(iv) Signage

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 to and approved by the Town prior to the erection of the signage;

(v) Fencing

Any new street/front wall, fence and gate within the Fitzgerald 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;

(vi) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:**

(a) Construction Management Plan

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

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

(b) *Landscape and Reticulation Plan*

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

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

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

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

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

(c) *Amalgamation of the Lots*

The subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence, the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);

(d) *Section 70 A Notification of the Transfer of Land Act.*

The owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:

- (1) the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non- residential activities; and*
- (2) the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the 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;

(e) Schedule of External Finishes

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

(f) Acoustic Report

An Acoustic Report in accordance with the Town's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;

(g) Refuse and Recycling Management

Bin numbers, collection and stores shall meet with the Town's minimum service provision;

(h) Car Stacker System

The proposed model of car stacker Whor Combilift 543-2, 6(Comfort Type) shall comply with the following:

- (1) *platform openings shall be an absolute minimum of 2.5 metres wide with a general minimum of 2.7 metres wide for each car bay, with a general minimum platform width of 2.9 metres for each bay. This may necessitate a redesign of some of the car stackers;*
- (2) *the vertical clearance of the car stackers shall be a minimum of 2.1 metres on all levels;*
- (3) *rubber inserts shall be installed on all platforms on the drivers' side;*
- (4) *sliding doors shall be automatic;*
- (5) *car stacker operation shall be by remote control;*
- (6) *an uninterrupted power system (UPS) shall be installed; and*
- (7) *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services (FESA) prior to the issue of a Building Licence;*

(i) Legal Agreement-Car Stacker System

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

- (1) *all maintenance agreements/contracts shall be current for the life of the building and renewed annually;*
- (2) *~~a copy of updated and~~ provide copies of current maintenance agreements/contracts shall be submitted to the Town on an annual basis for the car stacking system, on demand, to the Town;*

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

(j) **DoP/WAPC Requirements**

The applicant/owner shall obtain the support/approval of the Department of Planning and/or Western Australian Planning Commission of the proposed development, including:

- (1) *compiling with its comments and conditions at the applicant(s)/owner(s)' full expense; and*
- (2) *all requirements recommended by the Department of Planning and/or Western Australian Planning Commission and Town of Vincent Technical Services with regard to traffic management, at the applicant(s)/owner(s)' full expense. Details of the traffic management measures shall be submitted to and approved by the Town prior to the works being undertaken; and*

(k) *visitor bays within the road widening reserve to be deleted; and*

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

(a) **Underground Power and Lighting**

The power lines adjacent to the subject lots shall be placed underground for the complete length of the Fitzgerald Street frontage of the development and – lighting installed on the eastern elevation of the building facing the rear right of way (ROW), at the full expense of the developer;

(b) **Entry Gates**

Any new vehicular entry gate off the Right of Way adjacent to the car parking area and in front of the Building on the Fitzgerald Street frontage shall have a minimum 50 per cent visually permeable and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the non-residential and residential 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;

(c) Residential Car Bays

The car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents and residential visitors of the development;

(d) Clothes Drying Facility

Each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer; and

(e) Visual Truncations

Visual truncation of 1.5 metres x 1.5 metres shall be provided at the intersection of Fitzgerald Street and driveways and 1.0 metre x 1.0 metre at the intersection of the ROW and the car park entrance.

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

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

Cr Farrell departed the Chamber at 7.55pm.

Debate ensued.

Cr Farrell returned to the Chamber at 7.56pm.

Debate ensued.

The Council Members agreed unanimously that the Officer Recommendation clause (vi)(h)(1) be corrected to read as follows:

“(vi)(h)(1) platform openings shall be an absolute minimum of 2.5 metres wide with a ~~general~~ minimum “usable platform width” of 2.7 metres wide for each car bay; ~~with a general minimum platform width of 2.9 metres for each bay. This may necessitate a redesign of some of the car stackers;~~”

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Harvey

That clause (vi)(h) be amended to read as follows:

“(vi)(h) The proposed model of car stacker Whor Combilift 543-2, 6 (Comfort Type) or alternative model providing the same amenity as the model being proposed, shall comply with the following:...”

AMENDMENT PUT AND CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (8-0)

(Cr McGrath was on approved leave of absence.)

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 Hartree & Associates Architects on behalf of the owner Peppermint Gardens Pty Ltd for proposed Construction of a Six-Storey Mixed Use Development Comprising Eight (8) Offices, Twenty-two (22) Multiple Dwellings and Associated Basement Car Parking, at Nos. 152-158 (Lots 1 and 3) Fitzgerald Street, Perth, and as shown on revised plans stamp-dated 29 July 2010, subject to the following conditions:

(i) **Building**

- (a) *all new external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Fitzgerald Street;*
- (b) *if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street in a good and clean condition;*
- (c) *doors, windows and adjacent floor areas of the office fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (d) *the maximum gross floor area for the non-residential/office component shall be limited to 1191 square metres; and*
- (e) *the awnings being a minimum height of 2.75 metres above the thoroughfare to the underside of the awning and a minimum of 500 millimetres from the kerb line of Fitzgerald Street;*

(ii) **Car Parking and Accessways**

- (a) *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;*
- (b) *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;*
- (c) *all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (d) *the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*

- (e) *all at grade car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";*
- (f) *the provision of a minimum of 36 car bays on-site, and a minimum of 22 car bays are to be specifically allocated for the 22 multiple dwellings;*
- (g) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$16,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing; and*
- (h) *vehicular access to the site off Fitzgerald Street shall be left in and left out only;*

(iii) **Public Art**

The owner(s), or the applicant on behalf of the owner(s), shall comply with the Town's Policy No. 3.5.13 relating to Percent for Public Art 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 \$120,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$12,000,000); 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;*

(iv) **Signage**

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 to and approved by the Town prior to the erection of the signage;

(v) **Fencing**

Any new street/front wall, fence and gate within the Fitzgerald 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;

(vi) ***PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:***

(a) **Construction Management Plan**

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

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

(b) **Landscape and Reticulation Plan**

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

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

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

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

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

(c) **Amalgamation of the Lots**

The subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence, the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);

(d) **Section 70 A Notification of the Transfer of Land Act.**

The owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:

- (1) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non- residential activities; and*
- (2) *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the 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;

(e) **Schedule of External Finishes**

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

(f) **Acoustic Report**

An Acoustic Report in accordance with the Town's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;

(g) **Refuse and Recycling Management**

Bin numbers, collection and stores shall meet with the Town's minimum service provision;

(h) Car Stacker System

The proposed model of car stacker Whor Combilift 543-2, 6 (Comfort Type) or alternative model providing the same amenity as the model being proposed, shall comply with the following:

- (1) *platform openings shall be an absolute minimum of 2.5 metres wide with a minimum “usable platform width” of 2.7 metres wide for each car bay;*
- (2) *the vertical clearance of the car stackers shall be a minimum of 2.1 metres on all levels;*
- (3) *rubber inserts shall be installed on all platforms on the drivers' side;*
- (4) *sliding doors shall be automatic;*
- (5) *car stacker operation shall be by remote control;*
- (6) *an uninterrupted power system (UPS) shall be installed; and*
- (7) *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services (FESA) prior to the issue of a Building Licence;*

(i) Legal Agreement-Car Stacker System

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

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

(j) **DoP/WAPC Requirements**

The applicant/owner shall obtain the support/approval of the Department of Planning and/or Western Australian Planning Commission of the proposed development, including:

(1) *compiling with its comments and conditions at the applicant(s)/owner(s)' full expense; and*

(2) *all requirements recommended by the Department of Planning and/or Western Australian Planning Commission and Town of Vincent Technical Services with regard to traffic management, at the applicant(s)/owner(s)' full expense. Details of the traffic management measures shall be submitted to and approved by the Town prior to the works being undertaken; and*

(k) *visitor bays within the road widening reserve to be deleted; and*

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

(a) **Underground Power and Lighting**

The power lines adjacent to the subject lots shall be placed underground for the complete length of the Fitzgerald Street frontage of the development and - lighting installed on the eastern elevation of the building facing the rear right of way (ROW), at the full expense of the developer;

(b) **Entry Gates**

Any new vehicular entry gate off the Right of Way adjacent to the car parking area and in front of the Building on the Fitzgerald Street frontage shall have a minimum 50 per cent visually permeable and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the non-residential and residential 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;

(c) **Residential Car Bays**

The car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents and residential visitors of the development;

(d) **Clothes Drying Facility**

Each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer; and

(e) **Visual Truncations**

Visual truncation of 1.5 metres x 1.5 metres shall be provided at the intersection of Fitzgerald Street and driveways and 1.0 metre x 1.0 metre at the intersection of the ROW and the car park entrance.

Landowner:	Peppermint Gardens Pty Ltd
Applicant:	Hartree & Associates Architects
Zoning:	Residential/Commercial R80
Existing Land Use:	Vacant Warehouse Building
Use Class:	Office Building and Multiple Dwelling
Use Classification:	"AA" and "P"
Lot Area:	1411 square metres
Right of Way:	East side, 3.04 metres wide, sealed and Town owned

PURPOSE OF REPORT:

The proposal requires referral to the Council for determination.

BACKGROUND:

- 27 September 2005 The Council at its Ordinary Meeting considered a development proposal for the partial demolition of existing warehouse and construction of a two-storey mixed use development comprising four (4) offices, one (1) eating house, one (1) showroom, one (1) serviced apartment and associated undercroft car parking.
- 20 November 2007 The Council at its Ordinary Meeting considered the proposed demolition of existing warehouse and construction of an eight- storey mixed use development comprising thirty five (35) multiple dwellings (including 15 single bedroom dwellings and 20 two-bedroom dwellings), office, shop, eating house and associated basement car park at Nos. 152-158 (Lot: 1 D/P: 964, Lot: 3 D/P: 11783), Fitzgerald Street, Perth, and resolved the following:
"That this Item be DEFERRED for further investigation."
- 18 December 2007 The Council at its Ordinary Meeting considered the matter and resolved to refuse the application.
- 29 July 2008 The State Administrative Tribunal dismissed the appeal/review application (DR56 of 2008) lodged against the Town's refusal of the development application at the Ordinary Meeting of Council held on 18 December 2007.
- 16 December 2008 The Council at its Ordinary Meeting resolved to approve the application with conditions.
- 6 February 2009 The Town's Officers met with the applicants to discuss this application.
- 17 February 2009 Letter received from the then Department for Planning and Infrastructure stating no further objection to the above proposal, based on the revised Traffic Impact Assessment dated 28 January 2009 (revision 4).
- 24 March 2009 The Council at its Ordinary Meeting considered reconsideration of some of its conditions imposed at the Ordinary Meeting of Council held on 16 December 2008.
- 2 July 2010 Demolition of the buildings at the above sites was conditionally approved under delegated authority (Serial No. 5.2010.301.1).

DETAILS:

The proposal involves construction of a six-storey mixed use development comprising eight (8) offices, twenty-two (22) multiple dwellings and associated basement car parking. The current planning application for the subject site is similar to a previous application approved by the Council at its Ordinary Meeting held on 16 December 2008; however, the previous application included the retention of part of the existing building, with several brick walls being retained. The applicant's engineers have since advised that they had significant concerns regarding the free standing walls' stability on a construction site boundary. Furthermore, the type and age of the bricks meant that they were unsuitable to be relied upon, with the proposed works to be undertaken, structurally, environmentally and aesthetically. Further, concerns relating to public liability and repeated unauthorised entry into the site were also considered.

As a result of the above, the new landowner's preference was to reduce reliance on the car stacker system, and a basement has now been proposed. The remainder of the building remains the same, including setbacks, height and yield.

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

COMPLIANCE:

NON-COMPLIANT REQUIREMENTS		
REQUIREMENTS	REQUIRED	PROPOSED
Number of storeys	3 storeys and 6 storeys for lots that have frontage to both Fitzgerald Street and Pandal Lane.	6 storeys; lot has frontage to only Fitzgerald Street
<i>Officer Comments:</i>		
Supported - It is considered that the height and overall design of the proposal is not considered to create an unacceptable bulk and scale issue. Moreover, the bulk and scale has been designed to face Fitzgerald Street. The upper 3rd, 4th, 5th and 6th storeys have been further setback to provide a staggering streetscape effect. The current approval for the site also depicts the same setbacks as approved by the Council at its Ordinary Meeting held on 16 December 2008 (Item 9.1.10).		
Building Setbacks north and south sides for 3rd to 6th floor	Nil	7 metres
<i>Officer Comments:</i>		
Supported - It is considered that the design reduces the bulk and scale and provides for vertical and horizontal articulation elements, when taken into perspective with the single storey to the north of the subject site, and the new multiple storey Department of Housing development on the south side.		
Front building setback for 4th storey	10 metres	5.5 metres
<i>Officer Comments:</i>		
Supported - It is considered that the streetscape in this instance would not be unduly affected. The setback is similar to the existing approved setback for the site.		
Front building setback for 5th and 6th storey	30 metres	5.5 metres
<i>Officer Comments:</i>		
Supported - It is considered that the streetscape in this instance would not be unduly affected. The setback is similar to the existing approved setback for the site.		
Privacy setback- Balcony	7.5 metres	7 metres
<i>Officer Comments:</i>		
Not supported - It is considered that it would result in undue impact on privacy of affected neighbouring properties. However, this was considered acceptable and approved by the Council at its Ordinary Meeting held on 16 December 2008 (Item 9.1.10).		

The above Officer Comments are provided pursuant to Clause 38(5) of Town Planning Scheme No. 1

Consultation Submissions		
Item	Ratepayer Comments-Support (1)	Officer Comments
	<ul style="list-style-type: none"> Satisfied with the Town using its discretion in determining the application. 	Noted.
Item	Ratepayer Comments-Objections (6), one being a late submission	Officer Comments
Height of Building	<ul style="list-style-type: none"> Building is too high. 	Not supported - As the height is considered acceptable in this area. The adjoining lot to the south is currently being developed with an 8 storey building on-site.
Noise, vibration, damage to building and disruptive to business	<ul style="list-style-type: none"> Adjoining building is reasonably old, and the proposed piling of sheet metal at the boundary for the basement car park, will cause our building to collapse. Concerns over vibration, and noise, which will be disruptive to business. 	Noted - A condition for a Construction Management Plan has been proposed to minimise impact on surrounding properties.
Safety and Health	<ul style="list-style-type: none"> Not mentioned is how the asbestos will be removed from the roof, and its impact on safety and health of the occupants of the adjoining business. These matters need to be resolved, prior to the demolition taking place. 	Noted - The owners will have to comply with the relevant legislation pertaining to any removal of asbestos on-site.
Building Setbacks	<ul style="list-style-type: none"> Non-compliant with building setbacks. 	Not supported - As it is considered that the setbacks would not result in an undue impact on the amenity of the area.
Privacy Setbacks	<ul style="list-style-type: none"> Non-compliant with the privacy setbacks, as the balconies, terraces and bedrooms are too close to the lot boundary. Potential overlooking into front yard and 1st floor entertainment areas, as a result of the balconies being 7 metres from the northern boundary. They should be setback 7.5 metres, to comply with the privacy required, unless they are screened. No objection to the rear bedrooms windows provided that they are screened to a height of 1.6 metres from the finished floor level. 	Supported - Revised plans have been submitted showing screening to the terraces and bedroom windows. The balconies to the residential units on the northern and southern sides on Plan L3, 4 and 5 have been previously approved by the Council, at its Ordinary Meeting held on 16 December 2008.
Stores	<ul style="list-style-type: none"> The need to provide with compliant stores. 	Revised plans have been submitted, showing compliant stores.
Awning	<ul style="list-style-type: none"> The need to provide awnings. 	Revised plans submitted showing an awning at the front of the building on the Fitzgerald Street frontage.
Balcony	<ul style="list-style-type: none"> Balconies are too large. 	Not supported - The balconies provide outdoor living areas for the units.

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 40 car bays have been provided for the residential component. The balance of car bays available for the commercial component in this instance is 14 car bays, and does not include the 2 car bays within the road widening verge area, along Fitzgerald Street.

Car Parking- Commercial Component	
Car parking requirement (nearest whole number) Office: 1 car bay per 50 square metres gross office/administration floor area (proposed 1191 square metres) = 23.82 car bays.	24 car bays
Apply the parking adjustment factors. <ul style="list-style-type: none"> • 0.85 (within 400 metres of a bus stop) • 0.95 (within 400 metres of one or more public car parks in excess of 25 spaces) • 0.90 (provision of "end of trip" facilities for bicycle users) • 0.80 (development contains a mix of uses, where at least 45 per cent of the gross floor area is residential) 	(0.5814) 13.95 car bays
Minus the car parking provided on-site	16 car bays of which 2 visitor car bays will be lost if road widening does occur. As such, 14 car bays should be considered in this instance.
Minus the most recently approved on-site car parking shortfall	Nil.
Surplus	0.05 car bay
Bicycle Parking:	Offices- <ul style="list-style-type: none"> • 1 space per 200 (proposed 1191) square metres) gross floor area (class 1 or 2) = 5.96 spaces • 1 space per 750 (proposed 1191) square metres over 1000 square metres for visitors (class 3) = 0.25 space
<i>Officer Comments:</i>	
Supported - No variation	

CONSULTATION/ADVERTISING:

Advertising for a period of 14 days was carried out in the form of advertising letters sent by the Town to landowners as per the Town's Policy No 4.1.5 - relating to Community Consultation.

LEGAL/POLICY:

TPS 1 and associated Policies, and Residential Design Codes (R Codes).

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Department of Planning (DoP)

The Department of Planning in their letter dated 20 July 2010, have advised as follows:

- The development has been setback in accordance with the future 3 metres road widening reserve on Fitzgerald Street, adjacent to the subject site;
- Access to the site be limited to left-in-left out only from Fitzgerald Street; and
- Parking to comply with the Town's requirements.

On the above basis, the DoP have no objection on regional transport planning grounds. The revised plans and Traffic Statement dated 29 July 2010 has been forwarded to the DoP for further comment. No further response has been received at the time this Agenda Report was finalised.

Demolition

The subject property comprises a large concrete and fibro warehouse building at Nos. 152 - 158 Fitzgerald Street, Perth, constructed c. 1969.

The warehouse covers almost the entire site with the exception of a small rectangular car parking area and features a sawtooth roof, an articulated concrete panel façade to the north of the lot and a large roller door to the southern portion of the façade behind the car park area.

The subject property is not listed on the Town's Municipal Heritage Inventory. The place is not considered to have any specific cultural heritage value that would make it eligible for consideration for inclusion on the Town's Municipal Heritage Inventory. As such, the demolition of the building was supported and approved on 2 July 2010 (Serial No. 5.2010.301.1).

Technical Services

The Town's Technical Officers have advised that the vertical clearance of the car stackers shall be a minimum of 2.1 metres all levels. The proposed maximum weight of 2600 kilogram is considered acceptable.

Bin collection for this site must be from Fitzgerald Street, and multiple collections will be required to reduce the number of bins on any given collection day, to allow safe pedestrian movements. Details of frequency of collection and bin numbers must be satisfactorily addressed in the Building Licence application.

Building Services

Below is a verbatim extract from the Minutes of the Ordinary Meeting of Council held on 16 December 2008:

"The Town's Building Services Officers have advised that the proposal is non-compliant in terms of Building Code of Australia requirements. However, these non-compliances can be addressed at the Building Licence stage."

It is generally a common practice for Building Code of Australia requirement in large scale development such as this, being finalised by owners/builders, when the detailed building licence plans are prepared.

Health Services

Below is a verbatim extract from the Minutes of the Ordinary Meeting of Council held on 16 December 2008:

"The Town's Health Services Officers strongly recommend 'increased sound insulation' as detailed in the product data sheet for the car stackers, and that the acoustic consultant will be required to assess whether this provides a suitable level of attenuation. The above matter can be addressed at the Building Licence stage."

Furthermore, a condition requiring the submission of an Acoustic Report has been imposed.

The application is considered generally acceptable and would not result in any undue impact on the amenity of the surrounding area consistent with the Council's decision at its Ordinary Meetings held on 16 December 2008 and 24 March 2009. The application is therefore supported, subject to standard and appropriate conditions to address the above matters and the scale and nature of the development.

The Chief Executive Officer advised that Cr Burns declared a financial interest in Item 9.1.2. She departed the Chamber at 8.00pm and did not speak or vote on this matter.

9.1.2 No. 148 (Lot 1; STR: 57977) Carr Street, West Perth- Reconsideration of Condition (vi) of Planning Approval dated 10 March 2009

Ward:	South	Date:	2 August 2010
Precinct:	P05- Cleaver Precinct	File Ref:	PRO3362; 5.2010.278.1
Attachments:	001		
Reporting Officer:	J Maclean, Manager Ranger Services R Narroo, Senior Planning Officer (Statutory)		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES the application submitted by Greg Rowe & Associates on behalf of the owner J L Dragojevich for proposed Reconsideration of Condition (vi) of Planning Approval dated 10 March 2009 - Residential Parking Permit, at No. 148 (Lot 1; STR: 57977) Carr Street, West Perth, and as shown on plans stamp-dated 16 June 2010, as reconsideration of condition (vi) is not consistent with the orderly and proper planning and the preservation of the amenities of the locality and would set an undesirable precedent for further requests of this nature.

COUNCIL DECISION ITEM 9.1.2

Moved Cr Lake, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (5-2)

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

Against: Mayor Catania, Cr Farrell

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

Cr Burns returned to the Chamber at 8.05pm. The Presiding Member, Mayor Nick Catania advised her that the item was carried.

Landowner:	J L Dragojevich
Applicant:	Greg Rowe & Associates
Zoning:	Residential R80
Existing Land Use:	Grouped Dwelling
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	328 square metres
Right of Way:	Not applicable

PURPOSE OF REPORT:

The proposal involves the reconsideration of condition (vi) of the planning approval dated 10 March 2010.

BACKGROUND:

26 April 2006 The Council at its Ordinary Meeting considered an application for proposed additional five (5), two-storey single bedroom grouped dwellings with studios to existing single house, at No. 148 (Lot 64) Carr Street, West Perth, and resolved:

“That the Item be DEFERRED for further investigation.”

25 July 2006 The Council at its Ordinary Meeting considered an application for proposed additional five (5), two-storey single bedroom grouped dwellings with studios to existing single house, at No. 148 (Lot 64) Carr Street, West Perth, and resolved:

“That the Item be DEFERRED as requested by the applicant.”

8 August 2006 The Council at its Ordinary Meeting resolved to refuse the application for proposed additional five (5), two-storey single bedroom grouped dwellings with studios to existing single house at No. 148 (Lot 64) Carr Street, West Perth, 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 upper floor building on boundary and upper floor setback requirements of the Residential Design Codes; and

(iii) consideration of the objections received”.

5 December 2006 The Council at its Ordinary Meeting considered an application for proposed additional three (3) two-storey plus lofts, grouped dwellings and alterations to existing single house, and resolved:

“That the Item be DEFERRED to allow for more accurate plans to be provided, in particular dormer windows to the loft.”

19 December 2006 The Council at its Ordinary Meeting considered an application for proposed additional three (3) two-storey plus lofts, grouped dwellings and alterations to existing single house, and resolved:

“That the matter be DEFERRED.”

10 January 2007 The Town under Delegated Authority from the Council during the Christmas New Year Recess Period conditionally approved an application for proposed additional three (3), two-storey plus lofts, grouped dwellings and alterations to existing single house.

10 March 2009 The Council conditionally approved a crossover to existing grouped dwelling.

24 March 2010 The Town under Delegated Authority from the Council approved an application for patio addition to existing grouped dwelling (Lot 1) - retrospective application.

DETAILS:

The applicant's submission is "*Laid on the Table*". The following justification was provided:

"Lot 1 on Strata Plan 57977 ('Strata Lot 1') incorporates an existing dwelling which has recently been refurbished including the development of one (1) onsite hardstand car parking bay serviced by an exclusive crossover to STRATA Lot 1 in accordance with Planning Approval (PRO3362 5.2006.462.1) dated 10 January 2010. The abovementioned Planning Approval also included the redevelopment of the balance of Parent Lot 64 with three (3) Grouped Dwellings with each of the respective dwellings incorporating a double garage.

Condition (v) of the Planning Approval required that the owner(s) shall agree in writing to a Notification being lodged under S.70A of the Transfer of Land Act 1983 which provides a Notification on the Certificate of Title that no residential or visitor parking permit(s) will be granted to an owner or occupier of each of the four (4) respective dwellings constructed within Lot 64 Carr Street.

We note that our Client had advised that it was conceded beforehand that one (1) parking bay was deemed sufficient for the parking of vehicles within Strata Lot 1 with a view to reconfiguring the front portion of Strata Lot 1 to incorporate two (2) onsite bays at a later date.

Part of the proprietor's intention in redeveloping the original dwelling within Strata Lot 1 which forms part of the original housing stock within Carr Street was to preserve the dwelling and its interface with Carr Street. On this basis it was and is, still considered that a wider crossover and hardstand parking bay will to a degree detract from the initial design intent of the project and benefit to Carr Street. Moreover it has been found that consequent of the limited space available two (2) on-site parking bays is not practicable.

We consider now that an appropriate alternative solution is to permit one (1) resident parking permit to the proprietor(s) of Strata Lot 1 which will entitle each of the four (4) dwellings within Lot 64 Carr Street having access to two (2) parking bays.

We have reviewed the area of Carr Street bound by Loftus Street to the west and Cleaver Street to the east on three consecutive mornings and evenings and have found that there have been numerous street parking bays available. On this basis it is considered that there is capacity for an additional parking permit for Strata Lot 1.

It is also our view that given the developer contributed to the retention of a dwelling with heritage value which contributes to the Carr Street streetscape and history of West Perth, a parking permit is a reasonable request in this instance.

We further add that Lot 64 has reached its residential density capacity and is not subject to further infill development and there would be no further need for parking permits for Lot 64.

In light of the above, it is requested on behalf of the proprietor of Strata Lot 1 that the Town of Vincent support the proprietor withdrawing the Notification on Certificate of Title Volume 2733 and Folio 347 and replacing the Notification with a similar Notification which entitles Strata Lot 1 to one (1) parking permit for the registered proprietors(s). Our Client agrees to incur all administration costs long with the relevant fee of withdrawing the Section 70A Notification and lodging the new Notification should the Town of Vincent agree to this request."

COMPLIANCE:

Non-Compliant Requirements		
Requirements	Required	Proposed
Density:	N/A	N/A
Officer Comments:		
Noted.		
Plot Ratio:	N/A	N/A
Officer Comments:		
N/A		

The above Officer Comments are provided pursuant to Clause 38(5) of TPS No. 1

Consultation Submissions		
Item	Comments Received	Officer Comments
The application was not advertised for comment as it is an application for reconsideration of a planning condition imposed by the Council.		

CONSULTATION/ADVERTISING:

Community Consultation Policy No. 4.1.5.

LEGAL/POLICY:

TPS 1 and associated Policies, and Residential Design Codes (R Codes).

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Council at its Ordinary Meeting held on 10 March 2009, conditionally approved a crossover to the existing grouped dwellings. Condition (vi) of the approval reads as follows:

“(vi) prior to the construction of the crossover, 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 the Town of Vincent will not issue an owner or visitor residential car parking permit to any owner or occupier of the units. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.

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

The applicant would now like the Council to reconsider this condition, and to permit one resident parking permit to the proprietor of Strata Lot 1. **It is noted that there is an existing Notification under Section 70A on the subject site, specifying that the Town will not issue a residential or visitor parking permit to any owner or occupier of the land.**

Residential and Visitors Parking Permits are issued in accordance with the Town of Vincent Parking and Parking Facilities Local Law and Residential and Visitors Parking Permits Policy 3.9.8.

This Policy states that on application, the Town may issue a maximum of one Residential and one Visitor Parking Permit to the occupant(s) of a Residential Unit. In the case of a Residential Unit, which provides parking for one vehicle, the occupant would not be eligible for the issue of any residential permits, but may be considered for the issue of one Visitor Parking Permit. In this specific case, as with all new Residential Development Approvals, the Town of Vincent imposed a condition in the Development Approval that residents will not be eligible for residential or visitor parking permits. This helps to ensure that on-site parking is made available to occupiers and by making developers responsible for providing adequate parking facilities for current and future needs. This prevents new development from worsening the existing shortage of on-street parking.

Parking is at a premium within the confines of inner city areas and there is competition for existing on-street parking facilities between residents, all-day commuters, staff and customers of businesses within the vicinity. Therefore, the Town has always been very cautious in issuing resident or visitor parking permits.

It is recognised that, when the applicant checked Carr Street, there may have been a number of vacant car bays available; however, in the future, there may be further developments in this area and all the parking bays may be occupied. The Town views residential and visitor on-street parking on a long term basis, and permits are allocated in accordance with the Town's Residential or Visitor Parking Permits Policy. It was considered by the Council at its Ordinary Meeting held on 10 March 2010, that the loss of one parking bay on Lot 1 would not have any impact on the surrounding area. However, by seeking to have a permit issued tends to suggest that the reduction in on-site parking facilities does have an impact on the surrounding area. If the Town removes the Section 70A notification, and agrees to issue a residential permit for this dwelling, it will create a precedent and it will be difficult for the Town to defend its position for not issuing visitor or residential parking permits, for other developments both in the same area and throughout the Town.

With regard to the applicant justification of retention of the dwelling with heritage value, the dwelling is not heritage listed.

The applicant has requested that the existing notification be replaced with a similar notification which entitles the owner of Strata Lot 1 for one parking permit. If the Town decides to issue a parking permit, there is no requirement for a notification on the title.

Under Policy No. 3.9.8 relating to Residential or Visitor Parking Permits, the Chief Executive Officer has a discretionary authority to issue one additional Residential or one additional Visitor Parking Permit. As a result, pending an assessment of the property and the surrounding area, the Town may be prepared to issue an additional Residential or Visitor's Parking Permit. However, because these parking permits are valid for only one year, the appropriateness of the permit being re-issued would be dependent on the annual assessment confirming that the conditions in the street have not changed. Clause 5 of the above Policy states:

"5. DISCRETIONARY AUTHORITY

Notwithstanding any other provisions, which restrict the number of Residential and/or Visitor's Parking Permits that may be issued, the Chief Executive Officer may approve the issue of one (1) additional Residential Parking Permit or one (1) additional Visitor's Parking Permit, to any occupier, under such conditions as the Chief Executive Officer considers necessary."

In light of the above, it is recommended that the request for reconsideration of condition (vi) be refused.

Cr Buckels departed the Chamber at 8.05pm.

The Presiding Member, Mayor Nick Catania advised that as the Town's solicitor Graeme Slattery from Minter Ellison had arrived at the meeting. The Presiding Member, Mayor Nick Catania suggested that Confidential Item 14.1 be considered next in the Order of Business. He requested the necessary Procedural Motion be moved to change the Order of Business to consider the Confidential Item and proceed behind closed doors.

PROCEDURAL MOTION

At 8.06pm Moved Cr Farrell, Seconded Cr Maier

That the:

- (a) *Order of Business be changed so that the Confidential Item 14.1 can be considered next on the Agenda; and*
- (b) *Council proceed "behind closed doors" to consider confidential item 14.1, as this matter relates to information concerning legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

PROCEDURAL MOTION PUT AND CARRIED (7-0)

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

Cr Buckels returned to the Chamber at 8.07pm.

There were no members of the public or journalist present.

The Presiding Member, Mayor Nick Catania welcomed Graeme Slattery, Solicitor from Minter Ellison to the meeting. He advised that he is able to provide legal information to any questions, which may arise during consideration of the Item.

14.1 Mindarie Regional Council (MRC) – Progress Report No. 4 on the Supreme Court Action by the City of Stirling Against the MRC and Ors and Approval of the City of Stirling to Withdraw from the Mindarie Regional Council

Ward:	-	Date:	6 August 2010
Precinct:	-	File Ref:	ENS0008
Attachments:	001		
Reporting Officer:	John Giorgi, Chief Executive Officer		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council;

(i) **NOTES:**

- (a) *the progress of the City of Stirling Supreme Court action CIV 1620 of 2010 against the Mindarie Regional Council (MRC) and other Member Councils as detailed in this report;*

- (b) *the outcome of the compulsory Mediation Conference held on 3 August 2010, as detailed in this report;*
- (c) *that this resolution is not intended to and does not take effect unless the MRC and each Participant in the MRC pass the resolutions required by the Heads of Agreement, as shown in Appendix 14.1, on or before 12 August 2010; and*
- (d) *the decision passed by the City of Stirling at its Special Meeting of Council held on 5 August 2010, as detailed in this report;*
- (ii) *AGREES to settle Supreme Court action CIV 1620 of 2010 commenced by the City of Stirling against the MRC and Ors (Proceedings) on the basis that each party pay its own costs of the Proceedings and otherwise on the basis set out in the Heads of Agreement dated 3 August 2010 signed by the Chief Executive Officers of the respective Parties;*
- (iii) *CONSENTS to the proposed withdrawal of the City of Stirling from the MRC subject to, and conditional upon, compliance with and agreement on, those matters required by the Mindarie Regional Council Establishment Agreement (as amended) and Section 699(3) of the Local Government Act 1960;*
- (iv) *NEGOTIATES in good faith with the City of Stirling, the MRC and the other participants in the MRC during the period until 30 April 2011, as to the adjustment of Assets and Liabilities of the MRC, consequent upon the City of Stirling withdrawing from the MRC;*
- (v) *AUTHORISES the Chief Executive Officer to negotiate with the MRC and other participants in the MRC as to the adjustment of the Assets and Liabilities of the MRC (as specified in clause (iv) above) and provide a further report for the consideration of the Council; and*
- (vi) *ADVISES the MRC and other Member Councils of its decision.*

COUNCIL DECISION ITEM 14.1

Moved Cr Farrell, Seconded Cr lake

That the recommendation be adopted.

The Chief Executive Officer and Graeme Slattery addressed and updated the Council on this matter.

Cr Burns departed the Chamber at 8.16pm.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Lake

That Standing Orders be suspended to allow for free and open discussion on the item and allow the Town's Solicitor to address the meeting.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

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

Debate ensued.

Cr Burns returned to the Chamber at 8.18pm.

Debate ensued.

Cr Burns departed the meeting at 8.45pm and did not return.

Debate ensued.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Cr Topelberg

That Standing Orders be resumed.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

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

PURPOSE OF REPORT:

The purpose of this report is to provide updated information to the Council on the recent Supreme Court action taken by the City of Stirling against the MRC and Member Councils and for the Council to approve of the City of Stirling's request to withdraw from the Mindarie Regional Council.

BACKGROUND:

As previously reported to the Council, in April 2010 the City of Stirling applied for an Interlocutory Injunction in the Supreme Court to prevent the MRC from imposing its new Single Fee Model. This application was dismissed in the Supreme Court on 4 June 2010, however, the City of Stirling has continued with the action.

On 15 June 2010, the MRC and Member Councils' Solicitors attended a Directions Hearing in the Supreme Court. The parties to the Court Action had previously agreed for a trial in October 2010 however, Justice Le Miere advised that in his view, the matter should be in a position to proceed to a trial in August 2010. He made Orders that amended the timetable and proposed that this matter be listed for a seven (7) day Hearing on 17 August 2010.

Justice Le Miere also directed that the parties attend a compulsory Mediation Conference with a Court Registrar to determine whether the parties can settle the dispute, rather than proceed to trial. The Mediation Conference was listed to last all day. It was compulsory that a representative from each party, who had authority to settle the matter, attend the Mediation.

DETAILS

The matter was reported to the Ordinary Meeting of Council held on 22 June 2010 (Item 9.4.1), whereby the Council resolved as follows:

“That the Council;

(i) *NOTES that:*

(a) *a Supreme Court Directions Hearing was held on 15 June 2010, whereby it determined;*

1. *the Timetable for the legal action;*
2. *a six (6) day trial to be listed to be held in the Supreme Court, commencing on 17 August 2010; and*
3. *all plaintiffs (City of Stirling, Mindarie Regional Council (MRC) and Member Councils) must attend a compulsory Mediation Conference in July or early August 2010, with a Court appointed Registrar, to determine whether the matter can be settled without proceeding to a trial;*

(b) *the Town’s costs for the previous court action successfully defending the City of Stirling’s Application for an Interlocutory Injunction was \$20,855 (total costs for MRC Member Councils was \$125,133);*

(ii) *AUTHORISES the Chief Executive Officer to:*

(a) *attend the compulsory Mediation Conference on the Town’s behalf; and*

(b) *act on behalf of the Council, subject to liaison with the Mayor and it's MRC Member Councillor Steed Farrell (if available), at the Mediation Conference.”*

Summary of Action Taken Since 22 June 2010

The following is a summary of actions since 22 June 2010:

1. The Supreme Court action brought by the City of Stirling is still listed for trial for seven (7) days commencing on 17 August 2010.
2. The Member Councils have proposed that any costs prior to 22 June 2010 will be paid on a 1/6 basis and any subsequent costs will be paid on the basis of the respective Local Governments' estimated 2010-2011 tonnages delivered to the MRC.
3. The Member Councils have retained Mr Zilko SC as counsel because Mr Allanson SC has been appointed as a Justice of the Supreme Court of Western Australia.
4. As to preparation for the forthcoming trial, on 19 July 2010 the City of Stirling served:
 - (a) statements of evidence to be given at the trial by the witnesses upon which it intends to rely upon; and
 - (b) a proposed further amended statement of claim.

5. On 29 July 2010, representatives for each of the Member Councils met to discuss the approach to be followed at mediation. All agreed that it would be preferable to resolve the matter by way of mutual agreement, but that they should first understand what Stirling's position was and consider any offer it might make. There was considerable discussion as to proposals for settlement that might be made with the consent of all parties. Those proposals were further considered at another meeting on Monday 2 August 2010.
6. Compulsory mediation took place, commencing at 10.30am on Tuesday 3 August 2010 at Wollaston College Conference Centre, Wollaston Road, Mt Claremont. The mediation was conducted by Graham Castledine, rather than a Court official (who was unavailable). Mr Zilko SC and Graeme Slattery (Minter Ellison) attended the mediation along with representatives of each of the Member Councils, MRC and City of Stirling (together with their legal representatives).
7. The mediator was aware that any proposal for settlement may need to be approved by the respective Councils of the parties to the action.
8. It was acknowledged by the parties that if the action is not resolved at the mediation, it will proceed to a full trial.
9. All of the defendants served Witness Statements of the evidence to be given at trial by the witnesses upon, by 2pm on Monday 2 August 2010.
10. The further amended statement of claim alters aspects of the case which the City of Stirling intends to run, by:
 - (a) arguing that MRC does not have the power to impose the single fee on the City of Stirling by reason of the Establishment Agreement;
 - (b) changing the arguments based upon "*Estoppel*" by arguing that there was a representation that the RRF would be a "user-pays" facility (with multi-fees); and
 - (c) abandoning any argument based on implied Terms of Contract;
11. After discussions with Mr Zilko SC at the meeting on 29 July 2010, all of the Member Councils agreed that the amendments should not be opposed, as they would most likely be agreed by the Court and the amendments did not appear to affect the defendants' case.

City of Stirling Letter - 30 July 2010

On Friday 30 July 2010 the City of Stirling wrote to the MRC and copied the Member Councils. The letter advised as follows:

(a) Diversion of Bales

"Commencing Wednesday the residue bales and reject waste associated with the City's recycling contract with Atlas Group Pty Ltd began to be diverted from Tamala Park to another landfill site.

Based on the 2009/2010 tonnages this will result in the annualised reduction of about 25,750 tonnes of non-processable waste delivered by the City to Tamala Park".

The City of Stirling advises that the effect of its decision would amount to an increase of \$6.35 per tonne in the participants' gate fee.

(b) Other measures

“The city has previously advised you of other measures that it proposes to take to protect the interests of its ratepayers following the MRC’s replacement of the two-fee model with the single-fee model.

One of these is the substantial increase in fees to commercial and domestic users of the Recycling Centre Balcatta. This increase is necessary to accommodate the substantially increased fee charged by the MRC to the City for delivering non-processable waste from the Recycling Centre Balcatta to Tamala Park.

As an interim measure, since 1 July 2010, the City has not increased its fees to users of the Recycling Centre Balcatta to reflect the MRC’s adoption of the single-fee. It proposes to do so shortly.”

The City of Stirling advises that the effect of this decision would amount to an increase of \$14 per tonne.

Chief Executive Officer’s Comment:

The City of Stirling’s letter was strategically timed to be sent to the MRC and Member Councils at a critical point of the Supreme Court action. Interestingly, the City of Stirling have indicated the possible effect of their decisions on the Member Councils, but have not specified the likely impact on the City of Stirling - one would need to question why?

*The letter is most interesting and could be seen as an attempt to directly influence the outcome of the Mediation held on 3 August 2010. **The cost implications specified in the letter have not been verified.***

However, as the City of Stirling has indicated their preference to withdraw from the MRC, the calculations are irrelevant at this point in time and new information will need to be obtained as to the possible effect on tipping and other costs.

The Compulsory Mediation Conference

Date: 2 August 2010

Venue: Wollaston College

Mediator: Mr Graham Castledine of Castledine Legal & Mediation Services

Attendees:

MRC:

Mr Kevin Poynton, Chief Executive Officer
Mr Peter Doherty SC Barrister
Mr John Woodhouse, Solicitor, Woodhouse Legal

Member Councils:

Mr Matt Zilko SC
Mr Graeme Slattery, Solicitor, Minter Ellison

- Cambridge – Jason Buckley, Chief Executive Officer and Chris Colyer, Director Infrastructure
- Joondalup – Garry Hunt, Chief Executive Officer and Martyn Glover, Director Infrastructure Services
- Perth – Doug Forster, Director Business Units
- Victoria Park – Athanasios (Arthur) Kyron, Chief Executive Officer
- Vincent – John Giorgi JP, Chief Executive Officer
- Wanneroo – Daniel Simms, Chief Executive Officer and Karen Caple, Director City Businesses

City of Stirling:

Matt Howard SC
Neil Douglas, Solicitor, McLeods Solicitors
Stuart Jardine, Chief Executive Officer
Ed Herne, Director Corporate Resources Management
Eddy Albrecht, Manager Waste & Fleet Services

It is a requirement of the Supreme Court that the specific details which occurred in the mediation conference are “Without Prejudice” and remain confidential. Notwithstanding the following is advised:

The mediation lasted a full day and very late in the afternoon, three (3) options were proposed by the parties, to be considered:

Option 1: A discontinuance of the Supreme Court action.

Chief Executive Officer’s Comment:

The MRC and Member Councils requested the City of Stirling to discontinue their Supreme Court action as their case appears weak, flawed and “high risk” (as acknowledged by their own Senior Counsel). It was stated that the options could be mediated, if there was good faith by all three parties.

The City of Stirling initially did not accept our request.

Option 2: A commitment in the future to a multi-fee model for “non processable” waste, “processable” waste and “residual” waste.

Chief Executive Officer’s Comment:

The City of Stirling was advised that this Option could not be agreed by the MRC or Member Council representatives, for the following reasons;

At its meeting held on 22 April 2010, the MRC resolved that the Council:

- “(i) adopt a single fee model as a basis for determining a fee from the Member Councils for the 2010/2011 Budget;*
- (ii) authorise the CEO to present a report to the Council budget workshop to enable Council to consider the immediate adoption of the single fee model in 2010/2011.”*

Furthermore, a subsequent Motion by the City of Stirling to Rescind or Change the decision was considered at a Special Council Meeting of the MRC held on 24 June 2010 and was unsuccessful.

Option 3: Agreement between the parties to a process to resolve “broader issues”. (The on-going relationship between the respective parties being a critical issue).

Chief Executive Officer’s Comment:

This Option had general acceptance by all Parties. However, before it could be considered, the City of Stirling requested that they be given an exemption to dispose of 100% of their waste elsewhere.

After discussion in private sessions, the City of Stirling advised the MRC and Member Councils that it would accept an Option to make a request to the Minister for Local Government (under Section 669 of the Local Government Act 1960) to withdraw from the MRC, subject to a number of conditions, as follows;

- (i) the remaining Member Councils “working in good faith” to support the City of Stirling’s withdrawal from the MRC;*

- (ii) *the MRC and Member Councils consenting to the City of Stirling request to withdraw from the MRC by 12 August 2010;*
- (iii) *the withdrawal process to be completed by 30 April 2011;*
- (iv) *agreement being reached on the adjustment of the “assets and liabilities” of the MRC;*
- (v) *each party to pay their own legal costs; and*
- (vi) *the City of Stirling reserving the right to recommence the Supreme Court action, if the withdrawal process cannot be achieved within the specified dates.*

After consideration of the Options in a combined session and also in private sessions, a number of positions emerged:

1. The City of Stirling acknowledged that whilst the outcome of their Supreme Court Action was “high risk”, they nevertheless were of the opinion that they would continue with it, as the long term financial impact on the City of Stirling was considerable and unacceptable.
2. The City of Stirling was of the opinion that the single fee model disadvantaged the City of Stirling (whilst other Member Councils were advantaged) and they insisted on a return to the previous multi-fee model – unless this was reinstated, their membership of the MRC was considered untenable.
3. The relationship between the City of Stirling and the MRC and other Member Councils was most adversarial and unlikely to improve unless the multi-fee model was reinstated.
4. The MRC and Member Councils were of the opinion that the future of the MRC must be one whereby all members work together for the common good of the MRC and their respective local governments.

Mediation Heads of Agreement

The following Heads of Agreement was agreed between the parties and is attached at Appendix 14.1.

*“The plaintiff, first defendant and second defendants in Supreme Court action CIV 1620 of 2010 (**Action**) hereby agree to settle the plaintiff’s claim on the following terms:*

1. *The plaintiff will resolve to make a written request to the Minister pursuant to Section 699 of the Local Government Act 1960 to withdraw from the Mindarie Regional Council.*
2. *No later than 12 August 2010 the second defendants and the plaintiff will resolve to consent to the plaintiff’s proposed withdrawal from the Mindarie Regional Council and will thereafter negotiate in good faith for a period expiring on 30 April 2011 as to the adjustment of assets and liabilities between them as requested by Section 699 above.*
3. *Subject to resolutions as per paragraph 2 being made by each of the plaintiff and the second defendants, no later than 13 August 2010 the plaintiff will file a notice of discontinuance of the action with no order as to costs.*

4. *Subject to paragraph 5, and subject to the parties Councils so resolving, each party will pay its own costs of the proceedings.*
5. *If by 30 April 2011 the plaintiff and the second defendants have not executed an agreement as to the matters in paragraph 2 and all other consequential matters flowing from the plaintiff's withdrawal, and the Governor has not consented to the withdrawal by 30 June 2011, the plaintiff may commence fresh proceedings in the same terms as the Action but in that event, the costs of the parties in the Action shall be costs in the cause in the new proceedings."*

What Happens Next?

1. The Heads of Agreement require, on or before 12 August 2010, each Council to pass a resolution that it will consent to the City of Stirling withdrawing from the MRC and will, until 30 April 2011, negotiate in good faith the terms of the adjustment of assets and liabilities between the participants of the MRC following the City of Stirling withdrawing. Each Council must also agree to bear the costs it has incurred in the proceedings.
2. After each Council (including the MRC) has passed the resolutions required by the Heads of Agreement, the plaintiff will file a notice of discontinuance for the proceedings. If this occurs, the trial, which is scheduled to commence on 17 August 2010, will not proceed. **If one or more Councils do not pass the necessary resolution on or before 12 August 2010, the trial will proceed on 17 August 2010.** Unfortunately, this means that until the Proceedings are discontinued by the City of Stirling, the respective legal parties will continue to prepare for the trial.
3. As noted above, the Heads of Agreement requires each Council to agree to bear its own costs of the Proceedings. If parties cannot reach an agreement that enables the City of Stirling to withdraw from the Mindarie Regional Council by 30 June 2011, and the City of Stirling recommences proceedings, the Member Councils may ask the Court to include the costs of the current proceedings as part of the costs of the new proceedings.
4. The City of Stirling has called a Special Meeting of their Council for Thursday 5 August 2010.
5. The MRC has called a Special Meeting for Thursday 12 August 2010.
6. All other Member Councils are required to meet and agree on the matter as soon as practicable and no later than Thursday 12 August 2010.
7. Subject to all Parties agreeing to the proposal:
 - (i) the solicitors will apply to the Supreme Court for the action to be adjourned to a date to be set in the future; and
 - (ii) all Member Councils and the MRC must then complete the process for the City of Stirling to withdraw from the MRC **by 30 April 2011**.

Withdrawal from the MRC by a Member Council

1. The time frame specified by the City of Stirling is very tight, but achievable.
2. The main requirement is to adjust the "Assets and Liabilities" of the MRC. This is a very onerous task and may require the assistance of consultants who specialise in these matters (e.g. Mergers and Acquisition Solicitors, Accountants, Valuers).

City of Stirling Council Decision - 5 August 2010

At the City of Stirling Special Meeting of Council held on 5 August 2010, the following decision was passed;

“That the Council;

1. *notes the Heads of Agreement resulting from the mediation held on 3 August 2010 in Supreme Court Action No. 1620 of 2010 against the Mindarie Regional Council and others;*
2. *authorises the CEO to make a written request to the Minister for Local Government under section 699 of the Local Government Act 1960 that the City of Stirling withdraw from the MRC;*
3. *subject to each Council of the other MRC participants resolving no later than 12 August 2010 to consent to the proposed withdrawal of the City of Stirling from the MRC, authorises the CEO to instruct the City’s lawyers to file a notice of discontinuance of Supreme Court Action No. 1620 of 2010, with no order as to costs;*
4. *acknowledges that the City will negotiate in good faith with the other MRC participants and the MRC with the objective of executing, by 30 April 2011, an agreement between the City and the MRC as to the adjustment of assets and liabilities between them as a consequence of the City’s withdrawal from the MRC; and*
5. *notes that if the City’s withdrawal from the MRC is not effected by 30 June 2011, the City may recommence the Supreme Court action against the MRC and the other MRC participants.”*

Advantages and Disadvantages of the City of Stirling Withdrawing from the MRC

Advantages:

Governance

1. The relationship of the Member Councils comprising the MRC will be significantly improved, thereby allowing the MRC to pursue its goals and obligations in a more cohesive, harmonious and united manner.
2. Improved Governance arrangements with a Regional Council of eight members rather than twelve.
3. Increased likelihood of finalising the current Establishment Agreement with remaining Councils, due to greater alignment of purpose.

Financial

4. The Town’s equity share of the MRC could potentially increase from 1/12th to 1/8th.
5. The equity for the remaining Council's increases to one eighth for the three Towns and Perth, and one quarter each for Joondalup and Wanneroo. (This increases our share of revenue from casual tipping and other revenue received from Mindarie Regional Council, such as gas power.)
6. Greater opportunity to review Mindarie Regional Council's cost structure to reduce impact of additional cost, due to reduced tonnages.
7. The MRC currently pays BioVison about \$15 million a year to divert potentially 70,000 tonnes from landfill (which equates to more than \$200 per tonne). The increased costs of not receiving waste from Stirling is much less than this.

Operational

8. Diversion of 115,000 tonnes of waste that Stirling deliver to Tamala Park (40% of waste that currently goes to landfill) extending the life of the landfill (estimated to be more than 1 million tonnes over 10 years).
9. The current estimated life span (10 years) of the Tamala Park landfill will be extended therefore ensuring that a disposal site within reasonable proximity will be available for potentially up to an additional 5-6 years.
10. Delaying increased future costs of transporting waste to alternative landfill sites further away.
11. Alignment of interest of all members with a “two-bin” recycling service in relation to implementing alternative waste reduction technologies without simply focusing on reducing residential waste.

Disadvantages:

Governance/Political

1. Potentially less political influence with the State Government and Waste Management Authority.
2. Dispute on the adjustment of asset/liabilities and withdrawal proposal not being successfully implemented will reactivate the Supreme Court action.

Financial

3. Once the City of Stirling withdraws, increased tipping fees will occur. Potentially the reduction in Stirling’s tonnages could result in this fee increasing by about \$20-\$25/tonne, which would cost the Town an additional \$280,000 per annum however, a reduction in operation costs will also need to be taken into consideration – this is yet to be quantified.
4. Increased costs of about \$25 per tonne (from July 2011) due to the amortisation of fixed costs over less tonnes.
5. The remaining Member Councils will need to increase their proportion responsibility for the RRF Guarantee – this will only be an issue in the highly unlikely event that the MRC defaults.
6. Calculation/negotiation of distribution of assets and liabilities and possible cash payment to City of Stirling. (Note: as at 30 June 2009 the net assets of Mindarie Regional Council was \$24.6 million.)

Operational

There are no significant operational disadvantages.

FINANCIAL/BUDGET IMPLICATIONS:

Implications of a Single Fee Model

The single fee model will decrease Vincent’s tipping fees by up to \$300,000 per annum (and others by a similar pro-rata amount). The adopted single fee model for 2010/2011 is \$105/tonne. For the Town, this equates to \$1,470,000 per annum.

The adoption of the single fee model by the MRC had the potential to increase the Stirling tipping costs by \$2.25 million per annum.

However, once the City of Stirling withdraws from the MRC, the reduction in Stirling’s tonnages could result in the tipping fees increasing by about \$20-\$25/tonne, which would cost the Town an additional \$280,000 per annum. However, a reduction in operation costs will also need to be taken into consideration – this is yet to be quantified.

Legal Costs to Defend the Application for an Interlocutory Injunction

The Town’s costs for the previous court action successfully defending the City of Stirling’s Application for an Interlocutory Injunction was \$20,855 (total costs for MRC Member Councils was \$125,133).

Indicative Legal Costs to Defend the Supreme Court Action

The indicative cost to defend the Supreme Court action as a follows:

1. Costs to Date: The costs to defend the Supreme Court application for an Interlocutory Injunction held on 15 and 16 June 2010:

Member Councils	\$125,133
Town’s 1/6 portion	\$20,855

2. Legal cost and disbursement up to date and including the giving of this notice:

Legal fees as at the date of this memorandum	\$238,982
Disbursements as at the date of this memorandum (including Senior Counsel’s fees)	\$24,028

3. Estimated future legal costs and disbursements up to and including mediation

The following fees will be incurred up to and including the mediation:

Preparation and attendance at mediation by Senior Counsel	\$8,400
Preparation and attendance at mediation by Minter Ellison	\$7,200

4. Estimated future legal costs and disbursements up to and including trial

Estimated time needed to be spent up to and including the trial:

Estimate of Senior Counsel fees following mediation and including preparation for and attendance at trial	\$103,600
Estimate of Minter Ellison Lawyers fees following mediation and including preparation for and attendance at trial	\$258,876

5. Estimated legal costs and disbursements Member Councils would have to pay the plaintiff if they lose the trial

The usual order is that the unsuccessful party pay the successful party’s legal costs in accordance with the Scale. The costs awarded under the Scale, on average, equate to between 50% and 60% of the costs a party actually incurs.

In this case, if the plaintiff (City of Stirling) succeeds, it is considered likely (but not certain), that the Court would order the Mindarie Regional Council pay 50% of the plaintiff’s Scale costs and Member Councils would pay 50% of the plaintiff’s Scale costs.

Estimate of costs payable if Member Councils pay 50% of the plaintiff’s Scale costs (namely 50% to 60% of the costs incurred)	\$160,257 to \$192,309
Estimate of costs payable if Member Councils pay 100% of the plaintiff’s Scale costs (namely 50% to 60% of the costs incurred)	\$320,515 to \$394,618

6. Apportionment of Costs:

The Member Councils have proposed the following:

- (a) all costs incurred up to and including 22 June 2010 being on a one-sixth (1/6) basis;

- (b) all costs incurred or awarded after 22 June 2010 on the basis of the Town's estimated 2010/2011 tonnages, to the Member Councils (other than City of Stirling) total tonnages.

These are indicatively as follows:

Local Government	Estimated Tonnage	%
City of Wanneroo	87,985	42.510%
City of Joondalup	63,500	30.680%
City of Perth	14,473	6.993%
Town of Cambridge	11,300	5.460%
Town of Victoria Park	15,324	7.404%
Town of Vincent	14,390	6.953%
TOTAL:	206,972	100%

Based on the above, it is estimated that the Town's total costs will be **\$45,000-\$50,000**.

Draft Budget 2010/11

The Town's Draft Budget 2010/11 contains an amount of \$30,000 for legal costs relating to Governance matters. As this matter arose after the Council adopted its Draft Budget 2010/11, no specific funds for the Supreme Court Action have been included for this action.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Town of Vincent Exemption from MRC

On 30 October 2007, the MRC wrote to the Town to advise as follows:

"This is to advise that the Mindarie Regional Council, at its Ordinary Council Meeting on 11 October 2007 resolved as follows:

That Council:

- (i) *Approve the request from the Town of Vincent for exemption from disposal of all or part of its waste at Mindarie Regional Council facilities, should the Town of Vincent identify an alternative option for disposal of its waste;*
- (ii) *Expresses disappointment at this request from the Town of Vincent at this late stage of the project."*

Withdrawing from the MRC - Legal Matters

The following is the process to be followed if a Council wishes to withdraw from the Mindarie Regional Council:

- "1. The local government wishing to withdraw (i.e. to be removed from the regional district) must make a written request to the Minister to that effect. See Section 699(1) of the Local Government Act 1960.
2. That local government (called "the retiring municipality" in Section 699) must also give written notice of the request to each of the other Participants and to the regional council. See Section 699(2).
3. The withdrawal occurs only if the Governor makes an order to that effect. The withdrawal takes effect according to the terms of the Governor's order.

4. The Governor may only make an order on the recommendation of the Minister. See Section 699(1).
5. Subject to the position explained below, the Minister cannot make a recommendation to the Governor unless:
 - (a) there is an agreement between the retiring municipality and the regional council as to the adjustments of assets and liabilities between them; and
 - (b) there is an agreement between the other continuing municipalities varying the constitution agreement so as to make provision for financial contributions by the continuing municipalities and for the alteration of the number of regional councillors,

And the Minister has approved of those two agreements. See Section 699(3).

6. However, if after 12 months has expired from the date when the Minister was given the request by the retiring municipality, the two agreements have not been entered into or are not satisfactory to the Minister, then the Minister can take one of a number of alternative steps. See Section 699(4) and (7).
7. If an agreement (satisfactory to the Minister) concerning the adjustment of assets and liabilities is not entered into, then:
 - (a) the Minister may extend the time for the agreement to be entered into for such period as he thinks fit; or
 - (b) the Minister may waive the requirement for the agreement; or
 - (c) the Minister may decline to make a recommendation to the Governor. See Section 699(4).
8. If an agreement (satisfactory to the Minister) between the continuing Participants concerning financial contributions and regional councillors is not entered into, then:
 - (a) the Minister may extend the time for the agreement to be entered into for such period as he thinks fit; or
 - (b) the Minister may vary the constitution agreement as he considers appropriate; or
 - (c) the Minister may decline to make a recommendation to the Governor. See Section 699(7).
9. If the Minister extends the time for a satisfactory agreement to be reached and, at the expiry of that period, no satisfactory agreement has been entered into, then he can, once again, take any of the alternative steps. See Section 699(5) and (8).
10. If the Minister waives the requirement for the agreement between the retiring Participant and the regional council then the Minister may make a recommendation and the Governor may make an order which adjusts the assets and liabilities as between the retiring municipality and the regional council. See Section 699(6).

Summary:

The matter is summarised as follows;

1. The first step for a Participant wishing to withdraw is for that Participant to give a request to the Minister and to the other Participants and to the MRC.

2. In the 12 month period following the giving of the request, the Minister can only make a recommendation to the Governor for a withdrawal Order if:
 - (a) the MRC and the Participant (which wishes to withdraw) have entered into an agreement about the adjustment of assets and liabilities (in the event that withdrawal is ordered); and
 - (b) the continuing Participants have entered into an agreement to vary the establishment agreement with respect to financial contributions and the number of regional councillors (in the event that withdrawal is ordered); and
 - (c) the two agreements are considered satisfactory by the Minister and are approved by the Minister.
3. The adjustment of assets and liabilities is a matter for agreement between the participant and the MRC. There is no "formula" for the adjustment, rather it is a matter for agreement.
4. In the event that, after the 12 month period, either or both of the required agreements is not entered into or either agreement is not considered satisfactory by the Minister, then the Minister can take one of the alternative courses of action referred to above"

Financial Guarantee Requirements

The Resources Recovery Facility (RRF) Guarantee

The RRF Guarantee is in place for the term of the RRF (i.e. 20 years). The Guarantee is called upon in the unlikely event that the MRC defaults on the RRF Agreement.

The Town of Vincent is currently liable for 1/12th of the Guarantee.

Any proposal that Stirling leaves the MRC will have an effect on the RRF Guarantee, as follows:

Clause 5 of the RRF Guarantee provides that if the conditions outlined below are met, a guarantor that withdraws from the Establishment Agreement in accordance with its terms will be released from liability under the RRF Guarantee.

In summary the conditions are:

1. the withdrawal occurs during the Withdrawal Period (which is three (3) years from Financial Close) and no other guarantor has withdrawn during the Withdrawal Period or BioVision gives its consent to the withdrawal;
2. the guarantor has paid in full any amount payable to the MRC for processable waste delivered to the MRC; and
3. the withdrawing participant/s do not have greater than 1/3rd aggregate of the proportional liability.

"Financial Close" is defined in the RRF Agreement by reference to the date a notice of satisfaction of certain conditions precedent in the RRF Agreement is given. (Three years have not passed since the RRF Guarantee was entered into).

Clause 7.2 provides that if the City of Stirling withdraws from the RRF Guarantee the liability of the remaining guarantors (the 6 remaining councils) will be 'rateably increased'. This means the potential liability of each council under the RRF Guarantee will be increased in proportion with its equity interest so that the total amount guaranteed (despite the withdrawal of Stirling) remains the same.

As previously reported to the Council, financial security requirements were identified by all Tenderers through the RRF tender process. These financial security requirements, as requested by all Tenderers, related to the need for any appointed contractor to have some certainty about the source and availability of funds to cover potential risks albeit with some low probability, should certain circumstances arise.

The financial guarantee is to provide comfort to the prospective contractor (*and its financiers*) by providing a direct contractual relationship between each Member Council and the contractor.

The trigger events for an obligation to pay under the Guarantee are as follows:

Default by MRC

Non-payment of the monies due by the MRC to BioVision 2020, which leads to an MRC default occurring. This is very unlikely to occur as long as waste is received by the MRC and the MRC receives an income from the waste it receives.

Force Majeure Event

“*Force Majeure*” means any cause or event which is not reasonably within the control of the party affected and includes Acts of God; strikes; lockouts; stoppages or restraints of labour or other industrial disturbances; war, acts of public enemies, nuclear war, contamination by radioactive waste, riot or civil commotion or sabotage; confiscations; fire, explosion, earthquake, landslide, flood, washout, sea damage, tidal wave or high water; lightning, storm or tempest; spontaneous combustion, fermentation or any process involving the application of heat; breakdown or an accident to plant, machinery, equipment, lines or pipes howsoever caused; failure of suppliers to supply equipment or machinery; and restraints, embargoes or other actions of any government.

Many events of Force Majeure are insurable and there is an extensive insurance regime that applies in respect of the Project. To the extent that insurance responds to the event and, upon termination, the insurance proceeds have not otherwise been spent rectifying the Force Majeure, they would be applied to reduce or, if sufficient, eliminate the amount that MRC owes to BioVision 2020. This would have the corresponding effect of reducing the amount that must be paid pursuant to the Guarantee, if MRC does not pay BioVision 2020 the amount owed. MRC has significant rights to ensure that insurance coverage is sufficient for the Project and to direct BioVision to obtain certain insurances, in order to mitigate its risk.

Some events of Force Majeure are uninsurable and, in those cases, MRC (and therefore the Guarantors) would not have access to insurance funds to alleviate the cost of the event.

Earthquake risk can be covered at an additional premium and with reasonable excess. Terrorism is covered by the Australian Federal Government’s Insurance Industry Fund.

It is important to note that only MRC can terminate the agreement due to extended Force Majeure and, therefore, trigger the potential payout by MRC.

The MRC has two further alternatives if there is an extended Force Majeure. It can continue paying the Contractor the Capital Costs and the Fixed Operating Costs whilst the Force Majeure is continuing, regardless of whether the Contractor is able to operate the Resource Recovery Facility. It can also negotiate with the Contractor to determine whether the terms of the Resource Recovery Facility Agreement (for example, increasing the gate fee) can be amended to enable the necessary investment to be made to rectify the effect of the Force Majeure.

MRC Default Comparative Liability Table

A summary of the financial impact as a result of the City of Stirling withdrawing from the MRC on the RRF Guarantee for:

1. Termination Payment for MRC default; and
2. Termination Payment for “*Force Majeure*”;

is shown at Appendix 14.2.

Risk Management considerations:

Risk of the Town being called upon to provide the guarantee are detailed under the “*Force Majeure*” events and/or where the MRC is in default for non-payment of the gate fee or other amounts owing to BioVision 2020 under the agreement. Default by the MRC for non-payment of the gate fee is considered a low risk.

Steps will be taken to insure all Force Majeure events where possible and commercially reasonable.

In terms of Force Majeure (uninsurable events) like war, sea damage or tidal wave, it is worth noting that the Town would have the same risk for all of its significant assets.

STRATEGIC IMPLICATIONS:

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

Town of Vincent Alternative Waste Disposal Options – Progress of Investigations

A report was presented to the Ordinary Meeting of Council held on 24 March 2009 regarding the Town of Vincent’s future Waste Disposal options where the following decision was made (in part):

“*That the Council;*

(iii) *AUTHORISES the Chief Executive Officer to;*

(a) *immediately enter into negotiations with the Town’s Chief Executive Officer of the WMRC with the short term aim of the Town disposing of its waste at the WMRC prior to their AWT being fully operational and with the long term aim of the Town entering into a long term contract/agreement with the WMRC for the Town’s waste to be delivered to and processed by the WMRC DiCOM AWT;*

(c) *examine measures to dispose of the Town’s waste as soon as is practicable at WMRC, if negotiations are successful and if there are financial and/or environmental benefits to the Town;*

(iv) *AUTHORISES the Chief Executive Officer provide a further report and recommendation to Council;”*

Following a meeting with the Chairman and former Chief Executive Officer of the WMRC, a further report was presented to the Town's Council at its Ordinary Meeting held on 11 August 2009, where the following decision was made (in part).

“(iv) *AUTHORISES the Chief Executive Officer to continue discussions/negotiations with the WMRC, with the long term aim of the Town entering into a long term contract/agreement for the Town’s waste to be delivered to and processed by the WMRC DiCOM AWT;”*

A further meeting was subsequently held at the Town's Administration and Civic Centre in March 2010 to further discuss the Town disposing of its waste at the WMRC facility. Attendees at the meeting included WMRC Acting Operations Manager, the Town's Chief Executive Officer, and Director Technical Services. Discussions mainly centred on progress of the DiCOM AWT and whether the Town could commence tipping its waste at WMRC on 1 July 2010, prior to the AWT being in full operation.

It was previously indicated that the Town's 14,000 tonnes per annum of 'wheelie bin' waste could be disposed of to the AWT at the WMRC member rates, subject to the Town either joining the Regional Council or entering into a long term contract similar to the City of Stirling.

At the March 2010 meeting, the WMRC Acting Operations Manager indicated that the Town would be provided with costing \$/tonne tipping pre-AWT to enable the Town to make a 'judgement call' on whether it would continue disposing of its waste to the MRC or whether it would switch to the WMRC pre-AWT.

The WMRC recently appointed a new Chief Executive Officer, Mr Adam Johnson, and the Town's Chief Executive Officer and Director Technical Services met with him in June 2010. Subsequent meetings between Mr Johnson and the Director Technical Services have progressed the matter to the point where a 'provisional' rate per tonne has been determined and operations costs are currently being calculated. A site meeting at the WMRC Brockway Road Facility has been arranged to progress matters.

Once the matter has been further determined a further report will be presented to Council.

SUSTAINABILITY IMPLICATIONS:

The State Government through the Statement of Strategic Direction for Waste Management in Western Australia, (September 2004), has set an action agenda for moving forwards towards a waste-free society, embracing the vision of '*Towards zero waste in Western Australia*'.

To achieve this requires a shift toward a closed loop system, where waste from one part of society becomes the raw materials for another. Programs will also be needed to support waste avoidance initiatives and develop markets for recycled materials. State policies 'Hope for the Future: the Western Australian' *State Sustainability Strategy* and the Federal Government's initiative - the *National Packaging Covenant* shows a broad Government commitment to a vision of '*Towards Zero Waste*'.

COMMENTS:

This matter has been the subject of considerable meetings, time and discussion between the City of Stirling, MRC and respective Member Councils. The City of Stirling Supreme Court action against the MRC (and subsequently involving the Member Councils) is considered to be most unprecedented and has resulted in significant ramification for all parties.

It is considered that the mediated Heads of Agreement represents a satisfactory and acceptable outcome for the Member Councils and the MRC.

Accordingly, approval of the Officer's recommendation is requested.

PROCEDURAL MOTION

At 8.50pm **Moved Cr Topelberg, Seconded Cr Buckels**

That the Council resume an "open meeting".

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

The Presiding Member, Mayor Nick Catania advised that Cr Burns had to depart the meeting due to her child being unwell.

At 8.50pm the Presiding Member, Mayor Nick Catania called an adjournment of the meeting for 5 minutes.

The Meeting resumed at 8.55pm, with the following persons present;

PRESENT:

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward
Cr Sally Lake (<i>Deputy Mayor</i>)	South Ward
Cr 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)

9.1.3 Nos. 37-39 (Lot 93; D/P 613) Money Street, Perth – Change of Use from Single House to Lodging House and Associated Alterations and Additions Increase in Total Number of Lodgers from 45 to 65, at the Existing Lodging House and Nos. 41-43 (Lot 94) Money Street, Perth and the Existing Lodging House at Nos. 37-39 Money Street, Perth – Reconsideration of Condition

Ward:	South	Date:	3 August 2010
Precinct:	Beaufort; P13	File Ref:	PRO2663; 5.2010.335.1
Attachments:	001 ; 002		
Reporting Officer:	D Pirone, Statutory Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by the owner M Waters and Backpack Pty Ltd for proposed Change of Use from Single House to Lodging House and Associated Alterations and Additions –~~Reconsideration of Condition~~, at Nos. 37-39 (Lot 93; D/P 613) Money Street, Perth, and as shown on plans stamp-dated 14 July 2010, subject to the following conditions:

- (i) *the proposed lodging house shall comply with the following:*
 - (a) *the lodging house at Nos. 37-39 (Lot 93) shall accommodate a maximum of 24 lodgers at any one time;*

- (b) *the lodgers may stay at the subject lodging house for a maximum period of three consecutive months;*
- (c) *a lodging housekeeper or manager shall be resident on the subject ~~properties~~ property at all times/reside continuously in the lodging houses in accordance with Div 3 – Management and Care, cl 146 of the Town of Vincent Health Local Law 2004; and*
- (d) *this approval is valid for five years from the date of the State Administrative Tribunal Decision of 25 May 2007. 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;*
- (ii) *any new street wall, fence and gate within the Money 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) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Money Street;*
- (iv) *all signage that does not comply with the Town of Vincent's Policy No. 3.5.2 relating to Signs and Advertising, shall be subject to a separate planning application, and all signage shall be subject to a Sign Licence application being submitted to and approved by the Town prior to the erection of the signage;*
- (v) **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 \$12,766 for the equivalent value of 4.91 car parking spaces, based on the cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget; OR*
 - (b) *lodge an appropriate assurance bond/bank guarantee of a value of \$12,766 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; and

(vi) ***PRIOR TO THE ISSUE OF A BUILDING LICENCE, OR FIRST OCCUPATION OF THE DEVELOPMENT, WHICHEVER OCCURS FIRST, the following shall be submitted to and approved by the Town;***

(a) ***Communal Open Space Area***

- (1) *The provision of adequate landscaping to screen communal spaces from adjoining properties; and*
- (2) *The provision of communal spaces to be sufficiently equipped with seating and tables; and*

(b) ***Lodging House Management Plan***

An updated detailed management plan that addresses the control of noise, traffic, car parking, litter and anti-social behaviour (to reasonable levels) associated with the development shall be submitted to and approved by the Town, and thereafter implemented and maintained. The "quiet times" are to be restricted to:

- (1) *Friday and Saturday: 12 midnight to 7.30am; and*
- (2) *Sunday to Thursday: 11pm to 7am.*

The revised plans shall not result in any greater variation to the requirements of the Town of Vincent's Policies. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s).

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

Moved Cr Harvey, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Lake

That clause (v) be amended as follows:

“(v) ***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 ~~\$12,766~~ \$14,730 for the equivalent value of 4.91 car parking spaces, based on the cost of ~~\$2,600~~ \$3,000 per bay as set out in the Town’s ~~2006/2007~~ 2010/2011 Budget; OR*
- (b) *lodge an appropriate assurance bond/bank guarantee of a value of ~~\$12,766~~ \$14,730 to the satisfaction of the Town. This assurance bond/bank guarantee will only be released in the following circumstances: ...”*

Debate ensued.

AMENDMENT PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (6-1)

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

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

COUNCIL DECISION ITEM 9.

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 M Waters and Backpack Pty Ltd for proposed Change of Use from Single House to Lodging House and Associated Alterations and Additions at Nos. 37-39 (Lot 93; D/P 613) Money Street, Perth, and as shown on plans stamp-dated 14 July 2010, subject to the following conditions:

- (i) *the proposed lodging house shall comply with the following:*
 - (a) *the lodging house at Nos. 37-39 (Lot 93) shall accommodate a maximum of 24 lodgers at any one time;*
 - (b) *the lodgers may stay at the subject lodging house for a maximum period of three consecutive months;*
 - (c) *a lodging housekeeper or manager shall be resident on the subject property at all times/reside continuously in the lodging houses in accordance with Div 3 – Management and Care, cl 146 of the Town of Vincent Health Local Law 2004; and*
 - (d) *this approval is valid for five years from the date of the State Administrative Tribunal Decision of 25 May 2007. 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;*
- (ii) *any new street wall, fence and gate within the Money 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) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Money Street;*
- (iv) *all signage that does not comply with the Town of Vincent's Policy No. 3.5.2 relating to Signs and Advertising, shall be subject to a separate planning application, and all signage shall be subject to a Sign Licence application being submitted to and approved by the Town prior to the erection of the signage;*

(v) **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 \$14,730 for the equivalent value of 4.91 car parking spaces, based on the cost of \$3,000 per bay as set out in the Town's 2010/2011 Budget; OR*
- (b) *lodge an appropriate assurance bond/bank guarantee of a value of \$14,730 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; and

(vi) **PRIOR TO THE ISSUE OF A BUILDING LICENCE, OR FIRST OCCUPATION OF THE DEVELOPMENT, WHICHEVER OCCURS FIRST, the following shall be submitted to and approved by the Town;**

- (a) **Communal Open Space Area**
 - (1) *The provision of adequate landscaping to screen communal spaces from adjoining properties; and*
 - (2) *The provision of communal spaces to be sufficiently equipped with seating and tables; and*
- (b) **Lodging House Management Plan**

An updated detailed management plan that addresses the control of noise, traffic, car parking, litter and anti-social behaviour (to reasonable levels) associated with the development shall be submitted to and approved by the Town, and thereafter implemented and maintained. The "quiet times" are to be restricted to:

 - (1) *Friday and Saturday: 12 midnight to 7.30am; and*
 - (2) *Sunday to Thursday: 11pm to 7am.*

The revised plans shall not result in any greater variation to the requirements of the Town of Vincent's Policies. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s).

Landowner:	M A Waters & Backpack Pty Ltd
Applicant:	M A Waters & Backpack Pty Ltd
Zoning:	Town Planning Scheme No. 1 (TPS 1): Commercial
Existing Land Use:	Single House
Use Class:	Lodging House
Use Classification:	"SA"
Lot Area:	487 square metres
Right of Way:	Not Applicable

PURPOSE OF REPORT:

The proposal involves the reconsideration of condition (viii) of the Planning Approval dated 18 January 2010.

BACKGROUND:

18 January 2010 As the SAT approval had expired, the Council considered an application during the Christmas/New Year Council recess period for change of use from single house to lodging house and associated alterations, and increase in total number of lodgers from forty-five (45) to sixty-five (65), at the existing lodging house at Nos. 41-43 (Lot 94) Money Street, Perth and the proposed lodging house at Nos. 37-39 (Lot 93) Money Street, Perth, which was approved under delegated authority from the Council, subject to the following conditions:

- “(i) any new street wall, fence and gate within the Money 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;
- (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) all signage that does not comply with the Town of Vincent's Policy relating to Signs and Advertising shall be subject to a separate planning application, and all signage shall be subject to a Sign Licence application being submitted and approved prior to the erection of the signage;
- (iv) prior to the issue of a Building Licence, or first occupation of the development, whichever occurs first, revised plans shall be submitted and approved demonstrating the following:
 - (a) adequate landscaping to screen communal spaces from adjoining properties;
 - (b) communal spaces to be sufficiently equipped with seating and tables; and

- (c) *the provision of a weather protected pedestrian access structure connecting both the existing and proposed lodging houses on the subject properties.*

The revised plans shall not result in any greater variation to the requirements of the Town of Vincent's Policies. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);

- (v) *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 \$11,180 for the equivalent value of 4.3 car parking spaces, based on the cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget; OR*

- (b) *lodge an appropriate assurance bond/bank guarantee of a value of \$11,180 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;

- (vi) *the lodging house at Nos. 37-39 (Lot 93) and Nos. 41-43 (Lot 94) Money Street, Perth shall accommodate a maximum of 65 lodgers at any one time;*

- (vii) *an updated detailed management plan that addresses the control of noise, traffic, car parking, litter and anti-social behaviour (to reasonable levels) associated with the development shall be submitted to and approved by the Town, and thereafter implemented and maintained. The "quiet times" are to be restricted to:*

- (a) *Friday and Saturday: 12 midnight to 7.30am; and*

- (b) *Sunday to Thursday: 11pm to 7am;*

- (viii) *prior to the issue of a Building Licence or first occupation of the development, whichever occurs first:*
- (a) *the subject land shall be amalgamated into one lot on Certificate of Title; or alternatively, the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town of Vincent, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town of Vincent's solicitors or other solicitors agreed upon by the Town of Vincent, undertaking to amalgamate the subject land into one lot within six months of the issue of the subject Building Licence or first occupation of the development, whichever occurs first. All costs associated with this condition shall be borne by the applicant/owner(s); or*
 - (b) *the owner(s) shall enter into a legal agreement and lodge an appropriate assurance bond/bank guarantee, with or register a grant of easement on the subject land in favour of the Town of Vincent and to its satisfaction, to provide rights of access to/from and use of a minimum five car parking bays on Nos. 41-43 (Lot 94) Money Street, Perth and the weather protected pedestrian access structure connecting both the existing and proposed lodging houses on the subject properties. The subject access and five car parking bays and structure are to be provided at no cost for use by the employees, customers and visitors of the lodging house at Nos. 37-39 (Lot 93) Money Street, Perth. The legal agreement shall be secured by a caveat while the grant of easement shall be registered on the Certificate(s) of Title of the subject land. The legal documentation shall be prepared by the Town of Vincent's solicitors or other solicitors agreed upon by the Town of Vincent. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (ix) *the lodgers may stay at the subject lodging house for a maximum period of three consecutive months;*
- (x) *a lodging housekeeper or manager shall be resident on the subject properties at all times/reside continuously in the lodging houses in accordance with Div 3 – Management and Care, cl 146 of the Town of Vincent Health Local Law 2004; and*
- (xi) *this approval is valid for five years from the date of the State Administrative Tribunal Decision of 25 May 2007. 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.”*

DETAILS:

The proposal involves the reconsideration of condition (viii) of the Planning Approval dated 18 January 2010, which requires either of the following:

- (a) Nos. 37-39 (Lot 93) to be amalgamated with Nos. 41-43 (Lot 94); or
- (b) A Legal Agreement, which is secured by a caveat on the certificate of title, that provides a grant of easement for the lodgers on Lot 39 to be able to use the car bays on Lot 49 as Lot 39 has no on-site car bays.

After extensive discussions with the owner/applicant, the applicant advised the Town that he did not want to amalgamate the land and was going to pursue the option of the legal agreement. He then questioned the option of having the two sites run independently of one another, as Nos. 37-39 Money Street does have all the facilities (That is. toilet, showers, kitchen, living areas, laundry) to do this. However, the site does not have any car bays. The applicant was advised that this could only occur if a planning application for the reconsideration of the condition was submitted to the Town for consideration.

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

COMPLIANCE:

The following car parking assessments illustrates the amount of car parking required and the associated shortfalls, if the two sites were calculated together or separately.

Car Parking Assessment for Nos. 37-39 and Nos. 41-43 Money Street, Perth

Car Parking	
Car parking requirement (nearest whole number) • Lodging House – 1 space per bedroom (18 bed rooms, requires 18 car bays) or 1 space per 3 beds provided (65 beds, requires 22 car bays), whichever is the greater.	= 22 car bays
Apply the adjustment factors. • 0.85 (within 400 metres of a bus stop) • 0.85 (within 400 metres of a public car parking place with in excess of 75 car parking spaces) • 0.85 (within 800 metres of a rail station)	(0.6141) = 13.51 car bays
Minus the car parking provided on-site	5 car bays
Minus the most recently approved on-site car parking shortfall. *Based on existing number of lodgers (45) at Nos. 41-43 (Lot 94) Money Street, Perth and adjustment factors	4.21 car bays*
Resultant shortfall	4.3 car bays

Car Parking Assessment for Nos. 37-39 Money Street, Perth

Car Parking	
Car parking requirement (nearest whole number) • Lodging House – 1 space per bedroom (8 bed rooms, requires 8 car bays) or 1 space per 3 beds provided (24 beds, requires 8 car bays), whichever is the greater.	= 8 car bays
Apply the adjustment factors. • 0.85 (within 400 metres of a bus stop) • 0.85 (within 400 metres of a public car parking place with in excess of 75 car parking spaces) • 0.85 (within 800 metres of a rail station)	(0.6141) = 4.91 car bays
Minus the car parking provided on-site	Nil
Minus the most recently approved on-site car parking shortfall.	N/A
Resultant shortfall	4.91 car bays

LEGAL/POLICY:

Town Planning Scheme No. 1.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The above car parking assessments indicate that there is very little difference in the car parking calculations if calculated together or separately. Due to this, it is considered appropriate in this instance that the car parking be calculated separately, particularly to avoid confusion with legal agreements and caveats in the future, in the event that either of the properties are sold or the use ceases.

In light of the above, the Officer Recommendation illustrates that removal of condition (viii) from the Planning Approval dated 18 January 2010, the cash-in-lieu condition has been amended to reflect 4.91 car bays and condition (vi) has been amended to indicate a maximum of 24 lodgers at Nos. 37-39 Money Street.

9.1.6 Amendment No. 73 to Planning and Building Policies – Draft Policy Relating to Construction Management Plans

Ward:	Both	Date:	3 August 2010
Precinct:	All	File Ref:	PLA0223
Attachments:	001 , 002 , 003		
Reporting Officer:	S Kendall, Senior Strategic Planning & Heritage Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Report relating to Amendment No. 73 to Planning and Building Policies – Draft Policy Relating to Construction Management Plans, as shown in Revised Attachment 001;*
- (ii) *ADVERTISES the Policy relating to Amendment No. 73 to Planning and Building Policies – Revised Draft Policy Relating to Construction Management Plans (Revised as shown in the Additional Information) 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 Draft 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 Draft Policy; and*
 - (c) *forwarding a copy of the subject Draft Policy to the Western Australian Planning Commission;*
- (iii) *after the expiry of the period for submissions:*
 - (a) *REVIEWS the Draft Policy relating to Construction Management Plans, having regard to any written submissions; and*
 - (b) *DETERMINES the Draft Policy relating to Construction Management Plans, with or without amendment, to or not to proceed with them; and*
- (iv) *RECEIVES the Revised Construction Management Plan Application for Approval and associated Guidelines and acknowledges that these documents may be updated and amended from time to time by the Town's Officers.*

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

Moved Cr Maier, Seconded Cr Farrell

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Topelberg

That a new clause (v) be inserted to read as follows:

- “(v) REQUESTS the Chief Executive Officer to investigate measures to reduce the bureaucratic overhead, for both staff and applicants, involved in submitted applications for permits and other approvals as listed in Item 7 of the ‘Construction Management Plan – Applications for Permits and other Approval.’”*

AMENDMENT PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

COUNCIL DECISION ITEM 9.1.6

That the Council;

- (i) *RECEIVES the Report relating to Amendment No. 73 to Planning and Building Policies – Draft Policy Relating to Construction Management Plans, as shown in Revised Attachment 001;*
- (ii) *ADVERTISES the Policy relating to Amendment No. 73 to Planning and Building Policies – Revised Draft Policy Relating to Construction Management Plans (Revised as shown in the Additional Information) 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 Draft 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 Draft Policy; and*
- (c) *forwarding a copy of the subject Draft Policy to the Western Australian Planning Commission;*
- (iii) *after the expiry of the period for submissions:*
- (a) *REVIEWS the Draft Policy relating to Construction Management Plans, having regard to any written submissions; and*
- (b) *DETERMINES the Draft Policy relating to Construction Management Plans, with or without amendment, to or not to proceed with them;*
- (iv) *RECEIVES the Revised Construction Management Plan Application for Approval and associated Guidelines and acknowledges that these documents may be updated and amended from time to time by the Town’s Officers; and*
- (v) *REQUESTS the Chief Executive Officer to investigate measures to reduce the bureaucratic overhead, for both staff and applicants, involved in submitted applications for permits and other approvals as listed in Item 7 of the ‘Construction Management Plan – Applications for Permits and other Approval.’*

ADDITIONAL INFORMATION:

Revised Policy:

1. Clause 1.1 has been amended by inserting the following words after subclause (m):
“The Construction Management Plan shall be submitted to and approved by the Town prior to the issue of a Building Licence.”
2. Clause 1.3 has been amended by inserting the following words:
“On request, the Construction Management Plan will be made available for inspection by members of the public at the Town’s Administration and Civic Centre.”

Construction Management Plan

The Construction Management Plan has been corrected to read as follows (changes shown by underlining and strikethrough):

1. Item 1 – Public Safety, Amenity and Site Security of the Construction Management Plan Application for Approval relating to ‘Noise Management’ being amended to read as follows:
“Is it anticipated that there will be any requirement to work outside the permitted work hours of 7am, ~~or~~ to 7pm Monday to Saturday, or on Public Holidays?”
2. Item 1 – Public Safety, Amenity and Site Security of the Construction Management Plan Application for Approval relating to ‘Noise Management’ being amended to read as follows:
“~~Have~~ All staff and sub-contractors ~~been directed~~ shall be advised that construction noise MUST not commence prior to 7.00am, in accordance with the Environmental Protection (Noise) Regulations 1997.”
3. Item 1 – Public Safety, Amenity and Site Security of the Construction Management Plan Application for Approval relating to ‘Pre Works Inspection’ being amended to read as follows:
“Please advise ~~when making payment of the works bond~~ if you consider that a pre works inspection of the existing condition of the Town’s infrastructure needs to be recorded for future reference at completion of the works.”
4. Item 3 – Traffic and Access Management of the Construction Management Plan Application for Approval relating to ‘Pedestrian and Vehicular Access’ being deleted as follows:
“Pedestrian and Vehicular Access
(~~Assessment by Technical Officer~~)

Adequate measures, to the satisfaction of the Town, shall be taken by the applicant to maintain pedestrian and vehicular access to the road reserve and to ensure the Town’s facilities are safeguarded.

(Office Use Only)”

5. Item 2 – Storm Water and Sediment Control of the Construction Management Plan Application for Approval relating to ‘Wash Down Areas for Trucks’ being amended to include a ‘comment box’;
6. Item 3 – Traffic and Access Management of the Construction Management Plan Application for Approval relating to Parking for Contractors and Subcontractors being amended to read as follows:

“Parking and traffic controls around building sites must be complied with and accommodated in a manner that minimises disruption to the precinct. It should be noted that parking across a footpath is illegal.”
7. Item 4 – Waste Management and Material Re-Use of the Construction Management Plan Application for Approval relating to Storage and Disposal of Rubbish Section being amended as follows:

“Note: Allowing litter, sand and other materials to spread from the site is an offence. ~~Provide details on the site plan.~~”
8. Item 5 – Earth Works and Associated Matters of the Construction Management Plan Application for Approval relating to ‘Vibration Management’ being amended to read as follows:

“...ii) the adjacent road reserve, right of way, or other property under the care, control and management of the Town or any other public authority?”
9. Item 5 – Earth Works and Associated Matters of the Construction Management Plan Application for Approval relating to ‘Excavation Management’ being amended to read as follows:

“...ii) the adjacent road reserve, right of way, or other property under the care, control and management of the Town or any other public authority?”
10. The ‘Purpose of a Construction Management Plan’ Section of the Construction Management Plan Guidelines being amended to read as follows:

“The requirement to prepare a CMP may be specifically stated in the planning approval for a site, or otherwise required by ~~the Town council~~ depending on the nature of proposed building works.”
11. Boxes 2 and 3 of the ‘How to Prepare a Construction Management Plan’ Section of the Construction Management Plan Guidelines being combined;
12. The ‘How to Prepare a Construction Management Plan’ Section of the Construction Management Plan Guidelines being amended to read as follows:

“CMP approval issued.
A Building Licence will not be approved/issued until such time as the CMP has been approved by the Town.”
13. Item 1 – Public Safety, Amenity and Site Security of the Construction Management Plan Application Guidelines being amended to read as follows:

“Essential safety signs to protect workers and the public around building sites are to be installed for the duration of works (e.g. ‘Danger Construction Site – No Unauthorised Access’ and All Visitors Report to Site Office).”

14. Item 5: Earth Works and Associated Matters of the Construction Management Plan Guidelines being amended to read as follows:

“Sheet piling will not generally be approved unless an appropriately qualified consultant certifies that it will not damage nearby properties.

Dilapidation Reports

The purpose of a dilapidation report is to record the current condition of a property prior to any building work being undertaken. Dilapidation reports are typically undertaken on properties adjacent to the proposed building site and should comprise:

- a) the relevant property owner’s signature;
- b) annotated photographs;
- c) site and floor plan; and
- d) details of any pre existing damage (including measurements).

The report can be used to resolve any disputes that may arise during or after the building works.

The Town does not undertake dilapidation reports. A dilapidation report should be commissioned by the builder/applicant. All costs associated with the preparation of a dilapidation report shall be borne by the applicant/builder(s).”

PURPOSE OF REPORT:

The purpose of this report is to present to the Council a copy of the Draft Policy relating to Construction Management Plans.

BACKGROUND:

25 May 2010 The Council at its Ordinary Meeting considered Progress Report No. 1 relating to Construction Management Plans. In relation to the preparation of Construction Management Plans, it was resolved that the Council:

“(i) *RECEIVES:*

- (a) *the Progress Report No. 1 concerning the utilisation of Construction Management Plans for new developments in the Town of Vincent; and*
- (b) *a copy of the Construction Management Plan Pro-Forma is currently utilised by the Town, as shown in Attachment 001;*

(ii) *NOTES that a Progress Report relating to Construction Management Plans will be presented to an Ordinary Meeting of Council by no later than July 2010, comprising the following matters:*

- (a) *A summary of further research into best practice utilisation of Construction Management Plans;*
- (b) *A Draft Policy relating to Construction Management (for adoption) or recommendations about how a Construction Management Plan can be incorporated within the Town's existing Policies;*
- (c) *A revised Pro-Forma for Construction Management Plans (for adoption);*
- (d) *Guidance Notes for applicants relating to preparing Construction Management Plans...”*

DETAILS:

The matters identified in clause (ii) of the Council resolution made at the Ordinary Meeting held on 25 May 2010 in relation to Progress Report No. 1 - Construction Management Plans (Item 9.1.7) are explored below:

1. *Further research into best practice utilisation of Construction Management Plans.*

It appears that there is limited policy direction and/or guidelines for the requisition of Construction Management Plans within Western Australia, by Local Government Authorities during the Development Application process. No additional policies and/or guidelines were identified, with the City of Melbourne and City of Perth remaining as the most useful reference documents. Contact was made with Officers from the Cities of Subiaco and Fremantle and the Town of Victoria Park. The Town of Victoria Park advised that they had no such policy, with Construction Management being '*left up to the builder*'.

As outlined in the previous Progress Report No. 1 relating to Construction Management, the City of Melbourne has developed six construction management templates and associated set of guidelines, which address the following range of issues to be managed on-site including:

- *public safety, amenity and site security;*
- *operating hours, noise and vibration controls;*
- *air and dust management;*
- *stormwater and sediment control;*
- *waste and materials re-use; and*
- *traffic management.*

A review of the templates has been undertaken and the following is noted:

- A large amount of the information/requirements is repeated across the six templates unnecessarily, which increases the length of the documents and would undoubtedly cause frustration and confusion for applicants;
- The City of Melbourne Construction Management Plan Pro - Forma endeavours to comprehensively capture all aspects of development; however, the Town's Officers are of the opinion that key aspects of construction management are lost as a result of this. The Plan is disjointed and clumsy to use;
- The checklist documents are poorly worded and ambiguous in some areas; and
- When combined, the two documents are lengthy and cumbersome. The templates pose questions for the builder to answer, with the Guidelines endeavouring to provide supporting information for the applicant's consideration; the Town's Officers are of the view that the two documents do not compliment one another as intended.

The City of Perth Construction Management Plan Pro-Forma was previously used as the foundation to form a Town of Vincent specific Pro - Forma, in 2009. The City of Perth document is succinct and more focussed on key construction management issues. It simply highlights the instances where additional permits are required and requires applicants to submit details and/or demonstrate compliance with the following matters:

- Road or Footpath Closures
- Pedestrian and Vehicular Access
- Conditions of Footpath and Road Reserve
- Storage of Materials and Equipment On-Site

- Provisions for Parking
 - Dewatering
 - Workzones
 - Tower Crane
 - Noise management
 - Work out of hours
 - Day time works
 - Wash down areas for trucks
 - Storage and disposal of rubbish
 - Control of sand and dust
 - Access to Site
 - Vibrations and Dilapidation Survey
 - Signs Hoardings, Scaffolding work structures
 - Underpinning and Ground Anchors.
2. *A Draft Policy relating to Construction Management (for adoption) or recommendations about how a Construction Management Plan can be incorporated within the Town's existing Policies.*

The Town's Officers have prepared a Policy relating to Construction Management Plans, which is to be incorporated as a new policy in the Town's current Planning, Building and Policy Manual. It was not considered that this matter could be incorporated within one of the Town's existing Policies.

The draft Policy relating to Construction Management Plans is contained in Attachment 001. The Policy outlines the importance of appropriate planning and management of excavation, demolition and building work within the Town and sets out how it will ensure appropriate consideration is given to the planning and on-going management of all construction works.

3. *A revised Pro-Forma for Construction Management Plans (for adoption).*

The Town's Officers have prepared a Construction Management Plan Application for Approval, which is contained in Attachment 002 of this report.

4. *Guidance Notes for applicants relating to preparing Construction Management Plans...*

The Town's Officers have prepared a Construction Management Plan Guidelines, which are contained in Attachment 003 of this report.

CONSULTATION/ADVERTISING:

The draft Planning Policy will be advertised in accordance with Clause 47 of the Town's Town Planning Scheme No. 1.

LEGAL/POLICY:

Town Planning and Development Act 2005
Town Planning Scheme No. 1
Australian Standards, as appropriate
Local Government Act 1995
Town of Vincent Local Laws, as appropriate
Environmental Protection Noise Regulations 1997.

STRATEGIC IMPLICATIONS:

Strategic Plan 2009-2014: Objective 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.”

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The current 2009/2010 Budget allocates \$62,000 for Town Planning Scheme Amendments and Policies.

COMMENTS:

The new policy and associated Application for Approval and Guidelines will provide guidance in the area of Construction Management, which is considered important to the Town's Administration, the Council and the broader community. It is therefore recommended that this Policy be endorsed for advertising by the Council.

9.1.8 Proposed Metropolitan Region Scheme Amendment – Road Widening and Lot 1 Cheriton Street, Perth

Ward:	-	Date:	3 August 2010
Precinct:	-	File Ref:	PRO5055
Attachments:	001		
Reporting Officer:	E Lebbos, Strategic Planning Officer		
Responsible Officer:	R Boardman, Director Development Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES:**
- (a) *the report relating to the proposed Metropolitan Region Scheme (MRS) Amendment – Road Widening and Lot 1 Cheriton Street, Perth; and*
 - (b) *the proposed MRS Amendment – Road Widening and Lot 1 Cheriton Street, Perth, supporting document, as shown in Attachment 001;*
- (ii) *NOTES that the proposed MRS Amendment is in line with State Planning Policy in addition to the Town’s strategic direction for the area; and*
- (iii) *advises the Applicant that it SUPPORTS the proposed MRS Amendment – Road Widening and Lot 1 Cheriton Street, Perth, from ‘Region Reserve for Public Purposes (Special Uses)’ to ‘Urban’, as outlined in this report.*

Moved Cr Buckels, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Farrell

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

- “(iv) **REQUESTS** the Chief Executive Officer to approach the relevant Minister(s) and local Member of Parliament seeking transfer of the land, free of cost to the Town as a Crown Grant (or equivalent), rather than freehold.”

AMENDMENT PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

COUNCIL DECISION ITEM 9.1.8

That the Council;

- (i) **RECEIVES:**
- (a) *the report relating to the proposed Metropolitan Region Scheme (MRS) Amendment – Road Widening and Lot 1 Cheriton Street, Perth; and*
 - (b) *the proposed MRS Amendment – Road Widening and Lot 1 Cheriton Street, Perth, supporting document, as shown in Attachment 001;*
- (ii) **NOTES** *that the proposed MRS Amendment is in line with State Planning Policy in addition to the Town's strategic direction for the area;*
- (iii) *advises the Applicant that it SUPPORTS the proposed MRS Amendment – Road Widening and Lot 1 Cheriton Street, Perth, from 'Region Reserve for Public Purposes (Special Uses)' to 'Urban', as outlined in this report; and*
- (iv) **REQUESTS** *the Chief Executive Officer to approach the relevant Minister(s) and local Member of Parliament seeking transfer of the land, free of cost to the Town as a Crown Grant (or equivalent), rather than freehold.*

ADDITIONAL INFORMATION:

The Public Transport Authority has identified the subject property as surplus to its requirements and proposes to sell the property on the public market. In January 2009, the Western Australian Planning Commission advised the Town that subdivision to create Lot 1 was supported with conditions, and subsequently the Town notified the Western Australian Planning Commission that the conditions had been cleared in June 2009. To-date no further information of the finalization of the subdivision has been provided to the Town and, therefore, the property continues to form part of No. 116 (Lot 879) West Parade.

Essentially, the Public Transport Authority has engaged consultants Lewis and Gray to prepare documentation to commence an MRS Amendment with the view to improving the choice for uses of the site to a prospective purchaser. The land forms part of the area that was ceded to the Town as part of the boundary changes in July 2007 and the EPRA Scheme No. 1 applies to the subject site. Under the EPRA Scheme No. 1, the subject property falls within Precinct No. 16 - Transport Corridor. The preferred uses in this Precinct have been identified as commercial, service and light industry and recreational uses. It is assumed that this Precinct requirement was prepared based on the premise that the Public Purpose - Special Use under the MRS had not been finalised, and the area was still part of the rail reserve. In addition, it is also noted that when the East Perth Redevelopment Act 1991 is in force, then the Metropolitan Region Scheme does not apply. However, whilst the Town are applying the EPRA Scheme No. 1, the EPRA Act 1991 no longer applies to this area and, therefore, the uses would essentially be guided by the MRS zoning - Public Purpose - Special Use and the Western Australian Planning Commission would determine any application on the site.

In light of the above, according to the Town's records the subdivision for the lot has not yet been finalized and, therefore, the Town is not in a position to purchase the property.

In addition, it is considered that the Applicant's proposed MRS Amendment is in line with the Town's strategic direction for the area and the landowner's purpose for carrying out such an Amendment is to sell the subject land for profit.

DETAILS:

The total land area of the proposed MRS Amendment is 758 square metres. It includes the following parcels of land:

- Lot 1 Cheriton Street – 610 square metres; and
- Road widening – extension of Cheriton Street road reserve – 148 square metres;

A summary of the main issues that have been examined in the supporting document, prepared by the Applicant, is as follows:

Town of Vincent Draft Town Planning Scheme No. 2:

In a letter dated 6 May 2010, the Town advised that the Draft Town Planning Scheme No. 2 includes the adjacent land on the western side of Lot 1 in a Residential/Commercial zone, with a residential R80 density code. The Town considers that the zone be extended to include Lot 1 Cheriton Street, Perth, if the subject land is rezoned to 'Urban'.

Heritage Issues:

The Heritage Council of Western Australia has advised that whilst the former Stationmaster's cottage, located on the subject land, may have some cultural heritage significance, it is unlikely to meet the threshold for entry on the State Register.

The Town has advised that any application for a demolition licence will require the preparation of a heritage assessment by the Town's Heritage Officers. It is also standard procedure at the Town, that planning approval for redevelopment of the site is assessed prior to a demolition license being issued.

Contamination Issues:

Land uses on the subject land have not extended into industrial uses that could have led to contamination. As a result, the supporting document argues that the subject land is not contaminated.

Environment:

The subject land was included in the MRS Amendment 1073/33A, which was finalised in 2004. That Amendment dealt with a land parcel in East Perth, larger than the area of the subject land. The purpose of the Amendment was to facilitate development of public housing for 8 family households, 26 senior households, and 3 single person households.

However, the public housing which was the underlying reason for the 'Region Reserve for Public Purposes' (Special Uses), has been completed and occupied. Lot 1 Cheriton Street, Perth, is surplus to the Department of Housing requirements for public housing.

Nonetheless, the advice from the Environmental Protection Authority (EPA) as set out in the Report on Submission for Amendment 1073/33A should be considered in the context of this proposed Amendment. An outline of the environmental issues identified is set out in the supporting document (Attachment 001).

For additional information regarding all of the above issues, refer to Section 4 of the supporting document, as shown in Attachment 001.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Metropolitan Region Scheme and East Perth Redevelopment Authority Scheme No. 1.

In addition, under Section 126(3) of the *Planning and Development Act 2005*, a Local Government may request the WAPC to amend its Town Planning Scheme concurrently and consistent with an MRS Amendment.

However, the subject land is currently outside of the Town of Vincent's Town Planning Scheme area. At its Ordinary Meeting held on 27 July 2010, the Council resolved to commence including land ceded from various Local Government authorities to the Town (part of the boundary changes in July 2007), into the Town's Town Planning Scheme No. 1, with reporting to the Council on the commencement process in September 2010.

STRATEGIC IMPLICATIONS:

The Town of Vincent Strategic Plan 2009-2014 states;

"Natural and Built Environment

1.1 *Improve and maintain the environment and infrastructure*

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

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

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

The proposed MRS Amendment addresses aspects of social and environmental sustainability as follows:

It is consistent with key objectives of *Network City – Community Planning Strategy for Perth and Peel (2004)*, including:

- *'Accommodate urban growth primarily within a network City pattern incorporating communities'*: The proposed urban zoning is considered to promote alternative uses for the site that capitalise on its connection to the station and other services; and
- *'Deliver a city with 'urban' energy, creativity, and cultural vitality'*: The proposed rezoning seeks to allow development over portions of underutilised land.

In addition, the proposed MRS Amendment is consistent with key objectives of *Directions 2031 – Draft Spatial Framework for Perth and Peel (2009)*, including:

- *'An accessible city – People should be able to easily meet their education, employment, recreation, service and consumer needs within a reasonable distance of their home'*: A key aim of this theme is to improve the relationship between land use and public transport. The subject land is consistent with this, as it is located close to the East Perth Rail Station and to bus routes on Lord Street; and
- *'A responsible city – We have a responsibility to manage urban growth and make the most efficient use of available land and infrastructure'*: The proposed rezoning seeks to allow urban development over portions of underutilised land that are located within close proximity to public transport.

COMMENTS:

The Town's Officers have examined the proposed MRS Amendment in light of the State strategic documents *Network City* and *Directions 2031*, as well as in light of the Town's strategic direction for the area, as set out in the Town's Local Planning Strategy.

As outlined in the Sustainability Implications Section of this report, the proposed MRS Amendment is in line with State planning direction. In addition, the proposed MRS Amendment supports the Town's strategic direction relating to Transit Oriented Development for East Perth and the surrounding area, as follows:

- *'Encourage new larger scale projects on strategic corner sites and along Lord Street and/or East Parade to be designed as clusters with smaller urban forms to break down the perceived scale and to reinforce the relatively intimate inner city character of the area;*
- *Maintain existing high density zoning within the area, to continue to facilitate a high residential base within walking distance of the Station and to encourage an increase in patronage to the transit centre through increasing residential intensity and housing choice; and*
- *Facilitate mixed-use buildings with residential throughout the Precinct, particularly along Claisebrook Street and Cheriton Street.'*

In light of the above, it is recommended that the Council receive the report, and support the Officer Recommendation to advise the Applicant that the Town of Vincent supports in principle, the intent and content of the proposed MRS Amendment, as outlined in the Officer Recommendation.

9.2.1 Five (5) Traffic Related Matters for Referral to the Local Area Traffic Management (LATM) Advisory Group; North Perth Primary School Request; Aranmore Catholic Primary School Request, Flinders Street, Mount Hawthorn; and Fairfield Street, Mount Hawthorn

Ward:	Both	Date:	3 August 2010
Precinct:	All	File Ref:	TES0334
Attachments:	001		
Reporting Officer:	R Lotznicker, Director Technical Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *REFERS the following traffic related matters to the Town's Local Area Traffic Management (LATM) Advisory Group for consideration:*
 - (a) *North Perth Primary School;*
 - (b) *Aranmore Catholic Primary School;*
 - (c) *Flinders Street, Mount Hawthorn;*
 - (d) *Fairfield Street,, Mount Hawthorn; and*
 - (e) *Palmerston Street, Perth;*
- (ii) *INVITES representatives from the relevant schools/streets to attend the respective scheduled LATM Advisory Group meeting; and*
- (iii) *NOTES that a further report on the above matters will be submitted to the Council following consideration by the Town's Local Area Traffic Management Advisory Group.*

Moved Cr Maier, Seconded Cr Buckels

That the recommendation, together with the following new clause, be adopted:

- “(iv) *AUTHORISES the LATM Advisory Group to consider developing documentation which will provide background and guidance to residents regarding the Town's road network, including realistic expectations for traffic on the different classes of road and the type of measures that the Town may consider should an 'actual' problem be identified.*”

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.1

That the Council;

- (i) *REFERS the following traffic related matters to the Town's Local Area Traffic Management (LATM) Advisory Group for consideration:*
 - (a) *North Perth Primary School;*
 - (b) *Aranmore Catholic Primary School;*
 - (c) *Flinders Street, Mount Hawthorn;*
 - (d) *Fairfield Street,, Mount Hawthorn; and*
 - (e) *Palmerston Street, Perth;*

-
- (ii) *INVITES representatives from the relevant schools/streets to attend the respective scheduled LATM Advisory Group meeting;*
- (iii) *NOTES that a further report on the above matters will be submitted to the Council following consideration by the Town's Local Area Traffic Management Advisory Group; and*
- (iv) *AUTHORISES the LATM Advisory Group to consider developing documentation which will provide background and guidance to residents regarding the Town's road network, including realistic expectations for traffic on the different classes of road and the type of measures that the Town may consider should an 'actual' problem be identified.*
-

PURPOSE OF REPORT:

The purpose of this report is to seek the Council's approval to refer five (5) matters to the Town's Local Area Traffic Management (LATM) Advisory Group for consideration.

BACKGROUND:

The LATM Advisory Group meets, as required, to consider requests received by the Town relating to Traffic and related safety issues. The Group considers these matters and, where warranted, the Group's recommendations are reported to the Council.

For information the Council has formally referred the following items to the LATM Advisory Group (which have yet to be considered by the Group). It is intended that these will be considered prior to the 'additional' items outlined in this report.

Ordinary Meeting of Council 27 April 2010:

- Creating "Safe Systems Approach to Road Safety" an initiative being developed by the Western Australian Local Government Association.
- Developing a "Warrants System" approach to implementing Local Area Traffic Management.

Ordinary Meeting of Council 13 July 2010:

- Investigation of Safety Improvements on roads surrounding Menzies Park, Mount Hawthorn.

DETAILS:

North Perth Primary School, North Perth:

A letter requesting that North Perth Primary School representatives be given the opportunity to address the Town of Vincent Local Area Traffic Management Group to discuss issues of concern regarding traffic management for Charles and View Streets was received by the Town on 29 July 2010. An extract of the request is outlined below.

"We recognise that Charles street is a major road, but many parents and primary school students, along with their younger children, find it very difficult to cross this busy street. In addition North Perth Primary School uses Charles Veryard Reserve for sports activities. The crossing of large numbers of students at one time is another significant safety issue.

View Street is both used and crossed by many pedestrians, motor vehicle users and cyclists who travel to and from the school every day. There are growing concerns over the use of View Street for "rat running" by motorists crossing from Charles Street to Fitzgerald Street in both directions. We would like to discuss the options for making this safer, including the possibility of introducing a timed 40 kph School Zone.

We are aware of some of the processes needed by Main Roads to assess the extent of the problem with Charles Street, and we plan to instigate survey requests in due course. We wish to determine from the Town of Vincent Local Area Traffic Management Committee if there are any solutions that can be utilised to improve the safety of all pedestrians and road users."

Officer's Comments:

Charles Street:

Charles Street is under the Care Control and Management of Main Roads Western Australia (MRWA).

The existing crossing facility at Charles and Albert Streets, which previously had a Traffic Warden (crossing guard), was installed by MRWA a number of years ago and was managed by the Traffic Warden State Management Unit (who manages all traffic warden-controlled children's crossing facilities in Western Australia) until the Traffic Warden was removed due to the crossing not meeting the traffic Warden controlled warrant criteria.

Note: The Traffic Warden unit is responsible for recruiting, training and assessing traffic wardens as well as monitoring activities and the operation of children's crossings.

A meeting held on site with several Council members, the Town's officers, parents, Perth MLA John Hyde and parents, two years ago, failed to change the situation. The Town did however liaise with MRWA and the centre of road islands were painted 'white' to make them more visible (refer attached Photo 1).

View Street:

At its Ordinary Meeting held on 28 June 2005 (following consideration by the Local Area Traffic Management Advisory Group) the Council decided to approve *in principle* a proposal for traffic improvements for View Street and to consult with residents in View Street giving them 21 days to provide a response.

Following extensive community consultation, the Council considered a further report on the matter in August 2005, where it approved the following (refer attached Photo 2):

- the implementation of the View Street traffic management proposal as outlined on amended Plan No 2350-CP-1A
- that MRWA gives consideration to the implementation of 40kph school zones outside the North Perth Primary School along View, Olive, Albert and Angove Streets and the installation of 50kph signage on View Street
- that MRWA approves the installation of a section of solid median island to replace a section of painted island on Charles Street to deter illegal right turns from View and Bourke Streets.

At the time the traffic management project was implemented, however, MRWA did not support the introduction of 40kph school zones in the street outlined above as this did not comply with their policy, i.e. the school shall directly adjoin the road to be speed zoned.

In addition, MRWA did not approve the suggested changes to the median on Charles Street.

With regard to the comments regarding 'rat running between Charles and Fitzgerald Street, View Street (and Bourke Street) is classified as a local distributor road and can carry up to 6,000 vehicles per day in accordance with its classification.

Aranmore Catholic Primary School, Leederville:

A letter addressed to the Mayor requesting consideration of some issues by the Town's LATM Advisory Group was received by the Town on 14 July 2010. An extract of the request is outlined below.

"Aranmore currently has a Capital Development Plan which includes major redevelopment and refurbishment for at least the next five years. I envisage that this redevelopment will attract more families to Aranmore and consequently more traffic to the area.

Members of the School Board recently attended a public meeting at the Rosewood Aged Care facility, which backs on to Aranmore. Rosewood indicated that they propose major redevelopment over the next three years. They indicated that during the stages of redevelopment it will be inevitable that there will be reduced access to Wavetree Place due to construction vehicles and a construction office being set up on the reserve at the back of Aranmore and Rosewood.

Rosewood indicated that once construction began, Wavetree Place would be exclusively used by service vehicles, delivery trucks and vans to supply tools and services to the aged care facility.

Currently Wavetree Place is widely used by parents for the dropping off and collection of children from Aranmore. The School Board has a concern that Wavetree Place will become very congested and will also pose a safety issue for our families and young children who access the area.

On the south side of Aranmore stands a derelict building which the School Board believes is an eye sore in the area. The building has broken windows and is full of graffiti and does nothing to enhance this part of Leederville. Apart from this aesthetic concern, the School Board believes that once redevelopment occurs and the proposed apartments are built, this will add to the traffic congestion, not only during the construction period, but also afterwards.

Aranmore is surrounded by apartments and units with restricted parking and I believe that with Aranmore, Rosewood and the apartment block redevelopment, it would be important for the Town of Vincent Traffic Management Advisory Group to consider these issues.

The School Board would suggest that a meeting at Aranmore be arranged during a peak traffic time so that the Group can see for itself. We look forward to hearing from you."

Officer's Comments:

At its Ordinary meeting held on 12 February 2002, the Council approved the implementation of parking and access improvements in Bentham Street and adjoining land, estimated to cost \$92,500, as shown on attached Plan No. A1-1133-PP.02.

This decision was made following extensive consultation with owners/occupiers in the area bounded by Britannia Road and Bentham Street, and properties adjoining Bentham Street and Britannia Road reserves.

At the time, the majority of respondents were in favour of the proposed Bentham Street traffic and parking improvements, which were designed to provide set down, bus parking, speed reduction, off road parking and a turn around facility in Brentham Street to allow parents to travel back to Britannia Road and Anzac Road (refer attached Photos 3 and 4 before and after).

With regard to Wavetree Place, this is a public thoroughfare, in accordance with the Local Government Act, is classified as an access road and is under the Care Control and management of the Town. A private developer would be required to adhere to conditions imposed by the Town during any development to ensure the amenity of road users is maintained at all times during any prospective development (refer attached Photo 5).

Planning Services Comments:

On 16 March 2010 at the Council Members' Forum, RPS Planning Group, on behalf of the owner, Rosewood Care Group, provided an overview on the proposed redevelopment - Aged Care Facility at Nos 5 to 9 Britannia Road, Leederville. One of the suggestions from the forum was to give consideration to a community/public meeting seeking community input before the lodgement of the planning application.

On 31 March 2010, the Senior Planner from RPS Planning Group organised a public forum inviting local residents and Council Members to discuss the proposed redevelopment - Aged Care Facility - where the following two (2) concept plans were shown to the public:

- Concept 1 - Three Storey building with underground parking and kitchen services. The proposal will consist of 142 beds.
- Concept 2 - Two Storey building with loft with underground parking and kitchen services. The proposal will consist of 128 beds.

One representative from Aranmore Primary School, raised concerns regarding the proposed open terraces/balconies facing the school where aged persons would be able to view children playing in the oval. RPS Planning Group advised they would take these concerns into consideration.

From the Town's perspective the school property is separated from Nos 5 to 9 Britannia Road by the Town's local park, which is around 11 metres in width.

RPS planning group has not yet submitted the planning application for the proposed redevelopment - Aged Care Facility and therefore at this stage the Town is not aware whether the plans have been changed to address the issue raised by Aranmore Primary School.

Flinders Street, Mount Hawthorn:

A letter addressed to the Mayor, requesting traffic calming in Flinders Street, was received by the Town on 27 July 2010. An extract of the request is outlined below.

"As per our brief discussion, I would like the Town of Vincent to investigate an appropriate course of actions (e.g. speed humps) to be taken along Flinders Street, or at least the end of Flinders south of the Scarborough Beach Road intersection due to the consistent excessive speed of vehicles travelling down hill from this intersection towards Anzac Road. As you know, the rejuvenation of Mount Hawthorn over recent years has led to a lot of young families moving in. We are about to have our second child and vehicle speed on our street is a constant concern for us. I appreciate your attention to this serious matter."

Officer's Comments:

Vehicle Classifiers will be deployed to determine the latest traffic data prior to being discussed at LATM and representative/s from the street will be invited to attend the meeting.

Fairfield Street Mount Hawthorn:

A letter addressed to the Town's Engineering Department requesting traffic calming in Fairfield Street was received by the Town on 21 June 2010. An extract of the request is outlined below.

"Since The Mezz, the Paddington Ale House and the "strip" on Scarborough Beach Road have grown more popular, our street has become a "short cut" for traffic cutting the Oxford Street/Scarborough Beach Road "corner" out of their journey. Not only has this increased in noise, parking problems and increased car volume, but unfortunately we now have AT LEAST ONE CAR A DAY speeding down our street at dangerous speeds. Almost each house on our street has children and while we welcome the introduction of suburb growth, it is disappointing that no measures have been put in place to counter-act the increased traffic flow and parking shortage.

Please investigate this matter. Perhaps a "local traffic only" initiative, picturesque islands with some trees or even just simple streetscape may not only slow the traffic but reduce the amount of vehicle noise we now hear night and day (increased during peak shopping times and entertaining hours at the Paddington Ale House).

I await a favourable response with solutions to this increasing issue."

Officers Comments:

In 2005 there was extensive discussion regarding Fairfield Street north of Scarborough Beach Road resulting from the proposed MEZZ development. A number of reports were presented to the Council, extensive community consultation was undertaken and the LATM Advisory Group considered the matter and made recommendations to the Council.

The section of Flinders Street north of Scarborough beach road was traffic calmed with a combination of wider street treatment and other traffic measures to deter rat running and deter delivery vehicles from using this section of street.

Vehicle Classifiers will be deployed to determine the latest traffic data in this section of Fairfield Street prior to being discussed at LATM, and representative/s from the street will be invited to attend the meeting.

Palmerston Street, Perth

A petition was received on 2 August 2010, on behalf of the South Vincent Precinct Group, along with six signatures from residents in the area around Palmerston Street, outlining their:

"concerns about the volume and speed of traffic using the streets in the area and requesting that the Town of Vincent install additional traffic calming measures, speed restrictions and a pedestrian crossing [in Palmerston Street]".

Officer's Comments:

This matter was recently 'informally' discussed at the LATM meeting held on 29 July 2010, where traffic data was tabled. The section of Palmerston Street south of Stuart Street (refer attached Photo 8) was upgraded a number of years ago using developer contributions from the Maltings and Allied Industries developments. This work included upgrading paths to a brickpaved standard, the creation of embayed parking, on-road cycle lanes, minor traffic calming measures and associated landscaping (Palmerston Street forms part of the Perth Bicycle Network Route).

This theme was recently implemented in Palmerston Street north of Randall Street (refer attached Photo 6) as part of the Greenway 'Hyde Park spur'. This project was part funded by Bikewest.

The section of Palmerston Street between Randall and Stuart (refer attached Photo 7) is yet to be upgraded in a similar fashion. Contributory funding from Bikewest for this section of Palmerston Street has not yet been applied for and there would also be scope to obtain a reasonable developer contribution from the developer of the former 'Bottleyard' site when this development proceeds.

The latest traffic data for this section of Palmerston street indicates that the traffic speeds and percentage of commercial vehicles are well within the acceptable criteria for the street's classification.

Notwithstanding, Vehicle Classifiers will be deployed to determine the latest traffic data in this section of Fairfield Street prior to being discussed at LATM and representative/s from the street will be invited to attend the meeting.

CONSULTATION/ADVERTISING:

N/A

LEGAL/POLICY:

The Town is responsible for the care control and management of over 140km of roads.

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. *“(d) Implement Local Area Traffic Management matters referred to the Local Area Traffic Management Advisory Group by Council”.*

SUSTAINABILITY IMPLICATIONS:

The Council adopted a long term program to ensure its road infrastructure is maintained to an acceptable level of service. Funds are allocated annually to ensure this program is sustainable.

FINANCIAL/BUDGET IMPLICATIONS:

N/A

COMMENTS:

The Town receives many requests for Traffic Management from time to time. A large number of these requests are addressed at officer level as vehicle classifier results often indicate that there is a perceived speed and traffic volume issue rather than an actual problem. Other matters are referred to the WA Police for enforcement of the legal speed limit.

It is considered however that the matters contained in this report are worthy of consideration by the Town's LATM Advisory group.

9.2.4 Traffic Management Matter – Purslowe Street, Mt Hawthorn – Further Report

Ward:	North	Date:	3 August 2010
Precinct:	Mt Hawthorn P1	File Ref:	TES0334/TES0458
Attachments:	001		
Reporting Officer:	C Wilson, Manager Asset & Design Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) **CONSIDERS** the submissions received from the respondents to the Purslowe Street Traffic Management Matter community consultation as outlined in the report;
- (ii) **APPROVES** the implementation of the proposal for the intersection of Purslowe and Federation Streets as shown on attached plan No. 2678-CP-01; and
- (iii) **ADVISES** the respondents of its decision.

COUNCIL DECISION ITEM 9.2.4

Moved Cr Farrell, Seconded Cr Maier

That the recommendation be adopted.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Cr Farrell

That the item be DEFERRED for further consideration.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to advise Council of the outcome of community consultation regarding the proposed traffic management improvement works at the intersection of Purslowe and Federation Streets and to seek Council's approval to implement the proposal.

BACKGROUND:

Purslowe Street was discussed at the LATM Advisory Group meeting held on 13 August 2009 and a report on the matter was presented to the Ordinary Meeting of Council held on 17 November 2009, where the following decision was made.

“That the Council;

- (i) **RECEIVES** the further report on Traffic Management Matters referred to the Town's Local Area Traffic Management Advisory Group;

- (ii) *APPROVES IN PRINCIPLE the proposal for Purslowe Street as outlined on attached plan No. 2678-CP-01;*
- (iii) *CONSULTS with affected residents in Purslowe/Federation Streets regarding the proposal; and*
- (iv) *RECEIVES a further report on the comments received.”*

DETAILS:

Purslowe and Federation Streets are classified as Access Roads in accordance with the Metropolitan Functional Road Hierarchy. Under this classification, their maximum desirable traffic volume is 3,000 vehicles per day with a recommended operating speed of 50 kph. Further, Purslowe Street connects Egina Street, a Local Distributor Road, to Brady Street, a District Distributor A Road.

LATM Advisory Group meeting 13 August 2009:

As previously reported to the Council, complaints were received regarding traffic volumes and speeds in Purslowe Street, particularly in the vicinity of Menzies Park, between Egina and East Streets. Given the popularity of Menzies Park, which is used for both active and passive recreation, the main concern was the mix of children, parking and speeding traffic.

Discussion initially revolved around the need to deter rat runners and reduce vehicle speeds. However, the community representative present at the meeting specifically raised concerns about the safe movement of vehicles and pedestrians in the vicinity of the Menzies Park hall, playground and on-road parking area.

With the tabled traffic statistics in mind, various options were suggested and discussed, with some discounted and some further developed (through discussion).

The Group concluded that the standard low profile ‘red’ asphalt speed humps were not appropriate in this instance and that a ‘raised plateau’ at the intersection of Purslowe and Federations Streets would be a more effective deterrent by providing a vertical displacement, together with a visual change at this location.



A similar treatment in Chelmsford Road, Mt Lawley, corner Hutt Street.

In addition, Main Roads will be requested to install symbolic advisory signs, as per the following photo, either end of the park, depicting children crossing the road ahead.



Community Consultation:

In accordance with the Council's decision on 17 November 2009, 21 letters were distributed to the residents of Purslowe Street, between East and Egina Streets and Federation Street, between Purslowe and Tasman Streets, being those most directly affected by the proposal. The consultation also extended to include the Menzies Park main user groups. At the close of consultation on 2 July 2010 some six (6) responses had been received, representing a 28.5% response rate.

Of the six (6) responses received, five (5) were in favour, albeit most saw the proposal as a 'first stage' and suggested that additional traffic calming measures should be considered in the future. The one (1) against thought the proposal ineffectual unless the same treatment was extended to all the intersections along Purslowe Street.

Officer's Comments:

As previously reported to Council, traffic data collected in Purslowe Street in June 2009, in response to the original complaints, indicated that the average weekday traffic was 776 vehicles per day, and a significant portion could be attributed to residents and park users. However, of greater concern was the 85% speed of 55.8 kph.

As a majority of the respondents are in favour of the proposal, and given that the proposed works are relatively minor in nature, it is recommended that the project should proceed as shown on attached drawing No. 2678-CP-01.

CONSULTATION/ADVERTISING:

The respondents will be advised of the Council's decision

LEGAL/POLICY:

N/A

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: 1.1.6 “(d) *Implement Local Area Traffic Management matters referred to the Local Area Traffic Management Advisory Group by Council*”.

SUSTAINABILITY IMPLICATIONS:

The Council adopted a long term program to ensure its road infrastructure is maintained to an acceptable level of service. Funds are allocated annually to ensure this program is sustainable.

FINANCIAL/BUDGET IMPLICATIONS:

The 2010/2011 budget includes \$20,000 for traffic management measures in Purslowe Street.

COMMENTS:

The Town receives many requests for traffic management and/or calming measures. Most are dealt with at officer level as the vehicle classifier results usually indicate that there is a perceived problem rather than an actual problem. However, in this instance the traffic data indicates that there is a speed issue in Purslowe Street in the vicinity of Menzies Park.

It is therefore considered that the proposed raised plateau will not only force drivers to slow down but also reinforce the dual residential and recreational nature of the street.

The Chief Executive Officer advised that Mayor Catania declared a financial interest in Item 9.3.1. He departed the Chamber at 9.09pm and did not speak or vote on this matter.

Deputy Mayor, Cr Sally Lake assumed the Chair at 9.09pm.

9.3.1 Investment Report as at 31 July 2010

Ward:	Both	Date:	2 August 2010
Precinct:	All	File Ref:	FIN0033
Attachments:	001		
Reporting Officer:	B. Tan, Manager Financial Services; B. Wong, Accountant		
Responsible Officer:	M. Rootsey, Director Corporate Services		

Disclosure of Financial Interest:

Mayor Nick Catania and Cr Anka Burns have disclosed a financial interest in this item.

OFFICER RECOMMENDATION:

That the Council RECEIVES the Investment Report for the month ended 31 July 2010 as detailed in Appendix 9.3.1.

COUNCIL DECISION ITEM 9.3.1

Moved Cr Maier, Seconded Cr Harvey

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (6-0)

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

Mayor Catania returned to the Chamber at 9.11pm. The Chief Executive Officer advised that the item was carried.

Mayor Catania, assumed the Chair.

PURPOSE OF REPORT:

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

BACKGROUND:

Interest from investments is a significant source of funds for the Town, where surplus funds are deposited in the short term money market for various terms. Details are attached in Appendix 9.3.1.

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

DETAILS:

Total Investments for the period ended 31 July 2010 were \$11,109,646 compared with \$10,609,646 at 30 June 2010. At 31 July 2009, \$12,782,999 was invested.

Total accrued interest earned on Investments as at 31 July 2010:

	Budget	Actual	%
Municipal	\$454,000	\$11,543	2.54
Reserve	\$403,000	\$35,788	8.88

COMMENT:

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

The amount invested at 31 July 2010 is lower than the amount invested at 31 July 2009 due to the fact that the rates notices were distributed one week later than last year.

The report comprises of:

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

The Chief Executive Officer advised that Cr Lake and Cr Maier declared a proximity interest in Item 9.3.2. They departed the Chamber at 9.11pm and did not speak or vote on this matter.

9.3.2 Annual Plan – Capital Works Programme 2010/2011

Ward:	Both	Date:	2 August 2010
Precinct:	All	File Ref:	FIN0025
Attachments:	001		
Reporting Officers:	M Rootsey, Director Corporate Services; R Lotznicker, Director Technical Services; and R Boardman, Director Development Services		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council APPROVES the 2010/2011 Capital Works Programme as shown in Appendix 9.3.2.

COUNCIL DECISION ITEM 9.3.2

Moved Cr Farrell, Seconded Cr Topelberg

That the recommendation be adopted.

MOTION PUT AND CARRIED (5-0)

(Cr Lake and Cr Maier were absent from the Chamber and did not vote on this matter. Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

Cr Lake and Cr Maier returned to the Chamber at 9.12pm. The Presiding Member, Mayor Nick Catania advised that the item was carried.

PURPOSE OF REPORT:

The purpose of this report is to present the Annual Plan and Schedule for the Capital Works Programme 2010/2011 for Council Approval.

BACKGROUND:

At the Special Meeting of Council held on 6 July 2010, Council adopted the Annual Budget 2010/2011.

DETAILS:

The Capital Works Programme now forms part of the Annual Plan for the Town of Vincent. The Directors and Managers from the three Directorates have formulated the attached Capital Works Programme. The Programme comprises of \$21.6 million of new Capital Works.

The programme takes into consideration the following factors:

- Budget/funding
- Existing workload commitments of the workforce
- Consultation requirements
- Liaison with other agencies/service areas
- Employee leave periods
- Festive season leave period
- Cash flow requirements

CONSULTATION/ADVERTISING:

N/A.

LEGAL/POLICY:

The Capital Works Programme has been prepared on the adopted 2010/2011 Annual Budget.

STRATEGIC IMPLICATIONS:

Plan for the Future 2009-2014 Key Result Area One – Natural and Built Environment:
“Objective 1.1: Improve and Maintain the Environment and Infrastructure.”

SUSTAINABILITY IMPLICATIONS:

The Capital Works Programme has been prepared taking into account all aspects of sustainability that is environmentally, financial and sound.

FINANCIAL/BUDGET IMPLICATIONS:

The Capital Works Programme is funded in 2010/2011 Annual Budget.

COMMENTS:

The schedule of projects may be subject to change during the year. However, the Capital Works Programme will be initially implemented on the basis of the timing as outlined in the attached programme.

Quarterly progress reports on the Capital Works Programme will be prepared for Council throughout the year.

The projects listed will ensure the Town’s infrastructure and assets are upgraded and maintained for the overall benefit of the community.

9.3.3 Lease for Dental Health Services, Western Australia Special Needs Dental Health Clinic – No 31 (Lot 100) Sydney Street, (Cnr Haynes Street), North Perth – Progress Report

Ward:	North Ward	Date:	3 August 2010
Precinct:	Eton	File Ref:	PRO02006
Attachments:	-		
Reporting Officer:	M Rootsey, Director Corporate Services		
Responsible Officer:	M Rootsey, Director Corporate Services		

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Progress Report on the negotiations on the lease Terms and Conditions with the Dental Health Services regarding the Special Needs Dental Health Clinic located at No 31 (Lot 100) Sydney Street (Cnr Haynes Street), North Perth; and*
- (ii) *AUTHORISES the Chief Executive Officer to continue negotiations with Dental Health Services on the Terms and Conditions of the Lease for No. 31 (Lot 100) Sydney Street (Cnr Haynes Street), North Perth.*

COUNCIL DECISION ITEM 9.3.3

Moved Cr Farrell, Seconded Cr Harvey

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of the report is to provide Council with an update on the status of the negotiations with the Dental Health Services regarding the lease Terms and Conditions for No. 31 (Lot 100) Sydney Street (Cnr Haynes Street), North Perth.

BACKGROUND:

At the Ordinary Meeting of Council held on 25 May 2010, Item 9.3.4 the following resolution was recommended:

“That the Council APPROVES a five (5) year Lease from 1 July 2010 to 30 June 2015 with two (2) extended period lease options, each for a period of five (5), for part of the premises at 31 Sydney Street, North Perth, being granted to Dental Health Services, Western Australia subject to final satisfactory negotiations being carried out by the Chief Executive Officer.”

However the item was deferred for the following reason:

“That the item be DEFERRED to allow time for the Director Corporate Services to further negotiate the lease Terms and Conditions with the Department of Health.”

DETAILS:

On 29 June 2010 the Director Corporate Services met with two senior officers from Dental Health Services and outlined the position of Council following the Council meeting.

The points highlighted to the officers were that the Council would not continue a new lease for peppercorn rent and that it would be looking for something aligned to a commercial rent.

It was advised that the Dental Health Services had had a fifty year period on a peppercorn rent.

The property was a valuable block and was already attracting a commercial rent for a child care centre on the site.

Hawthorn House is owned by the Health Department and was currently vacant.

The Officers advised that no other Council in which Dental Health Services have premises charged a rent for their use. This includes the City of Fremantle, City of Kalgoorlie and the Town of Victoria Park.

They also advised that during 2008 they had spent considerable funds on redeveloping the North Perth Dental Clinic into a Special Needs Clinic. The Officers asked what amount of rental income the Town would be considering.

The Director Corporate Services advised that while no value had been mentioned, in his opinion the Council would consider the annual lease rental to be between \$20,000 - \$30,000 per annum, linked to the Perth Consumer Price Index (CPI).

The matters requested by the Council and further discussed at the meeting on 29 June 2010 were confirmed in writing in a letter to the Acting Director Dental Health Services on 2 July 2010.

The Town received a reply to this letter of on 15 July 2010 which stated as follows:

“Dental Health Services (DHS) has occupied this property from 25 March 1958 as the North Perth Dental Clinic on a 50 year peppercorn lease arrangement with the then City of Perth. The lease was transferred to the Town of Vincent in 1977. In February 2010, the expiry of the lease (25 March 2008) was brought to the attention of the Town of Vincent by DHS in good faith.

DHS has agreed to return a section of the building and the car park at the rear of the property to the Town of Vincent as part of the new lease.

During 2008 the North Perth Dental Clinic was redeveloped as a Special Needs Clinic. DHS contributed \$300,000 to the upgrade.

The Special Needs Clinic provides care to patients registered with the Disability Services Commission who are able to access subsidised dental care. There are 132 Town of Vincent residents able to access subsidised treatment.

Town of Vincent adult residents that have a Health Care Card, Pensioner Concession Card or those in receipt of near full pension or benefit from Centrelink can access subsidised dental care at other nearby clinics such as Warwick, Morley and Liddell (Victoria Park).

DHS also provides free general dental care for all school children from Kindergarten to Year 11 enrolled with the School Dental Service within your council boundaries.

In summary, DHS is in agreement with the lease periods detailed in your letter dated 8 June 2010. In relation to rental charges, DHS is a non-profit organisation that is not in a position to be able to pay the commercial charges you suggest, nor does DHS consider this appropriate given the service to the community provided.”

CONSULTATION/ADVERTISING:

N/A

LEGAL/POLICY:

Town of Vincent Policy 1.2.1 – Policy Statement:

- “1. Any new lease granted by the Council shall usually be limited to a five (5) year period, and any option to renew shall usually be limited to no more than a ten (10) year period.
2. Council may consider longer periods where the Council is of the opinion that there is benefit or merit for providing a longer lease term.”

STRATEGIC IMPLICATIONS:

Strategic Plan 2009-2014 – Key Result Area 2 Economic Development; Objective:

- “2.1.6 Develop business strategies that provide a positive tripled bottom line return for the Town.
- 2.1.6(a) Review leases and commercial contracts to ensure the best for the Town whilst being cognisant of its community service obligations.”

SUSTAINABILITY IMPLICATION:

N/A

FINANCIAL/BUDGET IMPLICATIONS:

The current lease is a peppercorn rent.

COMMENTS:

At this point of time Dental Health Services are not prepared to pay the amount of lease payment which is being sought by the Council.

The basis of their argument rests on a number of points as listed below:

- Dental Health Services (DHS) have occupied the premises for over 50 years;
- Dental Health Services spent considerable funds in redeveloping the facility to a Special Needs Clinic in 2008;
- No other Local Authorities charges a lease rental to Dental Health Services;
- 132 Town of Vincent residents are able to access subsidised treatment;
- DHS is a non profit organisation that is not in a position to pay the commercial rent suggested; and
- DHS consider the request for rent to be inappropriate given the service to the community provided.

The DHS receives a budget allocation from the Department of Health as part of the State Health Department’s budget. The DHS did provide funding in the amount of \$300,000 in redeveloping the property for a Special Needs Clinic in 2008.

The facility does provide a specialised service to the community.

However the Administration recommends the continuation of negotiations with Dental Health Services to obtain a lease rental for the property.

9.4.2 Delegated Authority Register 2010/11 – Further Delegations

Ward:	Both	Date:	2 August 2010
Precinct:	All	File Ref:	ADM0038
Attachments:	001		
Reporting Officer:	John Giorgi, Chief Executive Officer		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY pursuant to Section 5.42 of the Local Government Act 1995, the delegation of the exercise of its powers and duties to the Chief Executive Officer, as shown in Appendix 9.4.2.

COUNCIL DECISION ITEM 9.4.2

Moved Cr Farrell, Seconded Cr Topelberg

That the recommendation be adopted.

Debate ensued.

Cr Buckels departed the meeting at 9.21pm.

Debate ensued.

MOTION PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (6-0)

(Cr Buckels was absent from the Chamber and did not vote. Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to obtain the Council's approval for further delegations to the Chief Executive Officer.

BACKGROUND:

At the Ordinary Meeting of Council held on 13 July 2010 the Council considered the review of its Delegated Authority Register and adopted it for the period 2010/11.

A number of functions are currently performed by the Chief Executive Officer and these are carried out in the day-to-day management of the Town's administration. The Council currently has policies in place concerning these matters, which allow for the Chief Executive Officer to perform this function. It is therefore considered appropriate that these be included in the Delegated Authority Register 2010/11.

The Local Government Act 1995, at Section 5.42, allows for a Council to delegate to the Chief Executive Officer its powers and duties.

The purpose of delegating authority to the Chief Executive Officer is to provide for the efficient and orderly administration of the “day to day” functions of the Town’s Administration. The CEO exercises the delegated authority in accordance with the Delegated Authority Register and Council policies.

The following delegations are in accordance with the Town’s existing practice and adopted policies. As such, it is considered appropriate to ensure that there is no ambiguity relating to these functions and it is recommended that they be included in the Delegated Authority Register 2010/11.

(a) No. 1.11 – Authority to Provide Services and/or Facilities

Chief Executive Officer’s Comment:

This delegation allows for the Town’s Administration to broadly carry out for the provision of services or facilities. It is an all encompassing delegation which is pursuant to Section 3.1, 3.18 and 3.21 of the Local Government Act 1995.

(b) No. 1.12 – Authority to Obtain Legal Advice

Chief Executive Officer’s Comment:

The Chief Executive Officer currently obtains legal advice on matters as follows to:

- (a) minimise the potential risk of litigation;*
- (b) obtain assistance on interpretation and implications of relevant new and/or existing legislation or legal precedent;*
- (c) clarify statutory powers and responsibilities;*
- (d) clarify the Town’s responsibility to take action to protect the health, safety and well-being of the Town’s ratepayers/residents, general public and protection of property; or*
- (e) ensure the best commercial outcome for the Town.*

Council has a Policy 4.1.24 which relates to the obtaining of legal advice and this provides guidance to the Chief Executive Officer and Administration in this matter. This delegation formalises the current administrative practice and procedures.

(c) No. 1.13 – Authority to Prepare and Issue the Town’s Newsletter

Chief Executive Officer’s Comment:

The Chief Executive Officer is responsible for the preparation and publication of the Town of Vincent Newsletter and this is covered by Policy 4.1.12. This delegation formalises existing practices.

(d) No. 1.14 – Authority to Make Payment to Employees in Addition to Contract or Award

Chief Executive Officer’s Comment:

The Chief Executive Officer is responsible for the day-to-day Administration of the Town and all employee matters. This includes the appointment and termination of employees. It currently has a Policy 5.7.11 – Gratuity Payments/Payment to Employees in Addition to Contract or Award on Cessation of Employment. On occasions (1-2 times per year), it is necessary for the Chief Executive Officer to negotiate conditions pertaining to the termination of an employee and the existing policy provides guidance to the Chief Executive Officer. This delegation formalises existing practices.

(e) No. 1.15 – Authority to Purchase and Provide Vehicles for the Town

CEO's Comments:

The Chief Executive Officer is responsible for the Town's fleet and use of vehicles of use by the Town's Administration and this is covered by Policy 4.1.16. This delegation formalises the current administrative procedures and practice.

LEGAL/POLICY:

Section 5.42 of the Local Government Act 1995 gives power to a Council to delegate to the CEO the exercise of its powers and functions; prescribes those functions and powers which cannot be delegated; allows for a CEO to further delegate to an employee of the Town; and states that the CEO is to keep a register of delegations. The delegations are to be reviewed at least once each financial year by the Council and the person exercising a delegated power it to keep appropriate records.

Quarterly reports detailing the administration's use of delegations are reported to the Council as follows:

Period	Report to Council
1 January – 31 March	April
1 April – 30 June	July
1 July – 30 September	October
1 October – 31 December	February

Section 5.46(2) of the Local Government Act 1995 requires the Council is to carry out a review of its delegations at least once every financial year.

The person to whom a power or duty is delegated is to keep records in accordance with the Act and Regulations.

STRATEGIC IMPLICATIONS:

The use of delegations is in keeping with the Council's Strategic Plan 2009-2014 – Leadership, Governance and Management, Objective 4.1.2 – *“Manage the Organisation in a responsible, efficient and accountable manner.”*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The requested delegations are in accordance with the Town's existing practice and adopted policies. The Chief Executive Officer currently carries out these functions. As such, it is considered appropriate to ensure that there is no ambiguity relating to these functions and it is recommended that they be included in the Delegated Authority Register 2010/11.

9.4.3 Appointment of Community Representative to Town of Vincent Local Area Traffic Management (LATM) Advisory Group

Ward:	-	Date:	2 August 2010
Precinct:	-	File Ref:	TES0334
Attachments:	-		
Reporting Officer:	M McKahey, Personal Assistant		
Responsible Officer:	John Giorgi, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council APPOINTS;

- (a) *Ms Natashya Cox; or*
- (b) *Mr Ian Ker;*

as a community representative to the Town of Vincent Local Area Traffic Management (LATM) Advisory Group for the 2009-2011 period (until 17 October 2011).

Cr Buckels returned to the Chamber at 9.22pm.

COUNCIL DECISION ITEM 9.4.3

Moved Cr Topelberg, Seconded Cr Maier

That the recommendation be adopted.

It was suggested that the Council appoint both persons.

The Chief Executive Officer advised that to appoint both Natashya Cox and Ian Ker, the Officer Recommendation would have to be amended to read as follows:

“That the Council

- (i) *APPROVES BY AN ABSOLUTE MAJORITY to amend the Local Area Traffic Management (LATM) Advisory Group Terms of Reference to change the number of community representatives from three (3) to four (4); and*
- (ii) *APPOINTS:*
 - (a) *Ms Natashya Cox; and*
 - (b) *Mr Ian Ker;*

as community representatives to the Town of Vincent LATM Advisory Group for the 2009-2011 period (until 17 October 2011).”

The Mover, Cr Topelberg and the Seconder, Cr Maier agreed to the above wording.

MOTION PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of the report is for the Council to appoint a Community Representative to the Town's Local Area Traffic Management (LATM) Advisory Group for the 2009-2011 period (until 17 October 2011).

BACKGROUND:

In late June 2010, a vacancy occurred in the Town of Vincent's Local Area Traffic Management (LATM) Advisory Group, due to the resignation of a former community representative.

An advertisement calling for nominations from the community was placed in the local newspaper on 6 July 2010 and nominations closed on 30 July 2010. At the close of the advertising period, two nominations were received, as follows:

Name	Suburb	Membership of Community Organisations	Summary of Comments
Ms Natashya Cox	Leederville	<ul style="list-style-type: none"> • North Perth Tennis Club • Mosman Park Bowling Club • Town of Vincent Safer Vincent Crime Prevention Partnership 	<ul style="list-style-type: none"> • As a community member and frequent user of many areas of the Town, is very concerned about the safety and management of traffic areas for all users. • As a driver, user of public transport and walker within the Town, considers that traffic management is important for all user groups.
Mr Ian Ker	Mount Lawley	<ul style="list-style-type: none"> • Sustainable Transport Coalition of WA (<i>Committee Member</i>) 	<ul style="list-style-type: none"> • Has a long history with the LATM Advisory Group and would like to contribute in an area in which he has both professional expertise and an interest as a local resident of 25 years. Helped establish the "modus operandi" of the LATM Advisory Group and is keen to see it continue in this inclusive mode of working. • Walks and cycles extensively, use buses and drives (occasionally) around the Town, which gives him a good appreciation of traffic and its impacts in most different types of users. • Has three grandchildren living in the Town, who are affected daily by traffic as they walk to and from school and other places.

Name	Suburb	Membership of Community Organisations	Summary of Comments
			<ul style="list-style-type: none"> • Through his membership of Council for 14.5 years, is very familiar with the aspirations and expectations of local residents. • Believe traffic management should be about achieving an appropriate balance between access, amenity and mobility.

The objectives of the LATM Advisory Group are to act in an advisory capacity in all local area traffic management matters and assist with the development of guidelines for local area traffic management and advise on matters relating to reducing the adverse impacts of road traffic on residents and businesses in the Town.

CONSULTATION/ADVERTISING:

Expressions of Interest were advertised in the local newspaper for just over three (3) weeks.

Letters were also sent to the two community representatives who had previously expressed an interest in joining the LATM Advisory Group.

LEGAL/POLICY:

The Local Government Act 1995, Sections 5.8 to 5.25 allows local governments to appoint committees and prescribes the legal requirements for these.

Since its inception, the Town has been operating by having two Council meetings each month (except January) and no committee system. Since late 1995, it has used various Advisory Groups.

The Advisory Groups do not have any legal status and their prime role is to make recommendations for the consideration of the Council. Advisory Groups cannot perform the role of Committees.

The Terms of Reference allow for the composition of the Advisory Group, as follows:

1.1 Three (3) Council Members

Three (3) Council Members, as follows;

1. Cr Dudley Maier (*Chair*)
2. Cr Matt Buckels
3. Cr Sally Lake

1.2 Up to Three (3) Community Representatives (incl. Business)

Having local area traffic management, knowledge and an interest in community affairs of the Town of Vincent. The current community representatives are as follows;

1. Haydn Robinson - Business Proprietor, Mount Lawley
2. Kingsley Sullivan - Business Proprietor, Mount Hawthorn
3. *Vacant*

1.3 Council Staff

- Director Technical Services
- Manager Asset & Design Services

STRATEGIC IMPLICATIONS:

Nil, however, the use of Advisory Groups is in keeping with the Council's philosophy of involving the community in the decision making process.

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The costs associated with the Advisory Groups is not specifically itemised in the Town's budget, they are absorbed within the administration costs and allocated to the various sections.

COMMENT:

The appointment of a community representative will ensure that the Advisory Group can continue to function, with input from the community's perspective.

9.4.5 Further Report - Motion to Rescind or Change a Council Decision – Amendment No. 72 to Planning and Building Policies – Draft Amended Policy Relating to Multiple Dwellings

Ward:	Both	Date:	4 August 2010
Precinct:	All Precincts	File Ref:	PLA0213
Attachments:	-		
Reporting Officer:	S Kendall, Senior Planning Officer (Strategic) T Woodhouse, Coordinator Strategic Planning		
Responsible Officer:	R Boardman, Director Development Services		

FURTHER OFFICER RECOMMENDATION:

That the Council;

(i) *at its Ordinary Meeting held on 22 June 2010 (Item No. 9.1.5, Clause (i)(b), resolved (in part) that:*

“...(i)(b) Page 3 to 5 of 10 be amended to read as follows:

“(10) ...

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential
Beaufort Street				
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Charles Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
East Parade				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys
Fitzgerald Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
Guildford Road				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys
Loftus Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
London Street				
	R20	2 storeys	2 storeys	2 storeys
	R30	2 storeys (3 storeys where appropriate)	2 storeys	2 storeys
	R30/40	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential
Lord Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Newcastle Street				
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Oxford Street - (north of Richmond Street only)				
	R30	2 storeys	2 storeys	2 storeys
	R60	2 storeys (3 storeys where appropriate)	3 storeys	<ul style="list-style-type: none"> • Adjoining R30 – 2 storeys • Adjoining R40 – 2 storeys (3 storeys where justified)
Scarborough Beach Road				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	<ul style="list-style-type: none"> • Adjoining R20 – 2 storeys • Adjoining R30 – 2 storeys • Adjoining R30/40- 2 storeys (3 storeys where justified)
Vincent Street - (but not including the portion opposite Hyde park between Ethel Street east to William Street)				
	R40	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate)	5 storeys	2 storeys (3 storeys where justified)
Walcott Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
William Street - (but not including portion opposite Hyde Park from the intersection with Glendower Street north of Vincent Street)				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate)	5 storeys	2 storeys (3 storeys where justified)

- (ii) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, the Council RESOLVES BY AN ABSOLUTE MAJORITY to CHANGE part of the resolution adopted by the Council at its Ordinary Meeting held on 22 June 2010 (Item 9.1.5) as shown below:*

Clause (i)(b) (as above) be deleted and the following table be inserted, with changes shown in strike-through and underline:

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
Beaufort Street				
	R80 & <u>R/C80</u>	4 storeys	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys</u>
Charles Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80 & <u>R/C80</u>	4 storeys	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys (4 storeys where justified)</u>
East Parade				
	R60	2 storeys (3 storeys where appropriate <u>justified</u>)	3 storeys	2 storeys (<u>3 storeys where justified</u>)
Fitzgerald Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	<u>R80</u>	<u>4 storeys</u>	<u>5 storeys</u>	<u>2 storeys (3 storeys where justified)</u>
Guildford Road				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	<u>2 storeys (3 storeys where justified)</u>
Loftus Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	<u>R80</u>	<u>4 storeys</u>	<u>5 storeys</u>	<u>3 storeys (4 storeys where justified)</u>

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
London Street				
	R20	2 storeys	2 storeys	2 storeys
	R30	2 storeys (3 storeys where <u>appropriate justified</u>)	2 storeys	2 storeys
	R30/40	2 storeys (3 storeys where <u>appropriate justified</u>)	3 storeys	2 storeys (3 storeys where justified)
Lord Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80 & R/C80	4 storeys <u>5 storeys</u>	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys (4 storeys where justified)</u>
Newcastle Street				
	R80	4 storeys <u>5 storeys</u>	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys (4 storeys where justified)</u>
Oxford Street - (north of Richmond Street only)				
	R30	2 storeys	2 storeys	2 storeys
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	<ul style="list-style-type: none"> • Adjoining R30 – 2 storeys • Adjoining R40 – 2 storeys (3 storeys where justified)
Scarborough Beach Road				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	<ul style="list-style-type: none"> • Adjoining R20 – 2 storeys • Adjoining R30 – 2 storeys • Adjoining R30/40- 2 storeys (3 storeys where justified)

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
Vincent Street - (but not including the portion opposite Hyde Park between Ethel Street east to William Street)				
	R40	2 storeys (3 storeys where appropriate justified)	3 storeys	2 storeys (3 storeys where justified)
	R60	2 storeys (3 storeys where appropriate justified)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate justified)	5 storeys	2 storeys (3 storeys where justified)
Walcott Street				
	R60	2 storeys (3 storeys where appropriate) 3 storeys	3 storeys 4 storeys	2 storeys (3 storeys where justified)
William Street - (but not including portion opposite Hyde Park from the intersection with Glendower Street north of Vincent Street)				
	R60	2 storeys (3 storeys where appropriate) 3 storeys (4 storeys where justified)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate) 3 storeys (4 storeys where justified)	5 storeys	2 storeys (3 storeys where justified)

(iii) ***PROCEED with the advertising of the further amended draft Policy No. 3.4.8 relating to Multiple Dwellings in accordance with the Council Resolution relating to Item 9.1.5 of the Ordinary Meeting of Council held on 22 June 2010; and together with the following additional advertising to be undertaken to:***

(a) all those owners/occupiers along the Major Roads listed within the Draft Amended Policy No. 3.4.8 relating to Multiple Dwellings; and

(b) all those owners/occupiers immediately adjacent to properties listed as a Major Road within the Draft Amended Policy No. 3.4.8 relating to Multiple Dwellings; and

(iv) ***REQUESTS that further investigation on the issue of maximum building heights and densities along Major Roads, be undertaken as part of the review of Town Planning Scheme No. 1.***

** Table shown in clause (ii) above reflects the original rescission motion and includes further changes requested by Council Members consistent with the intent of the rescission motion.*

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

Moved Cr Farrell, Seconded Cr Buckels

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Buckels, Seconded Cr Harvey

That the table in clause (ii) be amended to read as follows:

“

Oxford Street - (north of Richmond Street only)				
	R30	2 storeys <u>3 storeys (4 storeys where justified)</u>	2 storeys <u>4 storeys</u>	2 storeys • <u>Adjoining R30 – 2 storeys</u> • <u>Adjoining R40 – 2 storeys (3 storeys where justified)</u>
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	• Adjoining R30 – 2 storeys • Adjoining R40 – 2 storeys (3 storeys where justified)

”

Debate ensued.

The Director Development Services suggested that if investigations show that there are no R30 zonings on Oxford Street then, that relevant section should be deleted from the table.

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

AMENDMENT PUT AND CARRIED (7-0)

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (5-2)

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

Against: Cr Lake, Cr Maier

(Cr Burns had departed the Meeting and Cr McGrath was on approved leave of absence.)

COUNCIL DECISION ITEM 9.4.5

That the Council;

(i) *at its Ordinary Meeting held on 22 June 2010 (Item No. 9.1.5, Clause (i)(b), resolved (in part) that:*

“...(i)(b) Page 3 to 5 of 10 be amended to read as follows:

“(10) ...

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential
Beaufort Street				
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Charles Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
East Parade				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys
Fitzgerald Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
Guildford Road				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys
Loftus Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
London Street				
	R20	2 storeys	2 storeys	2 storeys
	R30	2 storeys (3 storeys where appropriate)	2 storeys	2 storeys
	R30/40	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
Lord Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Newcastle Street				
	R80	4 storeys	5 storeys	2 storeys (3 storeys where justified)
Oxford Street - (north of Richmond Street only)				
	R30	2 storeys	2 storeys	2 storeys
	R60	2 storeys (3 storeys where appropriate)	3 storeys	<ul style="list-style-type: none"> • Adjoining R30 – 2 storeys • Adjoining R40 – 2 storeys (3 storeys where justified)

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential
Scarborough Beach Road				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	<ul style="list-style-type: none"> •Adjoining R20 – 2 storeys • Adjoining R30 – 2 storeys •Adjoining R30/40- 2 storeys (3 storeys where justified)
Vincent Street - (but not including the portion opposite Hyde Park between Ethel Street east to William Street)				
	R40	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate)	5 storeys	2 storeys (3 storeys where justified)
Walcott Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
William Street - (but not including portion opposite Hyde Park from the intersection with Glendower Street north of Vincent Street)				
	R60	2 storeys (3 storeys where appropriate)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate)	5 storeys	2 storeys (3 storeys where justified)

- (ii) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, three Council Members, namely Mayor Nick Catania, Councillor Steed Farrell and Councillor Taryn Harvey, being one third of the number of offices of members of the Council, SUPPORT this motion to revoke or change a Council decision;*
- (iii) *Councillor Steed Farrell MOVES a motion to CHANGE the decision by deleting part of Clause (i)(b) (as above) and inserting the following:*
- (iv) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, the Council RESOLVES BY AN ABSOLUTE MAJORITY to CHANGE part of the resolution adopted by the Council at its Ordinary Meeting held on 22 June 2010 (Item 9.1.5) as shown below:*

Clause (i)(b) (as above) be deleted and the following table be inserted, with changes shown in strike-through and underline:

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
Beaufort Street				
	<u>R80 & R/C80</u>	4 storeys	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys</u>

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
Charles Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80 & R/C80	4 storeys	5 storeys	2 storeys (3 storeys where justified) 3 storeys (<u>4 storeys where justified</u>)
East Parade				
	R60	2 storeys (3 storeys where appropriate <u>justified</u>)	3 storeys	2 storeys (<u>3 storeys where justified</u>)
Fitzgerald Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80	<u>4 storeys</u>	<u>5 storeys</u>	<u>2 storeys (3 storeys where justified)</u>
Guildford Road				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (<u>3 storeys where justified</u>)
Loftus Street				
	R60	2 storeys (3 storeys where appropriate)	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80	<u>4 storeys</u>	<u>5 storeys</u>	<u>3 storeys (4 storeys where justified)</u>
London Street				
	R20	2 storeys	2 storeys	2 storeys
	R30	2 storeys (3 storeys where appropriate <u>justified</u>)	2 storeys	2 storeys
	R30/40	2 storeys (3 storeys where appropriate <u>justified</u>)	3 storeys	2 storeys (3 storeys where justified)
Lord Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
	R80 & R/C80	4 storeys <u>5 storeys</u>	5 storeys	2 storeys (3 storeys where justified) 3 storeys (<u>4 storeys where justified</u>)

Major Road	Residential Zoning	Maximum height along major road	Maximum height within the site	Maximum height to adjoining residential at rear
Newcastle Street				
	R80	4 storeys <u>5 storeys</u>	5 storeys	2 storeys (3 storeys where justified) <u>3 storeys (4 storeys where justified)</u>
Oxford Street - (north of Richmond Street only)				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	<ul style="list-style-type: none"> • Adjoining R30 – 2 storeys • Adjoining R40 – 2 storeys (3 storeys where justified)
Scarborough Beach Road				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys <u>4 storeys</u>	<ul style="list-style-type: none"> • Adjoining R20 – 2 storeys • Adjoining R30 – 2 storeys • Adjoining R30/40- 2 storeys (3 storeys where justified)
Vincent Street - (but not including the portion opposite Hyde Park between Ethel Street east to William Street)				
	R40	2 storeys (3 storeys where appropriate justified)	3 storeys	2 storeys (3 storeys where justified)
	R60	2 storeys (3 storeys where appropriate justified)	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate justified)	5 storeys	2 storeys (3 storeys where justified)
Walcott Street				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys</u>	3 storeys <u>4 storeys</u>	2 storeys (3 storeys where justified)
William Street - (but not including portion opposite Hyde Park from the intersection with Glendower Street north of Vincent Street)				
	R60	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	3 storeys	2 storeys (3 storeys where justified)
	R80	2 storeys (3 storeys where appropriate) <u>3 storeys (4 storeys where justified)</u>	5 storeys	2 storeys (3 storeys where justified)

(v) **PROCEED with the advertising of the further amended draft Policy No. 3.4.8 relating to Multiple Dwellings in accordance with the Council Resolution relating to Item 9.1.5 of the Ordinary Meeting of Council held on 22 June 2010 together with the following additional advertising to be undertaken to:**

(a) **all those owners/occupiers along the Major Roads listed within the Draft Amended Policy No. 3.4.8 relating to Multiple Dwellings; and**

- (b) *all those owners/occupiers immediately adjacent to properties listed as a Major Road within the Draft Amended Policy No. 3.4.8 relating to Multiple Dwellings; and*
- (vi) *REQUESTS that further investigation on the issue of maximum building heights and densities along Major Roads, be undertaken as part of the review of Town Planning Scheme No. 1.*

(*Note: - Clauses (ii) and (iii) were moved at the Ordinary Meeting of Council held on 13 July 2010, when the Item was initially considered and subsequently Deferred.
- There are no lots in Oxford Street, north of Richmond Street, with an R30 zoning.)

BACKGROUND:

At its Ordinary Meeting held on 22 June 2010, the Council resolved to advertise the draft amended Policy No. 3.4.8 relating to Multiple Dwellings with a number of amendments.

On 23 June 2010, Mayor Catania, Cr Farrell and Cr Harvey submitted a motion to rescind or change part of a Council Decision for Item 9.1.5 made at the Ordinary Meeting of Council held on 22 June 2010, as detailed in the Officer Recommendation.

In accordance with the Town of Vincent Local Law relating to Standing Orders and the Local Government Act 1995 and Regulations, the motion was included in the Agenda of the Ordinary Meeting of Council held on 13 July 2010. At this meeting it was resolved:

“That the item be DEFERRED to allow Council Members to liaise with the Director Development Services on this item and subsequently reported to the Ordinary Meeting of Council to be held on 27 July 2010.”

Subsequent to the above deferral, a further proposed replacement table was circulated to the Council Members for comment, in a Memorandum dated 15 July 2010, which is contained in attachment 001 of this report. Council Member comments have been explored in the ‘Details’ section of this report.

DETAILS:

The comments received from Council Members, in relation to the Memorandum dated 15 July 2010, and the proposed Amendment are provided below:

General Comments:

- *Concern with heights to adjoining residential properties;*

Officer Comment: Noted. The original intent of the Town's Policy No. 3.4.8 relating to Multiple Dwellings was to encourage greater building heights in the centre of the block. It was considered that by providing the mass in the centre of the block, the impact on both the streetscape and any residential properties at the rear, would be reduced. This approach was supported by the original table and the diagrams within the current Policy, which was adopted by the Council at its Ordinary Meeting held on 11 August 2009 and is consistent with the amended table as outlined in clause 2 of the Officer Recommendation.

The impact of new buildings on adjacent residential properties is a paramount consideration. The requirement for Neighbourhood Context Reports, to be submitted as part of a Development Application, ensures that developers respond to, and have due regard to the surrounding built form and land use.

- *Greater clarity required in relation to prescribing the sorts of setbacks to the adjoining residential;*

Officer Comment: Noted. Currently the Residential Design Codes (R Codes) are used for the purpose of determining setbacks for all residential development within the Town, including Multiple Dwellings. The R Code boundary setback requirements, are based on the principle that the taller and longer the wall is, the further it should be set back. This principle aligns with the provisions of the Town's Policy No. 3.5.8 relating to Multiple Dwellings, whereby the greater height is to be concentrated within the middle of the site.

It is considered appropriate that the provisions of the R Codes continue to apply for the determination of side setbacks. However, it is considered further guidance is required on the rear setback requirements, particularly as the rear residential property would not be subject to such large development opportunities as a development along a major road.

- *Replace wording of 'where justified' to 'where appropriate' for Charles, Fitzgerald, Loftus (R60) and Oxford (R60) Streets;*

Officer Comment: Noted. The wording of the table should be consistent and terminology not changed intermittently.

- *Do not believe that it will be possible to build developments as envisaged without having to resort to Clause 40, even with the introduction of the proposed Multi-Unit Housing Codes adjustment to the R-Codes is implemented. The zonings prescribed in Draft Town Planning Scheme No. 2 are not high enough, particularly given the plot ratios. Zonings of R160 or one of the newer R-ACN codes need to be investigated. We need to be up front with the community;*

Officer Comment: Noted. The proposed Multi-Unit Housing Codes has yet to be endorsed by the Western Australian Planning Commission. However, as outlined in the Officer Recommendation of this report, it is considered that the densities along Major Roads should be reviewed as part of the review of the Town Planning Scheme No. 1, to ensure that all development provisions, including that relating to Multiple Dwellings, are relevant and realistic.

It is noted that the densities proposed in the Town's Draft Town Planning Scheme No. 2, will be subject to further deliberation by Council at Council Member Forums. The Town's Officers have planned to present at the next three scheduled Council Member Forums, to discuss any outstanding issues, and to progress the review of Town Planning Scheme No. 1.

- *As part of the Town Planning Scheme No. 2 we should revisit Charles Street to see if the density should be increased and the heights increased by 1 storey.*

Officer Comment: Noted. This aspect can be further considered as part of the review of Town Planning Scheme No. 1 and will be considered at the upcoming Council Member Forums.

Proposed Changes to Height Table:

A number of proposed amendments to the heights specified in the Table, which were presented in the Memorandum dated 15 July 2010, were also proposed by Council Members as outlined below. Refer to the 'Comment' section below in relation to these proposed amendments.

- *The column entitled "Maximum Height Along Major Road" for the portion of Fitzgerald Street zoned Residential R80, should be increased from 2 storeys (3 storeys where justified) to 3 storeys (4 storeys where justified).*

Officer Comment: The table has been amended in part to reflect this, as shown in the Officer Recommendation.

- *The column entitled “Maximum Height Along Major Road” for the portion of Loftus Street zoned Residential R80, should be increased from 2 storeys (3 storeys where justified) to 3 storeys 4 storeys where justified).*

Officer Comment: The table has been amended in part to reflect this, as shown in the Officer Recommendation.

- *Beaufort Street - R80 - 4 storeys to road - 5 storey maximum on site - 2 storeys (4 maximum where justified) to residential.*

Officer Comment: The table has been amended in part to reflect this, as shown in the Officer Recommendation.

- *Charles Street*
 - *R60 - 3 storeys along road - 4 storey maximum within site - 2 storeys to residential (3 where justified).*

Officer Comment: The table has been amended in part to reflect this, as shown in the Officer Recommendation.

- *R80 - 4 storeys along road - 5 storey maximum within site - 2 to residential (up to 4 where justified).*

Officer Comment: The table has been amended in part to reflect this, as shown in the Officer Recommendation.

- *East Parade - R60 - 3 storeys to road - 3 storeys maximum on site - 2 storeys to residential (3 where justified).*

Officer Comment: The table has been amended accordingly as shown in the Officer Recommendation.

- *Fitzgerald Street - R60 - 3 storeys to road - 4 storeys maximum on site - 2 storeys to residential (3 where justified).*

Officer Comment: The table has been amended accordingly as shown in the Officer Recommendation.

- *R60 - Newcastle Street to Bulwer Street - 4 storeys to road - 5 maximum on site - 2 storeys to residential (up to 4 where justified).*

Officer Comment: The table has been amended in part, as shown in the Officer Recommendation.

- *Guildford Road - R60 - 3 storeys to road - 4 storeys max on site - 2 storeys to residential (3 where justified).*

Officer Comment: The table has been amended accordingly as shown in Officer Recommendation.

- *Loftus Street - R60 - 3 storeys to road (4 where justified) - 4 storey maximum on site - 2 storeys (3 where justified).*

Officer Comment: To distinguish between the R60 and R80 portions along Loftus Street, the table has been amended to incorporate greater heights into the R80 portions of Loftus Street.

- *London Street - whole length same - 2 storeys to street (3 maximum) - 3 storeys - 2 storeys to residential.*

Officer Comment: Given the existing residential zonings along and abutting London Street and the ramifications relating to the recommendations known as the 'Eton Locality', this is not supported.

- *Lord Street*
 - *R60 - 3 storeys to road - 3 storeys maximum on site - 2 storeys to residential (3 maximum)*
 - *R80 - 4 storeys to road - 5 storeys maximum on site - 2 storeys to residential at rear (3 maximum).*

Officer Comment: The table has been amended in part, as shown in Officer Recommendation.

- *Newcastle Street - R80 - 4 storeys to road - 5 storeys max on site - 2 storeys (4 where justified).*

Officer Comment: The table has been amended in part, as shown in Officer Recommendation.

- *Oxford Street - North of Bourke Street - all zonings - 4 storeys to street (5 where justified) - 4 storeys maximum on site (5 where justified) - 2 storeys to rear (3-4 where justified).*

Officer Comment: The table has been amended in part, as shown in Officer Recommendation.

- *Scarborough Beach Road - R60 - 3 storeys (4 where justified) - 4 storeys maximum on site - 2 storeys to rear residential (3 where justified).*

Officer Comment: The table has been amended in part as shown in Officer Recommendation.

- *Vincent Street - 2 storeys (4 where appropriate R80, 3 where appropriate R40/60) - 3 storey maximum on site (5 where appropriate R80).*

Officer Comment: This is not supported, given the varying zonings on either side of Vincent Street and the residential character of much of the streetscape, it is considered that the heights prescribed in the table allow for complementary height addressing both sides of the Street, and allowing greater height within the sites of Residential R80 areas only is considered more appropriate.

- *Walcott Street - 3 storeys - 3 storeys - 2 storeys (3 where appropriate).*

Officer Comment: The table has been amended accordingly, as shown in Officer Recommendation.

- *William Street - 3 storeys - 3 storeys (5 where appropriate R80) - 2 storeys to rear residential (3 where justified).*

Officer Comment: The table has been amended in part, as shown in Officer Recommendation.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

Residential Design Codes of Western Australia

STRATEGIC IMPLICATIONS:

“Natural and Built Environment

Objective 1.1 Improve and maintain the environment and infrastructure

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

SUSTAINABILITY IMPLICATIONS

It is considered that the provision of multiple dwelling developments within the Town creates diverse living options and facilitates affordable housing opportunities for residents within the Town.

FINANCIAL/BUDGET IMPLICATIONS:

The current 2010/2011 Budget allocates \$58,200 for Town Planning Scheme Amendments and Policies.

COMMENT:

Since the initial report, proposing among other things, to delete Bulwer Street as a major road, which was considered by the Council at its Ordinary Meeting held on 8 June 2010, a significant number of amendments have been proposed to the table of clause 10 of the Policy, to provide greater guidance on appropriate building heights.

Key Changes to the Height Table

The changes to the height table have been informed largely by the rescission motion that was presented to the Ordinary Meeting of Council held on 13 July 2010, and further distributed to Council Members on 15 July 2010, together with further suggestions provided by the Council Members as outlined in the 'Details' section of this report.

Key Changes as per the Rescission Motion

The rescission motion proposed an increase in heights for multiple dwelling developments along the following identified major roads:

- Beaufort Street;
- Charles Street;
- Fitzgerald Street;
- Loftus Street;
- Newcastle Street; and
- Oxford Street.

Key Changes as per Requests from Council Members

With due consideration given to the comments received from Council Members, and to be consistent with the overarching intent of the Town's Policy No. 3.4.8 relating to Multiple Dwellings, further increases in heights for those streets not identified in the rescission motion have been made to the following identified major roads:

- East Parade;
- Guilford Road;
- Lord Street;
- Oxford Street;
- Walcott Street; and
- William Street.

Summary

In light of the above, it is considered that the proposed changes to the table within the draft Policy No. 3.4.8 relating to Multiple Dwellings supports best practice planning principles and State strategic planning policy, in terms of enabling greater heights along the Town's major roads and within the sites, whilst also considering the impact of development to residential zoned land to the rear.

Notwithstanding the above, it is acknowledged that further consideration is needed on the matter of building height and corresponding residential zonings, to enable increased development opportunity and also to ensure no adverse impact on adjoining property owners. It is considered that this further investigation should be undertaken as part of the Town's review of Town Planning Scheme No. 1 that better informs increases in building height and densities.

In light of the above, until such time as the Town Planning Scheme Review has been completed, as outlined in the Officer Recommendation of this Report, it is recommended that:

1. The table relating to Multiple Dwelling Heights adopted by Council at its Ordinary Meeting held on 22 June 2010, be amended as a result of the rescission motion considered by the Council at its Ordinary Meeting on 13 July 2010 and further investigation and review undertaken as outlined above; and
2. That the further amended draft Policy No. 3.5.8 relating to Multiple Dwellings commence advertising in line with the resolution of Council at its Ordinary Meeting held on 22 June 2010.

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.

15. CLOSURE

The Presiding Member, Mayor Nick Catania, declared the meeting closed at 9.40pm with the following persons present:

Mayor Nick Catania, JP	Presiding Member
Cr Matt Buckels	North Ward
Cr Steed Farrell	North Ward
Cr Taryn Harvey	North Ward
Cr Sally Lake (<i>Deputy Mayor</i>)	South Ward
Cr 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 10 August 2010.

Signed:Presiding Member
Mayor Nick Catania

Dated this day of 2010