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Minutes of the Ordinary Meeting of the Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 11 March 2003, commencing at 6.02pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, JP declared the meeting open at 6.02pm.

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

**(a) Apologies:**

Nil.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr David Drewett, JP	Deputy Mayor - Mt Hawthorn Ward
Cr Simon Chester	Mt Hawthorn Ward
Cr Helen Doran-Wu	Mt Hawthorn Ward
Cr Basil Franchina	Mt Hawthorn Ward
Cr Kate Hall	North Perth Ward
Cr Ian Ker	North Perth Ward
Cr Marilyn Piper, JP	North Perth Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Rick Lotznicher	Executive Manager, Technical Services
Mike Rootsey	Executive Manager Corporate Services
Debbie Winfield	Minutes Secretary
Jenny D'Anger	Journalist – Voice News
Bronwyn Peace	Journalist – The Westralian (until 7.30pm)
Ryan Sturman	Journalist – Guardian Express
Steve Ferrier	Photographer – The West Australian (until 6.30pm)

Approximately 35 Members of the Public

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

Nil

**Mayor Catania advised Council that the media representatives from The West Australian had requested permission to photograph the Council in the Chamber tonight.**

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

***That photographer Steve Ferrier from The West Australian be permitted to photograph the Council in the Chamber during the meeting tonight.***

**CARRIED (5-4)**

**For**  
Mayor Catania  
Cr Chester  
Cr Cohen  
Cr Doran-Wu  
Cr Hall

**Against**  
Cr Drewett  
Cr Franchina  
Cr Ker  
Cr Piper

**Mayor Catania advised the photographer that the business of the chamber was not to be disturbed while the photographs were being taken, and the Presiding Member be advised prior to any photographs taken.**

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

1. Mr Ben Boehm of 56 Dunedin Street, Mount Hawthorn – Item 10.1.12. Advised that he had a disability that required him to use a wheel chair at his place of residence, and the reason for the proposed development with the reduced setback, was to meet the needs of this disability in regards to living space and the garden area. He requested Councillors to allow the reduced setback, as this would give him adequate living space on the ground floor as it was not possible for him to move upstairs. He also advised that there had been no objections from the neighbours to the proposed development.

Mayor Catania advised that he had approved the inclusion on the Agenda a late Agenda Item 10.1.13 – Further Report – No 69 (Lot 551) Barlee Street, Mount Lawley – Proposed Change of Use from Private Club to Recreational Facilities, and in regard to that item, a fax had been received this afternoon from the applicant, Katie Lavers, Director skadada, advising that the planning application for 69 Barlee Street, Mount Lawley, for recreation use had been withdrawn. Mayor Catania advised that Council would still need to consider the unauthorised planning use at this address.

2. Nigel Smith of 116 Murray Street, Perth, representing N Flavel of Marlborough Street, Mount Lawley – Item 10.1.1. Stated that at the last Ordinary Meeting of Council, he had distributed to Council diagrams showing that the issues of height, privacy and roof pitch had been addressed. He distributed further diagrams with street elevations, site coverage, overshadowing and site photographs which he believed illustrated the development's compliance with the residential design codes. Requested that Councillors support the Town Officers recommended approval of the development.
3. Innes Sportelini of 133 West Parade, Mount Lawley, representing her parents who are the neighbours on the southern side of the proposed development – Item 10.1.1. Stated her major concern of the proposed development was the building height, with a maximum height of 6.95metres, and that she believes the applicants comments, both, that the scillion roof is concealed and in regard to comparisons with the previously approved application, should be disregarded, as in regard to the former, the roof would be clearly visible above the residence, and in regard to the latter, Council is required to consider the current plans only. Requested Councillors to ensure compliance to the locality statement and residential design codes that require the maximum height of a roof above is 6 metres, and to add a clause to limit the fill to 300mm.

Also stated that this reduction would reduce the visual impact of the scale and bulk as well as the overshadowing on the southern side.

4. Paula Babich, Architect, from Campion Design Group in Subiaco on behalf of owners of 103-105 Oxford Street Leederville – Item 10.1.10. Stated that she had circulated information to Councillors via fax and email. Requested that in clause (xxvi), Councillors reduce the cash-in-lieu contribution to \$28,500 for the equivalent value 11.4 car parking spaces as based on the table she handed to Councillors. Stated the reasons for this were:
  - a) Provision of end of trip facilities.
  - b) Seeking reciprocal rights to car bays for restaurant and retail areas with 107 for the restaurant and 43 for retail.
  - c) Difficult site with two small street frontages the only access.
5. Angela Stevenson of 139 Egina Street, Mount Hawthorn – Item 10.1.7. Stated that she proposed to construct a double carport to the right hand side of 139 Egina Street, with an additional 2.5 metres of parapet wall and requested Councillors to consider approving the application with an overall total setback of 3.84metres. Also stated she was prepared to raise the neighbours parapet wall two courses to ensure an aesthetic appearance, and that there were currently other residences in Egina Street constructed within 3 metres of the building line.
6. Anthony Michael of 72 Angove Street, North Perth – Item 10.1.6. Requested that the second sentence of clause (xi) referring to a minimum of seven car bays specifically for the eating house be deleted, as he considered this unreasonable and that clause (xxiii) be deleted as he believes the Town Officer omitted to consider the three car bays at the Fitzgerald Street entrance.
7. Frank Knezovic of 135 West Parade, Mount Lawley – Item 10.1.1. Believes that the comparative analysis is irrelevant and that the application should be assessed on its merits and the previously approved plans should not be a factor in the current application. Requested that additional conditions be considered by Councillors to limit the amount of fill to 300mm, and the building height to 6 metres.

In regard to a general item, he stated that his view of the requirement for an Absolute Majority was contrary to the legal advice received by the Town.

8. Andrew Greenfield of 67 Barlee Street, Mount Lawley – Item 10.1.13. Thanked Councillors for bringing forward the item that was previously deferred, to tonight's meeting.
9. Ralph Stanton of 15 York Street, Subiaco – Item 10.1.4. Stated that he was the landowner of Nos. 28-30 Church Street, Perth, and previously had an approval that required the two lots to be amalgamated. Requested Councillors to reconsider because he wanted to build on one of the lots and keep the other currently as a garden, with a view to selling at a later date.

10. Phil D'Adamo of 62 Egina Street, Mount Hawthorn on behalf of his parents-in-law who reside at 30 Melrose Street, Leederville – Item 10.1.9. Stated that his parents-in-law were pleased that their objections had been heard in part and the Town's Officer had recommended conditions to protect their privacy, and he urged Councillors to accept these recommendations. However, he also stated that his parents-in-law were aggrieved for the need to object, because compliance with the residential design codes would have automatically protected their rights of privacy, access to sunlight and enjoyment of amenity of the area. Requested Councillors to ensure full compliance of the residential design codes for this and other applications.
11. Lucia Dedear of 98 Buxton Street, Mount Hawthorn, representing the Mount Hawthorn Precinct Group - Item 10.1.4. Stated the Precinct Group had concerns about this development and requested Councillors to reconsider the excessive amount of discretion, and non compliance, as follows:
  - a) Stated the plot ratio for an R80 zone single house is .65, and the Town's Officer report states .75, and asked why.
  - b) Plot ratio asked for in the application is a discretion of 1.85 without amalgamating the lots – a bonus of 200%.
  - c) Amalgamating the lots gives a plot ratio of over .9 – a bonus of 50%.
  - d) Site coverage does not comply unless the lots are amalgamated.
12. Mark Walker of 38B Randell Way, Perth - Item 10.1.6. Stated he had concerns about the number of cars, the noise and odour issues of the proposed development. Asked if the car detailing and eating house would be open 24 hours per day.

There being no further questions from the public, Public Question Time was closed at 6.33pm.

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

Listed as IB06 in the Information Bulletin.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

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

Nil

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

**6.1 Ordinary Meeting of Council held on 25 February 2003.**

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

*That the Minutes of the Ordinary Meeting of Council held on 25 February 2003 be confirmed as a true and correct record.*

Cr Franchina stated that he had concerns about page 140 of the Minutes and asked fellow Councillors how they recalled the sequence of events for this Item 10.2.9.

Mayor Catania stated that no discussion would be entered into and Councillors could only move a motion for any corrections to the minutes.

Moved Cr Piper, Seconded Cr Ker

*That Page 140 of the minutes, following the "Officers Recommendation" and page 141 of the minutes before the "Council Decision Item 10.2.9", be amended to read as follows:*

"Moved Cr Ker, Seconded Cr Piper

*That the recommendation be adopted.*

Moved Cr Ker, Seconded Cr Chester

*That a new clause (iii) is inserted as follows and the original clause (iii) and the following clause are renumbered accordingly:*

*"(iii) writes to the owners of the private properties identified encouraging them to plant suitable trees and provide seating as a commercial decision as well as a contribution to the community;"*

*Debate ensued.*

At 7.48pm Mayor Catania advised that he declares a proximity interest in this matter, as he just realised that he has an office in close proximity. He departed the Chamber and did not vote or speak on the matter.

Moved Cr Piper, Seconded Cr Doran-Wu

*That Cr Ker assume the chair in the absence of Mayor Catania and Deputy Mayor Cr Drewett.*

CARRIED (6-0)

(Mayor Catania and Cr Drewett were absent from the Chamber and did not vote. Cr Cohen on approved leave of absence.)

Cr Ker assumed the chair.

AMENDMENT CARRIED (6-0)

(Mayor Catania and Cr Drewett were absent from the Chamber and did not vote. Cr Cohen on approved leave of absence.)

MOTION AS AMENDED CARRIED (6-0)

(Mayor Catania and Cr Drewett were absent from the Chamber and did not vote. Cr Cohen on approved leave of absence.)"

*Discussion ensued.*

Cr Cohen stated that she was on approved leave of absence for that meeting and therefore could not vote on the matter. She departed the Chamber at 6.53pm.

*Discussion ensued.*

**MOTION PUT (5-)**

**For**  
Mayor Catania  
Cr Chester  
Cr Doran-Wu  
Cr Ker  
Cr Piper

Crs Drewett, Franchina and Hall abstained from voting and did not vote.

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

Chief Executive Officer, John Giorgi drew the Council's attention to Standing Orders and the Local Government Act, whereby the Presiding Member has called for a vote, Councillors in the Chamber must vote, and those Councillors that do not vote are contravening the Local Government Act.

Cr Drewett requested clarification on whether a Councillor could abstain from voting.

Chief Executive Officer, John Giorgi read out the relevant part of the Local Government Act, section 5.21 sub clause 1, and advised the Council that the voting was to be either "for" or "against" - abstaining from voting would be contrary to the Local Government Act.

The Mayor advised the Council that all Elected Members in the Chamber must vote. He again put the motion (to confirm the Minutes).

**MOTION CARRIED (5-3)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Drewett
Cr Chester	Cr Franchina
Cr Doran-Wu	Cr Hall
Cr Ker	
Cr Piper	

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

Cr Chester departed the Chamber at 6.58pm.

**Cr Chester and Cr Cohen returned to the Chamber at 6.58pm.**

**Cr Chester departed the Chamber at 6.59pm.**

**Cr Chester returned to the Chamber at 7.00pm.**

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

**7.1 Leederville Oval Redevelopment**

Mayor Catania announced that he was pleased to advise that the redevelopment of Leederville Oval into a "Football Centre Of Excellence" is progressing on target and on budget.

He also announced that the Town was successful in its Community Sporting and Recreation Facilities Fund Application for \$600,000 for the installation of lights and other works, and on 7 March 2003, the Minister for Sport and Recreation, the Hon. Alan Carpenter, wrote to the Town to advise of the Town's success, and the Minister stated;

"the Town Of Vincent is to be commended for its commitment to the provision of quality community leisure facilities ... and the State Government is pleased to contribute to the development of much needed facilities in your community."

Mayor Catania thanked the Town's staff for all the hard work that went into this application.

**7.2. Announcement Under Section 3.12(2) of The Local Government Act 1995 to Amend a Local Law**

Mayor Catania advised that the Town Of Vincent hereby gives public notice that it intends to amend the Town Of Vincent Local Law relating to parking facilities, as published in the Government Gazette on 23 May 2000, to replace the existing clause 12(2) (parking longer than 24 hours) with more appropriate wording.

Mayor Catania noted that in regard to the Local law relating to parking facilities, this amendment will:

- Make enforcement of clause 12(2) of the parking facilities local law more openly consistent; and
- Make it less onerous for rangers to prove the offence in a court of law.

Mayor Catania also noted that this announcement relates to item 10.4.4 on tonight's agenda.

### **7.3 WA Local Government Excellence In Road Safety Awards 2003**

Mayor Catania announced that the Town's Technical Services has won the Roadwise / Institute of Public Works Engineering Australia's WA Divisions Major Award at the WA Local Government Excellence In Road Safety Awards 2003, in the category of over \$50,000.

The State Black Spot Improvement Project at the intersection of Stirling and Brisbane Streets Perth was judged by an expert panel of road safety practitioners as the best project for engineering solutions over \$50,000 for the metropolitan region in 2003.

The project, which involved the construction of the unique tandem roundabout, associated central parking and streetscape improvements, was a collaborative effort by the Town's Design Services, Engineering Services and Park Services.

These awards seek to acknowledge outstanding achievements by Local Government and the community in the area of road safety. The awards scheme was established in 2000 to promote the Road Safety Projects local governments have undertaken and to showcase examples of road safety to the community.

Mayor Catania congratulated the Executive Manager Technical Services, Rick Lotznicher and the Technical Services team for a well deserved award.

The award was received with acclamation.

### **7.4. Employee Of The Month Award for The Town of Vincent for March 2003**

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

For March 2003, Mayor Catania announced that the award is presented to Lenny Buonomo, the Town's Graffiti Officer. Lenny was nominated by Ms Denise Morgan of Raglan Road, Mount Lawley.

Ms Morgan recently reported graffiti vandalism to the Town on her garage and was very impressed with the manner in which Lenny dealt with the situation on that occasion as well as on previous occasions.

Mayor Catania read out part of the letter that she promptly wrote to the Town, as follows;

"A few weeks ago I reported graffiti vandalism on my garage adjoining Council's Raglan Road Car Park. A couple of days later a gentleman from the Council knocked on my door and asked for the can of leftover paint that I have previously had available to paint out graffiti. On this occasion the paint had run out. The gentleman cheerfully said that he'd use marker remover (for that was the offending medium) and I should call when I get some more paint and he'd return and use that – to get a better result.

I would like to say how friendly and pleasant he [Lenny] always is .... And how impressed I was that he not only remembered that I'd previously requested my own paint be used but also that he'd thought to check with me this time as well, even though this time I didn't make the request.....please give him a pat on the back...."

Mayor Catania noted that Lenny's actions are a credit to himself and the Town Of Vincent overall and that the Town has also received other similar positive comments about Lenny's good work.

The award was received with acclamation.

## 8. DECLARATION OF INTERESTS

- 8.1 Mayor Catania declared a financial interest in Item 10.3.1 – Investment Report. The extent of his interest being that he is the Chairman of the Board of Directors of the North Perth Bendigo Bank.

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

### 9.1 Cr Basil Franchina - The Australian Institute of Environmental Health (AIEH) 29<sup>th</sup> National Conference 20-25 October Re:

When the CEO was informed that the Executive Manager Environmental and Development Services was unable to attend the above Conference, did the CEO notify the Councillor that was to attend of this? If not, why not?

Response:

*At the Ordinary Meeting of Council held on 27 August 2002 the Council considered an item (10.4.3) and resolved that:*

*"The Executive Manager Environmental and Development Services and Councillor Hall be authorised to attend the Australian Institute of Environmental Health 29th National Conference to be held in Manly Beach, Sydney, New South Wales from Sunday 20 October 2002 to Friday 25 October 2002 at an approximate cost of \$3,840.00 each."*

*The Chief Executive Officer did not have any discussions with Cr Hall about this matter until it was raised by Councillor Hall on 14 October 2002 when she rang and advised that she was reconsidering her attendance at the Conference. She stated that she was concerned about flight safety in the aftermath of the Bali bombing incident which occurred on 11-12 October 2002. She also queried whether costs already incurred for the Conference could be recovered. On 15 October 2002 Cr Hall sent a facsimile to the Chief Executive Officer confirming her non attendance at the conference.*

*The Chief Executive Officer is not aware whether Cr Hall was advised by any Council officer of the non attendance of the Executive Manager Environmental and Development Services at the conference during the period 27 August and 14 October 2002.*

*As the Council had authorised Cr Hall to attend the conference, irrespective of whether a Council officer also attended, it was considered unnecessary to advise Cr Hall of this information.*

**9.2 Did the Town of Vincent lose all money associated with attendance at this Conference, including airline fares? If so, how much money was lost?**

Response:

*Once the Town was advised of Councillor Hall's non-attendance at the Conference, immediate action was taken to cancel the conference registration, airfare, accommodation and other associated costs - facsimiles were sent to the travel agent, Conference organisers and hotel.*

*The airline ticket of \$731.36 was non-refundable – however, this money can be re-credited to another airline ticket, to be used by the Town within a 12-month period. To date, there have been no flights made by the Town and this money remains in credit.*

*The Conference Organisers verbally advised that the registration conditions required seven days notice for any refund (and this had expired). However if a valid reason is given, they may consider the request for refund and this is entirely at the organiser's discretion. No further response has been received from the Conference organisers for a refund of \$1,450.00 and the Town's Finance staff are still pursuing this matter.*

*The hotel booking was cancelled, however the first night's accommodation of \$196 was not refunded.*

*The daily expense allowance (of \$300 in total) paid by the Town to Councillor Hall was repaid.*

*No expenditure was incurred by the Executive Manager Environmental & Development Services.*

**Cr Hall advised that she disagreed with some aspects of the response.**

**In response to a question from Cr Hall, Mayor Catania advised there would be no questions or debate on this item, however, Councillors could write to the Chief Executive Officer regarding any matters on which they were aggrieved.**

**10. REPORTS**

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

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

Items 10.1.12, 10.1.1, 10.1.10, 10.1.7, 10.1.6, 10.1.13, 10.1.4 and 10.1.9.

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

Item 10.4.4.

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

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

Mayor Catania	Nil
Cr Drewett	11.1
Cr Cohen	10.1.3, 10.1.8 and 10.2.1
Cr Franchina	10.2.2
Cr Piper	Nil
Cr Chester	10.1.11, 10.3.2 and 10.4.2.
Cr Hall	Nil
Cr Doran-Wu	Nil
Cr Ker	10.1.2.

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

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

Item 10.3.1.

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

Items 10.1.5, 10.4.1, 10.4.3, 10.4.5 and 10.4.6.

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

Nil.

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

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

Items 10.1.5, 10.4.1, 10.4.3, 10.4.5 and 10.4.6.

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

Items 10.1.12, 10.1.1, 10.1.10, 10.1.7, 10.1.6, 10.1.13, 10.1.4 and 10.1.9.

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

Item 10.4.4

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

Items 10.1.3, 10.1.8, 10.2.1, 10.2.2, 10.1.11, 10.3.2, 10.4.2 and 10.1.2.

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

Item 10.3.1.

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

Nil.

**Moved Cr Chester, Seconded Cr Ker**

*That the following unopposed items be moved en bloc;*

*Items 10.1.5, 10.4.1, 10.4.3, 10.4.5 and 10.4.6.*

**CARRIED (9-0)**

**10.1.5 No. 40 (Lot 53) Raglan Road, Mount Lawley – Proposed Additional Two-Storey Grouped Dwelling to Rear of Existing Dwelling**

<b>Ward:</b>	North Perth	<b>Date:</b>	5 March 2003
<b>Precinct:</b>	Norfolk, P10	<b>File Ref:</b>	PRO2191; 00/33/1381
<b>Reporting Officer(s):</b>	V Lee, M Bonini		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by J Kestel on behalf of the owner M A Reid for proposed additional two storey grouped dwelling to rear of existing dwelling at No.40 (Lot 53) Raglan Road, Mount Lawley, and as shown on plans stamp-dated 15 January 2003 and 5 March 2003, subject to:*

- (i) a visual truncation of 2 metres by 2 metres at the intersection of all driveways and the right of way shall be provided at the owner's cost;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (iv) a right of way security bond and/or bank guarantee for \$880 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*
- (v) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vi) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vii) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*

- (viii) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (ix) *subject to first obtaining the consent of the owners of No. 36 Raglan Road for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 36 Raglan Road in a good and clean condition;*
- (x) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (xi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Raglan Road verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xii) *prior to the first occupation of the development, the proposed additional two storey rear dwelling and existing dwelling shall each be provided with a store, not visible from the adjacent street(s), accessible from the outside, and of a minimum area of 4 square metres and a minimum dimension of 1.5 metres. The store shall be provided as a weatherproof enclosure with a lockable door and be built in materials compatible with the development. The stores shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.5**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**LANDOWNER:** M A Reid  
**APPLICANT:** J Kestel  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	604 square metres

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Pedestrian Accessway	1.5 metres (Town's Policy)	1.3 metres
Parapet Walls	Walls not higher than 3.5 metres, average 3 metres for 2/3 (66 per cent) the length of the balance of the boundary behind the front setback to one side boundary. (Residential Design Codes (R Codes))	Buildings on boundary proposed on southern and eastern boundaries.
Storage Area	Storage area with at least 4 square metres internal storage area.	3.2 square metres for proposed dwelling  Nil for existing dwelling.

**SITE HISTORY:**

The site is occupied by a single storey dwelling. A 4.0 metres wide, Crown owned right of way runs along the western side and northern rear boundaries of the property.

**DETAILS:**

The proposed development involves an additional two storey grouped dwelling to the rear portion of the lot. The proposal generally complies with the Residential Design Codes (R Codes) and the Town's Town Planning Scheme No. 1 and Policies with the exception of the above non-compliances.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and no objections were received by the Town.

**COMMENTS:**

**Pedestrian Access Way**

The pedestrian access leg provides direct access from the rear dwelling to the street alignment. The Town's Policy requires that the minimum width for an access leg is to be 1.5 metres. In this instance, the access leg is restricted to 1.3 metres in width as it abuts the existing front house. In such circumstances, the Town's Policy does allow for a pedestrian access leg to be reduced in width where it abuts an existing house to be retained. The proposed width is not considered to be grossly under the requirement and it allows enough usable space to serve the purpose of a pedestrian access leg. The proposed access leg is considered to be acceptable and is therefore supported.

**Parapet Walls**

The parapet walls relating to the proposed development vary from the setback requirements as stipulated in the R Codes. There are boundary walls proposed on the east and south side boundaries. The south boundary wall is for a double garage and abuts an existing garage of the existing front house. This is not considered to compromise any amenity for the exiting house. The eastern boundary wall is single storey in nature and within the height requirement. As such, the eastern boundary wall is not considered to unreasonably negatively impact upon the amenity of the adjoining affected neighbour. The boundary walls are supported, as their impact to the overall amenity of the affected adjoining neighbours is considered to be minimal.

**Storage Area**

In a grouped dwelling development, the R Codes require that a storage area be provided with a minimum area of 4 square metres with a minimum dimension of 1.5 metres. The proposed storage area varies from the requirements of the R Codes with only 3.2 square metres being provided. There is no justification to consider a reduced provision in this instance and when taking into account the limited lot size and small floor space of the dwelling with limited internal storage space, it is considered important to require the full 4.0 square metres to be provided. The existing dwelling does not demonstrate a store and as such this requirement should be imposed for this dwelling also. As such, the proposal will be conditioned accordingly.

**Minimum Site Area**

The minimum site area required in the R40 zoning of the R Codes is 220 square metres. When calculating the lot area within the proposed lot boundaries, the proposal falls short of the minimum lot area requirement. However, the R Codes contain a provision where half of the width (up to a maximum of 2 metres) may be added to the site area where the lot abuts or adjoins a right of way. This provision is at Council's discretion. When applying this clause of the R Codes, the proposed lot contains a total area of 340 square metres resulting in compliance with the minimum lot area requirement of the R Codes.

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

**10.4.1 Use of Common Seal**

Ward:	-	Date:	4 March 2003
Precinct:	-	File Ref:	ADM0042
Reporting Officer(s):	M McKahey		
Checked/Endorsed by:	John Giorgi		
Amended by:	-		

**RECOMMENDATION:**

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

**COUNCIL DECISION ITEM 10.4.1**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**DETAILS:**

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

Date	Document	No of copies	Details
11/02/03	Deed of Covenant	4	Town of Vincent and Civitella Holdings Pty Ltd regarding No. 8 (Lots PT21 & 22) Campsie Street, North Perth – Demolition of Existing Dwelling and Construction of Three (3) Two-Storey Grouped Dwellings
11/02/03	Scheme Amendment Documents	4	Town of Vincent Town Planning Scheme No. 1 – Amendment No. 20 re: to rezone No. 16 (Lot 28) Brentham Street, Leederville from “Town of Vincent Scheme Reserves Public Purpose – Institute for the Deaf” to “Residential R60”
14/02/03	Application for New Title	1	Town of Vincent and Howard G. Copley, C/o Swan Surveys Pty Ltd, PO Box 1250, Midland 6936 re: Pt of Perth Town Lot Y246 and Pt of Perth Town Lot, Y246 – CS P Perth 18/31, Whole Volume 1462, Folio 548 and Folio 550 Perth Town Lot Y247 Diagram 3052, Whole Volume 1463, Folio 551

**10.4.3 Local Government Statutory Compliance Audit - 2002**

Ward:	-	Date:	5 March 2003
Precinct:	-	File Ref:	ADM0019
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-		
Amended by:	-		

**RECOMMENDATION:**

*That the Council adopts the Local Government Statutory Compliance Audit for 2002 as shown in Appendix 10.4.3 and this be forwarded to the Department of Local Government and Regional Development.*

**COUNCIL DECISION ITEM 10.4.3**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**BACKGROUND:**

The Department of Local Government and Regional Development has issued a "Local Government Statutory Compliance Audit" to all Local Governments throughout Western Australia. This return requires the Chief Executive Officer and Mayor to certify that the statutory obligations of the Local Government have been complied with. A copy of the return is shown at Appendix 10.4.3. The Chief Executive Officer may delegate to a responsible person to complete part of the Return.

**LEGAL/POLICY:**

The completion of the Statutory Compliance Return is compulsory, in accordance with Section 7.13(1) of the Local Government Act 1995 and Local Government (Audit) Regulations (Regulation 13).

The Town has an Audit Committee. The Committee (comprising of the Mayor, Councillor Ker, Chief Executive Officer and Executive Manager Corporate Services) met on 5 March 2003 to review this Audit and confirms that all areas specified in the Return comply with the all legislative requirements.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**STRATEGIC IMPLICATION:**

The Statutory Compliance Audit is most beneficial as it is an indication that the Local Government has internal control measures in place to ensure that all statutory obligations are complied with.

**COMMENTS:**

The Town of Vincent has complied with all statutory compliance provisions and accordingly it is recommended to the Council that the Local Government Statutory Compliance Audit 2002 be adopted.

**10.4.5 Minutes of the Annual General Meeting of Electors held on  
17 December 2002**

Ward:	Both	Date:	6 March 2003
Precinct:	All Precincts	File Ref:	ADM0009
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *receives and confirms the Minutes of the Annual General Meeting of Electors held at 5.30pm on Tuesday 17 December 2002, attached at Appendix 10.4.2;*
- (ii) *considers the various matters, which require funding, as detailed in this report during the 2003/04 Budget process; and*
- (iii) *endorses the proposed action and comments of the various matters, as detailed in this report.*

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**COUNCIL DECISION ITEM 10.4.5**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**FURTHER REPORT:**

At the Ordinary Meeting of Council held on 11 February 2003, the Council considered this item as follows:

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*"Moved Cr Chester, Seconded Cr Hall*

*That the recommendation be adopted.*

*Debate ensued.*

**COUNCIL DECISION ITEM 10.4.2**

**Moved Cr Franchina, Seconded Cr Hall**

*That this item be DEFERRED for clarification of legal requirements and a further report.*

**CARRIED (5-3)**

For  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Piper

Against  
Cr Chester  
Cr Doran-Wu  
Cr Ker

*(Mayor Nick Catania departed the meeting (unwell) at 7.31pm and did not vote.)"*

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On 12 February 2003, the Chief Executive Officer sent a memo to all Elected Members as follows:

*" TOWN OF VINCENT  
MEMORANDUM*

*TO: ALL COUNCILLORS*

*C.C. MAYOR NICK CATANIA, JP*

*FROM: CHIEF EXECUTIVE OFFICER*

*DATE: 12 FEBRUARY 2003*

*SUBJECT: CLARIFICATION - ORDINARY MEETING OF COUNCIL - ITEM 10.4.2 - ANNUAL GENERAL MEETING (AGM)*

*At the Ordinary Meeting of Council it was resolved that this item be DEFERRED and the Chief Executive Officer was requested to have it checked to ensure compliance. At the meeting, it was suggested by the Acting Presiding Member that it be referred to the Department of Local Government.*

*During debate on the item, several concerns were raised, including;*

- 1. whether a quorum of the Council is required at an Annual General Meeting of Electors;*
- 2. whether the receiving of the Annual Report can be moved and seconded by a Councillor.*

*At the meeting, the Chief Executive Officer advised the Council that;*

- (a) an Annual General Meeting of Electors does not require a quorum of Elected Members - it is a meeting for Electors of the District;*
- (b) the Council had already adopted its Annual Report 2000/2001 (Ordinary Meeting of Council held on 22 October 2002) and that at the Annual General Meeting of Electors the Annual Report was to be received;*
- (c) it is acceptable that Councillors (who are also Electors of the District) can move and second a Motion that the Annual Report "as Laid on the Table" be received.*

*Therefore, could you please advise me of any other matters or concerns that you wish to have checked when the item is referred to the Department of Local Government.*

*I look forward to receiving your response.*

*Regards,*

*JOHN GIORGI, J.P.  
CHIEF EXECUTIVE OFFICER "*

Only one response was received from Councillor Drewett requesting that the following additional questions be raised with the Department of Local Government:

1. Shouldn't the Minutes of an Annual General Meeting be confirmed at the next Annual General Meeting?
2. With regard to what is discussed at an Annual General Meeting be confirmed at the next Annual General Meeting"

On 13 February 2003, the matter was discussed with a Senior Officer of the Department of Local Government and on 17 February 2003, a letter was sent seeking clarification.

On 5 March 2003, a letter was received from the Department of Local Government as follows:

*"Dear John*

#### ***ANNUAL GENERAL MEETING - QUERIES***

*I refer to your letter of 17 February 2003 seeking the Department's comments in relation to a number of questions regarding electors meetings.*

1. ***Is a quorum of Council required at an Annual General Meeting of Electors?***  
*There are no quorum requirements for electors meeting specified in the Local Government Act 1995 (the Act) or Local Government (Administration) Regulations 1996 (the Regulations). Indeed, there is no statutory requirement that councillors attend an electors' meeting. However, it would be very disappointing if no representative of a local government attended a properly convened electors' meeting.*
2. ***Are the elected members legally entitled to move and second the receiving of the Annual Report?***  
*As electors, elected members are entitled to vote at electors meetings. However, there is no statutory requirement to move and second the receiving of the annual report. Regulation 15 simply stipulates that the contents of the annual report be discussed. In accordance with Regulation 18, the procedure to be followed at electors' meetings is to be determined by the person presiding at the meeting.*
3. ***Shouldn't the minutes of an Annual General Meeting of Electors be confirmed at the next Annual General Meeting of Electors?***  
*There is no statutory requirement to confirm the minutes of an electors' meeting. Section 5.32 of the Act simply requires that the Chief Executive Officer (CEO) cause minutes of the meeting to be kept and preserved and ensure copies of the minutes are made available for inspection by the public before the council meeting at which decisions made at the electors' meeting are first considered.*

4. ***With regard to what is discussed at an Annual General Meeting on the Notice Paper, is it only that which is prescribed on the Notice Paper?***

*Regulation 15 specifies that the matters to be discussed at a general electors' meeting is the contents of the annual report for the previous financial year and then any other general business. Electors at the meeting may well wish to raise issues during general business which have not been submitted to the council prior to notice of the meeting being given (see comments under 5 below). In the case of an electors' special meeting, the matters to be discussed at the meeting are restricted to those matters specified in the request for the meeting.*

5. ***Whether the procedure taken by the Town is in accordance with legislative requirements?***

*Having examined the attachments provided with your letter of 17 February 2003, the Department can see no substantial problem with the procedure taken by the Town and is pleased to note the extent of attendance by elected members and staff. The only issue of concern is with the stipulation in the notice of meeting that notice of questions be submitted to the CEO in writing before the meeting. While the Department accepts that this is preferable, particularly in the case of complex/wide-ranging questions, this requirement should not prevent the asking of a question without notice during discussion of general business.*

*I trust the above comments satisfactorily address your questions.*

*Yours sincerely*

*John Gilfellon  
MANAGER LOCAL GOVERNMENT SUPPORT AND DEVELOPMENT  
28 February 2003 "*

The following is a verbatim copy of the minutes of the item placed before the Council at its Ordinary Meeting held on 11 February 2003.

**"BACKGROUND:**

*The Annual General Meeting of Electors of the Town of Vincent was held on Tuesday 17 December 2002 at 5.30pm.*

**DETAILS:**

*It is standard practice for the Minutes of the meeting of Electors to be presented to the Council for information. Under the Local Government Act 1995, Section 5.33, all decisions taken at Electors meetings are required to be considered at the next Ordinary Meeting of the Council.*

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

1. ***Moved Cr Doran-Wu, Seconded Cr Chester***

*"That the Council investigate the establishment of notification system to advise ratepayers of important issues."*

**CARRIED (UNANIMOUS)**

CEO's Comment

The Council's "Community Consultation Policy No 4.1.22" prescribes the statutory and non-statutory requirements for consultation with ratepayers and residents. The policy prescribes the need for:

- local and state-wide newspaper advertisements;
- information placed on the Town's website;
- letters to affected persons;
- newsletters;
- display of information on the public noticeboard in the Administration Centre and the Library;
- signs on properties;
- letters to community and business groups.

It is considered that the Town's Consultation Policy is adequate and satisfactorily meets the needs of the Town. Therefore, no change is recommended.

2. Moved Ms Lynda Roberts-Hall, Seconded Mr Raymond Hall, of 81 Lynton Street, Mount Hawthorn

"That;

- (i) the Town considers the provision for cross local government community consultation in the Town's Policy relating to community consultation; and
- (ii) the Town lobbies its adjoining local governments to adopt a similar approach to cross local government community consultation."

MOTION CARRIED (UNANIMOUS)

CEO's Comment

The Town is in the process of preparing a letter to the City of Stirling, City of Bayswater, City of Perth, Town of Cambridge, West Australian Local Government Association and the East Perth Redevelopment Authority advising them that the Town is in the process of reviewing its Policy relating to Community Consultation and would like to include provision relating to community consultation across municipality boundaries. The Town will also request copies of any policies, procedures and/or practices that these local authorities may have. In addition, the Town will also request that these local authorities consider including provision relating to community consultation across municipality boundaries into any existing policies, procedures and/or practices or develop new policies, procedures and/or practices to incorporate these provisions.

3. Moved Mr Brian Fleay, Seconded Ms Sally Lake of 51 Chatsworth Road, Highgate

"That early next year, as part of the review of the Town Planning Scheme, the Town organise a community workshop or series of workshops to address the likely outcome of current urban infill development for the next 15 to 20 years."

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*A Special Meeting of Council has been convened for 18 February 2003 to further consider a report relating to the review of the Town Planning Scheme. It is the Town's intention to develop and undertake a comprehensive community consultation program as part of Town Planning Scheme review, which will include several community workshops during key milestones of the review.*

4. Moved Mr Dudley Maier, Seconded Ms Marie Slyth of 89 Carr Street, West Perth

*"That;*

- (1) electors of the Town request the Chief Executive Officer to produce a report to Council before July 2003 with recommendations on how underground power can be implemented throughout the Town within a ten (10) year time frame;*
  - (2) the report should include:
    - (i) various alternatives for funding implementation;*
    - (ii) criteria for assigning the priority and order of implementation;*
    - (iii) mechanisms for distributing the cost to individual properties on an equitable basis;*
    - (iv) mechanisms to allow property owners to defer or spread the repayment over time; and**
- any other information that the CEO considers relevant."*

*MOTION CARRIED (UNANIMOUS)*

CEO's Comment

*In a letter dated 15 January 2003 the Office of Energy has called for expressions of interest from Local Governments to participate in Round Three of the State Underground Power Program, closing on 20 February 2003.*

*Council had previously adopted, in part, the following resolution at its Ordinary Meeting of the 19 November 2002.*

*"That the Council;*

- (ii) receives a further report once Round three (3) submissions for the State Underground Power Program have been called by the Office of Energy."*

*Therefore in accordance with the above resolution a further report will be presented to Council at its Ordinary meeting of 11 February 2003 and if so directed by Council Technical Services will proceed with submitting an expression of interest.*

*Further reports addressing funding, technical and implementation issues would be forthcoming if and when the Town's submission is progressed.*

*The Executive Manager Technical Services and Executive Manager Corporate Services will prepare the report on the implementation of underground power throughout the Town.*

*It will include the criteria as outlined at the meeting.*

5. Moved Mr Dudley Maier, Seconded Ms Shirley Benton of 34/46 Smith Street, Highgate.

*“That electors of the Town request that;*

- (i) the Council’s 2003/2004 Budget Meetings be open to the public in the same way the 2002/2003 meetings were;*
- (ii) a public workshop/information session be held prior to the presentation of the draft budget to Council, at which the budget process is explained, major proposals for the following year are explained, and members of the community are able to suggest items for inclusion in the 2003/2004 draft budget; and*
- (iii) the public workshop/information session be widely advertised to the broad community.”*

**MOTION CARRIED (UNANIMOUS)**

**CEO’s Comment**

*It is recommended that the Council’s 2003/2004 Budget Special Council meetings will be open to the public in the same way as the 2002/2003 meetings were held.*

*The Draft Budget timetable which is currently being prepared has included a public information workshop.*

*The above workshop will be advertised in the local papers and on the Town’s website as well as invitations being sent to all community and business groups.*

6. Moved Mr Steed Farrell, Seconded Ms Lucia Dedear of 98 Buxton Street, Mount Hawthorn

*“That the Council bring forward and include in the forthcoming Budget the upgrading of parks within the Mount Hawthorn Precinct, especially those that are in a poor condition and dangerous condition, in particular Braithwaite Park. This is to include early consultation with the residents and other community groups regarding the improvements of the Parks and the Mount Hawthorn Community Centre.”*

**MOTION CARRIED (UNANIMOUS)**

**CEO’s Comment**

*The Manager Parks Services advises that the deterioration of the Braithwaite Park playground has been noted and a report recommending the Playground Upgrade Program be amended to include Braithwaite Park in the 2003/04 will be presented to the Council in February 2003.*

*Improvements to all parks have been undertaken since the Town’s inception, including automatic reticulation, additional planting and upgrade of lighting and park furniture.*

*Generally all parks/reserves in the Precincts are in good condition and upgrading or improvement works will continue based on priorities, cost and the needs of the community.*

7. Moved Mr Steed Farrell, Seconded Mr Tony Keene of 93 Kalgoorlie Street, Mount Hawthorn

*“That the Council review the development approval reporting process as part of the Town Planning Scheme Review and Operational Review in relation to the amount of time and money spent by the Town to defend appeals against Council decisions. In particular, non-compliant applications put forward for approval but subsequently refused by Council that are then appealed by the applicant.”*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*The terms of reference of the Independent Organisational Review of the Town includes the following:*

*"Review of the organisational structure, administrative practices and procedures and decision making processes for matter requiring Council approval (e.g. development approval, building licences, permits and licences) in direct measurement to;*

- 1. Reporting to the Council;*
- 2. Council decisions;*
- 3. Extent of delegation;*
- 4. Performance against industry benchmarks/best practice in like local governments; and*
- 5. Determining the extent of customer satisfaction regarding quality, accessibility, clarity and accuracy of information provided to ratepayers/residents and also developers."*

8. Moved Mr Steed Farrell, Seconded Ms Annie Folk of 204 Carr Place, Leederville

*“That the Council undertake a parking strategy for the whole length of Oxford Street up to Scarborough Beach Road including adjoining streets surrounding commercial areas, and to include a programme to upgrade the streetscape of Oxford Street.”*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*The demand for parking facilities in Oxford Street varies according to the part of the street. The high usage areas have been identified as being between Vincent Street and Leederville Parade and between Anzac Road and Scarborough Beach Road, with the area between Richmond Street and Britannia Road being rarely congested.*

*It is considered that the most effective way to control the parking in the busier areas of Oxford Street is to create paid parking zones, where drivers must always obtain a ticket, even if for only a very short time. It has also been recommended, for a number of years, that the Council install ticket issuing machines in Oxford Street Car Park, to create a turnover in available parking spaces.*

*A number of the streets, which join the busier sections of Oxford Street, already have parking time restrictions in place and these appear to operate fairly well. These parking restrictions are constantly monitored to ensure compliance and to ensure that the Town takes account of any changes in the needs of the community. Where a need to alter the restrictions is identified, a process of public consultation is undertaken and appropriate changes are recommended to the Council for their approval.*

*The Town's adopted Car Parking Strategy acknowledges that the Oxford Hotel has undergone significant renovations which in turn has created parking problems along some of the surrounding residential streets, due to the hotel's lack of off-street parking and semi-residential location. The implementation of parking restrictions along Anzac Road to protect the rights of the residents has been implemented, including the creation of additional parking bays by rationalising existing on road loading zones/taxi ranks/bus stops.*

*The Parking Strategy outlines that the northern end of Oxford Street lacks the activity and vibrancy that creates a successful town centre. However, the renovated Oxford Hotel is likely to improve the surrounding commercial precinct and in turn increase the requirement for parking in the area.*

*One submission for the Strategy suggested the construction of centre road parking along the northern section of Oxford Street, however, the option would not be supported at this specific location, from a traffic management safety viewpoint. Oxford Street is classified as a District Distributor B in accordance with the Metropolitan Functional Road Hierarchy and currently carries between 6000 and 9000 vehicles per day (vpd).*

*The Town's adopted Car Parking Strategy further acknowledges that it is very likely that this section of Mount Hawthorn will become more popular in the next decade. Therefore, a strategically placed public car park, or an extension to the Oxford Street Car Park, may be required. Any cash in lieu contributions made from developments in the area should be applied to the creation of a centrally located car park.*

*It is preferable that any new open air car park should be constructed as a short term measure and, if possible, utilise existing open areas, such as a car yard or vacant site rather than affecting the streetscape by the removal of valued buildings.*

*The Council has allocated funds in the 2002/2003 budget to carry out improvements in Oxford Street.*

*A review will therefore be carried out in 2003 and a further report will be presented to Council.*

9. Moved Ms Eloise Hodge, Seconded Ms Shirley Benton of 34/46 Smith Street, Highgate

*"That the Council investigate how to introduce residential parking in Monger Street."*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*The current guidelines for the introduction of Residential Parking Zones suggest that this type of restriction is only effective, where the properties are predominantly residences. Where there is a mix of residential and commercial premises, businesses may decline, because their customers and staff are unable to park in kerbside locations.*

*Monger Street is a mixed-use street, very close to the William Street, "Asia Town" area and it is suggested that it would not lend itself well to residential restrictions. However, a survey of the Residents and businesses in Monger Street, William Street, Money Street and Lindsay Street, seeking information on the problems being experienced and possible solutions to these problems, will be undertaken during 2003 and a report will be submitted to the Council.*

10. Moved Ms Lucia Dedear, Seconded Mr Steed Farrell of 90 Matlock Street, Mount Hawthorn

*"That the Council arrange a meeting with the Honourable Alannah McTiernan and a member from the Planning Commission to discuss the concerns in regards to housing density increase, infill development, the new Residential Design codes and in particular the Planning Appeal process with the residents, precinct groups and Councillors of the Town."*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*The new planning appeal legislation and associated process is expected to be promulgated shortly.*

*The housing density within the Town will be reviewed as part of the Town Planning Scheme review.*

*The suggested meeting should be the subject of a Council resolution.*

11. Moved Ms Lucia Dedear, Seconded Mr Tony Keene of 93 Kalgoorlie Street, Mount Hawthorn

*"That the Council puts in place a strategy as early as possible that will establish;*

- (i) a policy of 'energy efficient building design' based on sustainable design principles that will be an ongoing, evolving policy for all new buildings within the Town to follow. Its introduction will coincide with the implementation of the new BCA energy requirements for housing in June 2003;*
- (i) a 'landscaping of our streets' policy by way of trees and planting that maximize the shading for pedestrians and cyclists. Requirements for landscaping, pedestrians and cyclists will take priority over catering for the requirements of cars; and*
- (ii) a policy of 'reduced energy transport' within the Town by way of 'energy efficient public transport', cycling and walking paths, dedicated bike lanes, and tree shaded streets to encourage cycling and walking."*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

- (i) *The Town's Draft Strategic Plan 2002-2007 provides the following:*

*"Key Result Area One: - Environment and Infrastructure -Strategies and Action Plans*

*1.1 Protect and enhance environmental sustainability and biodiversity - Action Plans to implement this strategy include:*

*(a) Develop and implement a strategy for sustainability.*

*1.3 Develop, implement and promote sustainable urban design - Action Plans to implement this strategy include:*

*a) Sustainable building design guidelines.*

*e) Establish a sustainable building award."*

*A policy will therefore be prepared.*

- (ii) *the Town currently has a Tree Planting Policy. Dependent on the tree species being planted, the utility services in the location, and various other restrictions, they are located to provide maximum benefit.*

*Many streets and verges have been upgraded since the Town's inception, where previously insignificant or no vegetation existed.*

- Charles St*
- Sasse Aves St*
- West Pde*
- Loftus St*
- Angove St*
- Various roundabouts*

*The Town will continue to landscape streets as required.*

- (iii) *Energy Efficient Public Transport*

*Public transport is the responsibility of the State Government not Local Government.*

*Cycling and walking paths*

*Since its inception, the Town has been active in upgrading the old footpath network replacing the existing slab paths with insitu concrete and brick paving in commercial areas. The Council has adopted a long term footpath upgrade program which is revisited each year during the budget process. In addition, considerable expenditure has gone into streetscape improvement projects and developer/Council funded footpath upgrades.*

*Cycle paths have been provided where appropriate, mainly through reserves, progressively extending the "green ways" path network. Also the Town has developed and implemented a Local Bicycle Network Plan which utilises "on road" cycle routes. Many improvement works associated with the Local Bicycle Network Plan have been carried out in conjunction with Council and State funding. The Plan also links into the Perth Bicycle network. A plan of the entire network is currently being prepared and will soon be made available to the public.*

12. Moved Ms Lucia Dedear, Seconded Mr Dudley Maier of 51 Chatsworth Road, Highgate

*“That the Town investigates the possibility to put in place a strategy to introduce a speed limit of 40kph on all local streets within the Town, and the speed limit in Mount Hawthorn Centre Precinct and Leederville Centre Precinct to reduce to 30kph.”*

CEO's Comment

*At its Ordinary Meeting held on 22 March 1999 the Council adopted a draft Strategy for the creation of 40 kph and 50 kph Local Area Traffic Zones in the Town and approved the trial implementation of 40 kph Local Area Traffic Zones in the area bounded by Loftus, Vincent, Charles and Newcastle Streets and the area bounded by Fitzgerald, Bulwer, William and Newcastle Streets.*

*With the recent introduction of a 50 kph speed limit in residential streets the above Strategy will need to be reviewed by the Local Area Traffic Management Advisory Group.*

*In addition, Main Roads Western Australia (MRWA), who are responsible for approving and implementing speed restrictions on all roads in the State, have placed a moratorium on approving any further 40kph zones until the success of the 50kph area wide speed limits have been assessed.*

*An outline of the existing MRWA criteria for approving 40 kph zones is as follows.*

- *Area definition*
- *Community consultation*
- *Identification of each road or road section for speed measurement purposes. A continuing road shall be considered terminated by a stop sign, a give way sign, a roundabout or any physical feature that results in speed reduction below 20 kph, i.e. speed hump, bend*
- *Speed surveys on all streets longer than 200 metres*
- *Identification of speed surveyed streets into the following:*
  - *Section requiring physical speed control*
  - *Section to retain 60 kph speed limit*
  - *Section not requiring traffic calming for inclusion in a 40 kph zone*
- *Preparation of traffic management plan for all streets requiring speed reduction, i.e. where the 85<sup>th</sup> percentile speed is equal to or less than 50 kph. Other streets to be considered for speed reducing physical devices at spacings not exceeding 200 metres*
- *Traffic Calming Devices - These may comprise of a simple change in asphalt colour, i.e. a red asphalt strip or brick paving to a nib/red asphalt or brick paving combination on wider roads. The cost of the entry statements will vary, according to the location, from \$2,000 to \$4,000.*

*It is considered a general 40 kph speed limit would require costly engineering solutions to ensure adherence, whereas 50 kph can be achieved through education, enforcement and the implementation of minor traffic calming measures.*

*In addition MRWA may not approve introducing 30 kph speed zones on higher roads which run through shopping precincts.*

13. Moved Ms Alison Egan, Seconded Ms Rosealea Tamaki of 49 Anzac Road, Mount Hawthorn

*“That the Council investigates a parking strategy for Oxford Street, from Leederville to Scarborough Beach Road in Mount Hawthorn, so that the amenity of the bordering residential areas is fully maintained.”*

*Ms Egan believes the developments of the Oxford Hotel have proceeded with no planning for parking, and the residential areas, particularly Anzac Road east of Oxford Street, are severely affected by the increased patronage of the hotel. She also stated that as a resident she is constantly disturbed by patrons parked on her street, who are leaving the hotel, and the level of disturbance is increasing.*

MOTION CARRIED (UNANIMOUS)

CEO's Comment

*The Parking Strategy outlines that the northern end of Oxford Street lacks the activity and vibrancy that creates a successful town centre. However, the renovated Oxford Hotel is likely to improve the surrounding commercial precinct and in turn increase the requirement for parking in the area.*

*One submission for the Strategy suggested the construction of centre road parking along the northern section of Oxford Street, however, the option would not be supported at this specific location, from a traffic management safety viewpoint. Oxford Street is classified as a District Distributor B in accordance with the Metropolitan Functional Road Hierarchy and currently carries between 6000 and 9000 vehicles per day (vpd).*

*The Town's adopted Car Parking Strategy further acknowledges that it is very likely that this section of Mount Hawthorn will become more popular in the next decade. Therefore, a strategically placed public car park, or an extension to the Oxford Street Car Park, may be required. Any cash in lieu contributions made from developments in the area should be applied to the creation of a centrally located car park. It is preferable that any new open air car park should be constructed as a short term measure and, if possible, utilise existing open areas, such as a car yard or vacant site rather than affecting the streetscape by the removal of valued buildings.*

CONSULTATION/ADVERTISING:

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

LEGAL/POLICY:

*The Local Government Act 1995 states:*

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

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

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

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

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

*whichever happens first.*

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

**STRATEGIC IMPLICATIONS:**

*Nil.*

**FINANCIAL/BUDGET IMPLICATIONS:**

*There are no funds on the 2002/03 Budget to implement the various matters raised at the meeting. These will need to be costed and considered during the draft 2003/04 Budget.*

**COMMENTS:**

*The various matters raised at the Annual General Meeting of Electors will be progressed and appropriate reports will be submitted to the Council."*

**10.4.6 Information Bulletin**

Ward:	-	Date:	6 March 2003
Precinct:	-	File Ref:	-
Reporting Officer(s):	A Smith		
Checked/En dorsed by:	J Giorgi		
Amended by:	-		

**RECOMMENDATION:**

*That the Information Bulletin dated 11 March 2003, as distributed with the Agenda, be received.*

**COUNCIL DECISION ITEM 10.4.6**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**DETAILS:**

The items included in the Information Bulletin dated 11 March 2003 are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>
IB01	Mindarie Regional Council – on the Road to Recovery Newsletter
IB02	Letter from the Town Planning Appeal Tribunal regarding withdrawal of Appeal No. 155 of 2002, for Nos. 105-106 (Lots 393 & 441) Scarborough Beach Road, Mount Hawthorn
IB03	Letter from Director of Liquor Licensing, Department of Racing Gaming and Liquor regarding Sunday Trading for Hotels on Long Weekends
IB04	Prostitution Control Green Bill – Public Consultation – Letter from Minister for Police and Emergency Services
IB05	PBP Funding – Vincent Bird Survey and Vegetation Mapping – Letter from Western Australian Local Government Association
IB06	Letter to Mr N Geronimos, 16 Stuart Street, Northbridge. Response to questions taken "on notice" at the Ordinary Meeting of Council of 25 February 2003.

**10.1.12 No. 56 (Lot 261) Dunedin Street, Mount Hawthorn - Proposed Additional Two Storey Single House to Existing Single House**

Ward:	Mount Hawthorn	Date:	4 March 2003
Precinct:	Mount Hawthorn, P1	File Ref:	PRO2230 00/33/1454
Reporting Officer(s):	M Bonini		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
- (ii) the non-compliance with the Town's Policies relating to Street Setbacks, Vehicular Access and Ellesmere - Locality Plan 5, and the setbacks and privacy requirements of the Residential Design Codes (R Codes);*

*the Council REFUSES the application submitted by APG Homes on behalf of the owners B and G Boehm for the proposed additional two storey single house to existing single house, at No. 56 (Lot 261) Dunedin Street, Mount Hawthorn and as shown on plans stamp-dated 8 January 2003.*

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**Moved Cr Drewett, Seconded Cr Hall**

*That the recommendation be adopted.*

**LOST (0-9)**

**Reasons:**

1. Compassionate grounds for the applicant.
2. Accommodate a person with a disability.
3. Town of Vincent philosophy to improve the quality of life for people with disabilities.
4. No objections received from neighbours.

**ALTERNATIVE RECOMMENDATION:**

**Moved Cr Cohen, Seconded Cr Drewett**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by APG Homes on behalf of the landowners B and G Bohem for the proposed additional two storey single house to existing single house, as shown on the plans stamp-dated 8 January 2003, subject to:*

- (i) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services;*
- (iii) *the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the front main building wall;*
- (iv) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the sitting room on the east elevations on the first floor shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed; OR*  
*prior to the issue of a Building License, revised plans shall be submitted to and approved by the Town of Vincent demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*
- (v) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security deposit must be made in writing;*
- (vi) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of the front fences and gates adjacent to Dunedin Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (vii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (viii) *proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services;*
- (ix) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services, at the applicant's/owner(s)' full expense;*
- (x) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application; and*
- (xi) *street trees will only be removed with the written consent of the Town's Parks Services. All removal and replacement costs shall be borne by the applicant/owner(s);*

*to the satisfaction to the Chief Executive Officer.*

**Moved Cr Ker, Seconded Cr Cohen**

*That, in clause (iv) the words “and be non-openable” be deleted, and the words “The obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees;” be added following the words “easily removed” as follows:*

- “(iv) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the sitting room on the east elevations on the first floor shall be screened with a permanent obscure material 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 obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees; OR*

*prior to the issue of a Building License, revised plans shall be submitted to and approved by the Town of Vincent demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;”*

**AMENDMENT CARRIED (9-0)**

**ALTERNATIVE RECOMMENDATION AS AMENDED CARRIED (9-0)**

**COUNCIL DECISION ITEM 10.1.12**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by APG Homes on behalf of the landowners B and G Bohem for the proposed additional two storey single house to existing single house, as shown on the plans stamp-dated 8 January 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town’s Technical Services;*
- (iii) the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the front main building wall;*
- (iv) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the sitting room on the east elevations on the first floor shall be screened with a permanent obscure material 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 obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees; OR*

*prior to the issue of a Building License, revised plans shall be submitted to and approved by the Town of Vincent demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*

- (v) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security deposit must be made in writing;*
- (vi) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of the front fences and gates adjacent to Dunedin Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (vii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (viii) *proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services;*
- (ix) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services, at the applicant's/owner(s)' full expense;*
- (x) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application; and*
- (xi) *street trees will only be removed with the written consent of the Town's Parks Services. All removal and replacement costs shall be borne by the applicant/owner(s);*

*to the satisfaction to the Chief Executive Officer.*

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**LANDOWNER:** B and G Boehm  
**APPLICANT:** APG Homes  
**ZONING:** Metropolitan Region Scheme: Urban Town Planning Scheme  
No.1: Residential R30  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single Houses
Use Classification	"P"
Lot Area	675 square metres

Requirements	Required	Proposed
<b>Setbacks</b>		
North Lower Floor - Carport	1 metre	Nil.
West Lower Floor - Carport Front Setback	Car parking is to be accessible from existing rights of way where (legally) available. (Town's Policy relating to Street Setbacks and Vehicular Access) 4.5 metres (R Codes)	2 metres to 4.2 metres.
South Lower Floor Laundry Entry Porch Setback	1.5 metres	1.264 metres
West Upper Floor - Front Setback	6 metres	5 metres to 6 metres
<b>Privacy Setbacks</b>		
Sitting Room Window (East)	6 metres	4.7 metres and 2.5 metres from South Boundary.
Sitting Room Window (West)	6 metres	2.5 metres from South Boundary.
Bedroom 2 Balcony (South)	7.5 metres	3.4 metres from South Boundary.

**SITE HISTORY:**

The site is occupied by a single storey single house to the north side of the proposed residence. There is an unsealed, Town owned, five metres wide right of way along the rear of the lot. The existing streetscape predominantly maintains undeveloped street setback areas.

**DETAILS:**

The proposed development involves a two storey single house to an existing single storey dwelling. The proposed residence has direct frontage to Dunedin Street.

The applicant has provided the following justification statements dated 25 February 2003 in response to some variations pertaining to the application. They are as follows;

*"Northern Side Setback to Carport*

*This wall complies with the acceptable development standards of the Codes (Clause 3.2.3 iii) and as such, Council is not required to exercise discretion.*

*Front Setback to Carport*

*Whilst it is understood that Council has a policy relating to front setbacks, the following points are put forward in support of the application.*

*The front boundary to Dunedin Street is aligned on a 21 degree angle. The garage currently proposed only a minor intrusion on the Code setback specified by Table 1, however it is considered that it complies with Acceptable Development Clause 3.2.1.*

*Furthermore, the two residences to the north of the subject site are located forward of the 6.0m setback line required under Council's policy. Therefore, the setback proposed for the subject site is consistent and in character with the existing streetscape.*

*To comply with Council's policy, the carport would have to be setback at least 8.0m from the front boundary on the northern side of the property. This would have major implications for the design of the home and is considered unreasonable.*

Front Setback to First Floor

*The front setback of the first floor complies with the required setback under Table 1 of the Codes. As with the comments provided for the front setback of the carport, the proposed setback is consistent with the existing streetscape, and does not impact on the visual aesthetics of the street, does not obstruct views, nor affect the safety of the area."*

**CONSULTATION/ADVERTISING:**

The proposal was advertised and no objections were received.

**COMMENTS:**

**Carport - North Side Setback**

The proposed setback to the northern boundary does not comply with the setback requirement of the Residential Design Codes (R Codes). However, it does comply with a provision in the R Codes relating to Buildings on Boundary. The R Codes allow boundary development in R30 coded zones provided that it does not exceed a maximum height of 3.5 metres and an average of 3 metres, does not occupy more than 66 per cent of the total boundary length behind the front setback and is contained to one side boundary. The subject wall is within the above requirements and is therefore supported as acceptable development in the R Codes.

**Carport Front Setback**

The carport setback variation is a maximum of 1.7 metres from the front boundary due to the angle of the front boundary line. The R Codes require that a 4.5 metres setback be achieved from the front boundary. The carport contravenes Town's Policies relating to Street Setbacks and Vehicular Access as it does not utilise the rear right of way for access to the lot. The Town's records indicate that the right of way is Town owned. Therefore, access from the right of way is possible in this instance. It is considered that compliance can and should be achieved in such a preliminary stage of a development through a redesign to accommodate access from the right of way as per the Town's Policies, especially as the proposed development will be on a vacant site. Although there are two properties to the north that are located forward of the 4 metres setback line, it is not considered a significant enough precedence to allow the proposed carport.

**Laundry, Entrance, Porch Setback - South Side**

A variation exists for the south lower floor wall. The setback requirement is 1.5 metres assessed along the entire length of the south wall of the proposed development in accordance with the new provisions of the R Codes. The proposed setback is 1.264 metres. Although the setback variation is minor, it still constitutes a variation and it is considered appropriate in this instance to modify in order to achieve compliance.

**Upper Floor Front Setback**

The setback variation for the upper floor applies to Bedroom 2 and extends across 3.3 metres of its width to a maximum setback of 5 metres to the wall and 4 metres to the balcony. The required setback from the front boundary for an upper floor component of a development is 6 metres. The purpose of this is to manage the overall bulk of a development from the street and thus maintain streetscape amenity. The proposed setbacks are not supported.

**Privacy Assessment for the Upper Floor Windows**

A total of three upper floor windows do not comply with the privacy assessment of the R Codes. The variations affect the south boundary from the west facing window and the two east facing windows of the sitting room. The proposed setbacks vary from 2.5 metres to 4.7 metres. These variations could be easily addressed through raising the overall sill height of the windows to 1.6 metres or treating the windows so that they are obscure and fixed to a sill height of 1.6 metres. The proposed variations are not supported as it is considered reasonable and appropriate to address these non-compliances through the above-mentioned options.

**Privacy Assessment for the Upper Floor Balcony**

The balcony with a non-compliant setback to the south boundary pertains to bedroom 2 on the west wall. The setback to the south boundary is 3.4 metres. The R Codes requires that a setback of 7.5 metres be provided from the boundary or adequate screening to prevent overlooking. As the balcony is oriented to the front of the development, overlooking will be contained to the front yard area of the south adjoining property where there is no outdoor active liveable space. The balcony is considered acceptable and therefore supported based on the front setback being modified to comply.

In view of the above, it is recommended that the proposal be refused as the variations are considered to deviate considerably from the Town's Policies and R Codes. The applicant is encouraged to undertake a redesign in accordance with the relevant controls and with due consideration given to the limitations and constraints of the subject lot.

**10.1.1 Further Report - No. 135A (Lot 142) (Strata Lot 2) West Parade, Mount Lawley – Proposed Additional Two-Storey Grouped Dwelling to Existing Dwelling**

Ward:	North Perth	Date:	26 February 2003
Precinct:	Banks, P15	File Ref:	PRO 1153; 00/33/1397
Reporting Officer(s):	V Lee		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

***FURTHER OFFICER RECOMMENDATION:***

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by N Smith on behalf of the owner N Flavel, for an additional two-storey grouped dwelling to existing dwelling at No. 135A (Lot 142) (Strata Lot 2) West Parade, Mount Lawley, as shown on plans stamp-dated 20 November 2002(hf03pa, hf04pa, hf05pa, hf07pa, hf09pa), 10 January 2003 (contour and feature survey), 22 January 2003 (hf06pa) and 21 February 2003(hf08pa, hf02pa, hf09pa, hf08pa, hf01pa ), subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
  - (a) a store, not visible from the adjacent street(s), accessible from the outside, and of a minimum area of 4 square metres and a minimum dimension of 1.5 metres being provided. The store being provided as a weatherproof enclosure with a lockable door and be built in materials compatible with the development; and*
  - (b) the eastern side of the balcony/deck accessible from the kitchen on the first floor level being screened with a permanent obscure material from the finished floor level of the balcony to the full ceiling height of the balcony roof. A permanent obscure material does not include a self-adhesive material or other material that is easily removed.*

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

- (iii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to West Parade shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*

- (iv) *no street trees shall be removed, cut back, pruned or interfered with in any way, without the prior approval of the Town's Parks Services;*
- (v) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the kitchen on the eastern elevation on the first floor shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed;*
- (vi) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (vii) *a right of way security bond and/or bank guarantee for \$885 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services;*
- (viii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ix) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security deposit must be made in writing; and*
- (x) *a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Cohen, Seconded Cr Hall**

*That the recommendation be adopted.*

*Debate ensued.*

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

*That a new clause (xi) be added as follows:*

*"(xi) the maximum amount of fill permitted to be placed on the lot is 300 millimetres;"*

*and in clause (v) the words "and be non-openable" be deleted and the words "The obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees" be added following the words "easily removed" as follows:*

*"(v) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the kitchen on the eastern elevation on the first floor shall be screened with a permanent obscure material 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 obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees;"*

*Debate ensued*

**AMENDMENT CARRIED (9-0)**

**Moved Cr Hall, Seconded Cr Piper**

*That an additional clause (ii) (c) be added as follows:*

*"(ii) (c) the maximum height of any part of the building not to exceed six metres."*

*Debate ensued.*

**AMENDMENT LOST (4-5)**

**For**

**Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Piper**

**Against**

**Mayor Catania  
Cr Chester  
Cr Cohen  
Cr Doran-Wu  
Cr Ker**

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

**COUNCIL DECISION ITEM 10.1.1**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by N Smith on behalf of the owner N Flavel, for an additional two-storey grouped dwelling to existing dwelling at No. 135A (Lot 142) (Strata Lot 2) West Parade, Mount Lawley, as shown on plans stamp-dated 20 November 2002(hf03pa, hf04pa, hf05pa, hf07pa, hf09pa), 10 January 2003 (contour and feature survey), 22 January 2003 (hf06pa) and 21 February 2003(hf08pa, hf02pa, hf09pa, hf08pa, hf01pa ), subject to:*

*(i) compliance with all relevant Environmental Health, Engineering and Building requirements;*

- (ii) *prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
- (a) *a store, not visible from the adjacent street(s), accessible from the outside, and of a minimum area of 4 square metres and a minimum dimension of 1.5 metres being provided. The store being provided as a weatherproof enclosure with a lockable door and be built in materials compatible with the development; and*
  - (b) *the eastern side of the balcony/deck accessible from the kitchen on the first floor level being screened with a permanent obscure material from the finished floor level of the balcony to the full ceiling height of the balcony roof. A permanent obscure material does not include a self-adhesive material or other material that is easily removed.*

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

- (iii) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to West Parade shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iv) *no street trees shall be removed, cut back, pruned or interfered with in any way, without the prior approval of the Town's Parks Services;*
- (v) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the kitchen on the eastern elevation on the first floor shall be screened with a permanent obscure material 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 obscure portion of the windows shall be fixed in a closed position and any higher part may be openable, or the whole windows be top hinged and the obscure portion of the window openable to a maximum of 20 degrees;*
- (vi) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (vii) *a right of way security bond and/or bank guarantee for \$885 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services;*

- (viii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ix) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security deposit must be made in writing;*
- (x) *a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost; and*
- (xi) *the maximum amount of fill permitted to be placed on the lot is 300 millimetres;*
- to the satisfaction of the Chief Executive Officer.*

#### **ADDITIONAL FURTHER REPORT:**

##### **Building Height**

An objector has raised concern regarding the height of the wall being tabled in the report as varying between 5.6 metres and 6.95 metres. The Town's Officers understand that the level 5.6 metres is correct, as fill is not required for the entire southern elevation, therefore on the southern elevation closest to the right of way, the height of the wall will be 5.6 metres as no fill is required at this point. The Town's Officers are satisfied that the minimum wall height on the southern side will vary between 5.6 metres and 5.9 metres where fill is required on this side. Notwithstanding, the height of the wall on the southern elevation complies with the height requirements of the Residential Design Codes.

##### **Site Works**

In order to address an objector's concerns relating to the amount of fill proposed on site, it is recommended that the above condition (xi) be imposed on the development stating that the maximum amount of fill permitted to be placed on the lot is 300 millimetres.

##### **Discretion**

In response to an objector's comments regarding the comparative analysis, clause 38 (5) of the Town's Town Planning Scheme No. 1 states that:

*"Without limiting the scope of the Council's discretion to determine an application under subclause (3), the Council is to have regard to .....*

- (f) *any submission accompanying or related to the application"*

Therefore, it is considered that the Council in determining the application can consider previous applications and any submission that the applicant or complainants make in relation to the application.

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#### **FURTHER REPORT:**

The Council at its Ordinary Meeting held on 11 February 2003 considered the application and resolved that the item be deferred for further investigation and report.

The applicant has provided further information to the Town in regard to the application.

The additional plans provide the following information:

1. A site analysis plan showing information, including the position of adjoining and existing buildings, location of services surrounding landuses, direction of cooling breezes, favourable locations for outdoor living areas, the location of a lemon tree that will be removed as a part of the development.
2. Proposed development site/first floor plan.
3. A shadow diagram, identifying that a portion of the adjoining property to the south vegetable garden will be overshadowed at midday on June 21, however it is less than 50 percent which is the maximum as allowed by the Residential Design Codes (R Codes).
4. Comparative Analysis which shows that the impact of the proposal is less than a previous approval.
5. Retaining walls which identifies where cut and fill will occur on site.

The applicant has also provided the following submission:

*"The proponents appreciate the officer recommendation supporting the contemporary roof line and the need for some discretion given the RDC's lack of clarity on this issue. The cooperative offer put forward regarding lowering all walls to a height of 6m at the last meeting is also appreciated. However, this would reduce the south wall height to only 4.8m, which I am sure you are aware would result in non-compliant habitable room height averages of 2.3 or an acceptable 2.4m on the second floor and non-compliant 2.2m on the ground floor. This is why there is considerable sense in using the criteria set out in RDC 3.7.1 Table 3 for "concealed roofs". The low pitch of the proposed skillion is what would be found in a concealed roof, i.e. the skillion roof is compliant with the intent of the RDC's in that building height and roof height is controlled. This is clearly displayed in the comparative analysis drawings described above.*

*The proponents are willing to comply with the conditions applied as part of the previous agenda item with the exception of (ii) (b). The reason for this is that screening the height of the balcony on the East side to more than 1.8 m would block out morning winter sun to an unacceptable degree. The condition states the screen should run to the height of the balcony roof. We are of the view that the difference in noise attenuation between a 1.8m and 2.4m screen is minimal with no added benefit for the prevention of overlooking (except for very tall people). In order to be consistent with this change, the screen to the northern side will be increased from 1.6 to 1.8m. It is important to remember that this wall is already setback 1.2m, and 1.7m from the East and North walls respectfully. To further support a 1.8m height it may be considered that the screen is a fence, in which case if the balcony were at ground level this height would be perfectly acceptable. Again, the owners are open to flexibility and modifications once the property is complete and if these issues become problematic. It has been pleasing to observe this heightened level of "good faith" in the relations that make up this proposal."*

In regard to the additional submissions provided by the applicant, the Town acknowledges the comments regarding the height of the wall. However, as defined by the R Codes, the Town's Officers believe that the roof is still technically considered to be a 'roof above' rather than a 'concealed roof'.

Notwithstanding, the intent and impact of the height of the walls would be similar as a concealed roof and the Town's Officers believe that the adjoining properties would not be unduly affected by the variation to the R Codes. Accordingly, the Town's Officers maintain support of the variation to the wall height.

The applicants comments regarding the screening of the balcony are noted. However, the affected neighbour has raised strong objections to this non-compliance and it is recommended that this condition be retained to address the complainants concerns. This screening may be in the form of obscure glazing which would still allow light to the balcony and living areas. Accordingly, it is recommended that previous condition (ii) (b) be retained.

The Town's Officers believe that adequate information has been provided on the plans to make an accurate assessment of the proposal. The Town's Officers consider that the additional plans and information do not require advertising for a further two weeks consultation with the adjoining property owners. Predominately, the plans show additional information regarding the existing site, and information provided regarding the new development does not increase the variations to the R Codes.

Accordingly, it is recommended that the proposal be approved subject to the same conditions as recommended in the Officer Recommendation presented to the Ordinary Meeting of Council held on 11 February 2003.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 11 February 2003.

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by N Smith on behalf of the owner N Flavel, for an additional two-storey grouped dwelling to existing dwelling at No. 135A (Lot 142) (Strata Lot 2) West Parade, Mount Lawley, as shown on plans stamp-dated 20 November 2002, 10 January 2003 and 22 January 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
  - (a) a store, not visible from the adjacent street(s), accessible from the outside, and of a minimum area of 4 square metres and a minimum dimension of 1.5 metres being provided. The store being provided as a weatherproof enclosure with a lockable door and be built in materials compatible with the development; and*
  - (b) the eastern side of the balcony/deck accessible from the kitchen on the first floor level being screened with a permanent obscure material from the finished floor level of the balcony to the full ceiling height of the balcony roof. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*

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

- (iii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to West Parade shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iv) no street trees shall be removed, cut back, pruned or interfered with in any way, without the prior approval of the Town's Parks Services;*
- (v) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to the kitchen on the eastern elevation on the first floor shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed;*
- (vi) prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (vii) a right of way security bond and/or bank guarantee for \$885 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services;*
- (viii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (ix) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security deposit must be made in writing; and*
- (x) a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.5**

Moved Cr Cohen, Seconded Cr Ker

*That the recommendation be adopted.*

*Debate ensued.*

Moved Cr Hall, Seconded Cr Franchina

*That this item be DEFERRED for further investigation and report.*

CARRIED (5-3)

For

Cr Chester  
Cr Cohen  
Cr Franchina  
Cr Hall  
Cr Piper

Against

Cr Doran-Wu  
Cr Drewett  
Cr Ker

*(Mayor Nick Catania departed the meeting (unwell) at 7.31pm and did not vote.)*

LANDOWNER:

*N Flavel*

APPLICANT:

*N Smith*

ZONING:

*Metropolitan Region Scheme – Urban*

*Town Planning Scheme No. 1 – Residential R60*

EXISTING LAND USE:

*Grouped Dwelling on Strata Lot 1*

COMPLIANCE:

<i>Requirements</i>	<i>Required</i>	<i>Proposed</i>
<i>Setbacks - unenclosed balconies setback as though they were major openings to habitable rooms with a wall height of 2.4 metres above their floor level.</i>	<i>2.5 metres on northern elevation; 2.5 metres on eastern elevation</i>	<i>1.7 metres to balcony/deck 1.2 metres to balcony/deck</i>
<i>Store Room</i>	<i>An enclosed, lockable storage area, matching the dwelling, of at least 4 square metres.</i>	<i>No store room shown.</i>
<i>Privacy - northern boundary</i>	<i>6 metres setback between major openings to habitable rooms and the adjoining property.</i>	<i>4.8 metres from living room to eastern boundary, however windows have been placed so that there is not considered to be direct overlooking.</i>
<i>Building Height</i>	<i>6.0 metres to top of external wall (roof above) 9.0 metres to top of pitched roof</i>	<i>Contemporary roofline proposed. Roof above but with no apex at pitch of roof. 5.6 metres to 6.95 metres to top of wall proposed.</i>

<i>Retaining Walls</i>	<i>Retaining walls to be setback 1 metre from common boundaries</i>	<i>Retaining walls proposed on the northern, eastern and southern property boundaries</i>
<i>Use Class</i>	<i>Grouped Dwelling</i>	
<i>Use Classification</i>	<i>'P'</i>	
<i>Lot Area</i>	<i>189 square metres</i>	

**SITE HISTORY:**

*The property is located on the eastern side of West Parade between Guildford Road and Chertsey Street. A 3.62 metres wide, private, sealed right of way is located along the rear of the property. The surrounding land uses are characterised by predominantly single-storey single residences interspersed with sporadic two-storey development and commercial uses.*

*27 April 1999*

*The Council at its Ordinary Meeting resolved to conditionally approve an additional two-storey grouped dwelling to the rear of the existing dwelling.*

*24 July 2001*

*The Council at its Ordinary Meeting refused an application for an additional three-storey grouped dwelling to the rear of the existing dwelling for the following reasons:*

- “1. Non-compliance as stated in the report.*
- 2. Non-compliance with the locality statement.*
- 3. Non-compliance with the development considered to be inappropriate for the amenity of the area.”*

*4 December 2001*

*The Council at its Ordinary Meeting constructively refused a proposal for an additional three storey grouped dwelling to the rear of the existing dwelling for the following reasons:*

- "1. Non compliance as stated in the report.*
- 2. Non compliance with the locality statements.*
- 3. Non compliance with the development considered to be inappropriate for the amenity of the area."*

*11 October 2002*

*The Town received an application for a two-storey single house at the rear of the existing house. The application was assessed and advertised in accordance with the Town's Policy relating to Community Consultation. The Residential Design Codes 2002 (R Codes) were gazetted on 4 October 2002. At this time, the full implications of the R-Codes were not fully determined and the Town had not yet put practises into place that complied with the advertising requirements of the new R Codes. This required that affected neighbours are advised in writing of non-compliances with the R-Codes. In addition, several neighbours requested copies of plans to be provided to them, so they could undertake a thorough assessment of the proposal. The applicant agreed to provide copies of the plans and they were distributed to those who requested.*

*Due to non-compliances with the R-Codes and the relevant Town's Policy, the Town's Officers suggested that the applicant revise the plans to address several of these non-compliances or provide justification for the variations to the R Codes and Town's Policies.*

6 November 2002

*Revised plans were received. These revised plans were advertised for a further 14 days and all affected neighbours were provided with a copy of the plans as agreed by the applicant. The Town's Officers received several written and verbal complaints regarding the development and the interpretation of the new R-Codes during this period.*

18 November 2002

*The applicant withdrew the application (Serial Number 00/33/1344).*

20 November 2002

*The Town received a new application (Serial Number 00/33/1397) for the subject property. The proposal was advertised to adjoining neighbours with a description of non-compliances with the R-Codes, and a copy of the plans as agreed to by the applicant.*

7 January 2003

*The applicant provided the Town with a contour and feature survey.*

21 January 2003

*The Town received details from the applicant relating to retaining walls, finished floor levels in relation to the site and contour survey and details of likely external finishes being grey coloured plastered render finish, aluminium windows and off white colorbond roof.*

11 February 2003

*The Council at its Ordinary Meeting resolved to defer the determination of the proposal pending for further investigation and report.*

#### **DETAILS:**

*The proposal involves the addition of a two-storey grouped dwelling behind the existing dwelling. Vehicular access is proposed from the rear 3.62 metres wide, privately owned and sealed right of way. A 1.2 metres wide pedestrian access way is provided from the subject lot through to West Parade for the collection of mail and rubbish. This pedestrian access way has been approved as a part of a survey strata plan in 1999.*

*The applicant has also requested that the application fee be waived in light of the number of times that the application has been submitted. The applicant paid a \$100 fee on the most recently submitted application.*

*The proposal has required a complete reassessment to be undertaken due to the introduction of the new Residential Design Codes (R Codes). It is acknowledged that the applicant had no control over this matter. However, the applicant did not provide sufficient information for a full and accurate assessment of the proposal in the first instance, which has led to additional correspondence and liaison with the applicant and effected neighbours. In this instance, it is considered that a \$100 is appropriate and no fees should be refunded.*

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

*Two written objections were received during the consultation periods.*

*The objectors' comments are similar and a summary of the objectors' comments is as follows:*

*Information*

*The objectors' state that the application should be refused on the grounds that information has not been provided in accordance with Parts 2.44-2.4.6 of the R Codes and Council (not the Town) has not granted discretion to vary these requirements.*

*The objectors state that information relating to proposed level of fill or a site survey has not been provided. The objectors have expressed concern that the information provided by the applicant is not accurate due to the manner in which it was collected. In addition, information relating to the location and height of retaining is not provided and accordingly can not be assessed to ascertain compliance with the R Codes.*

*In addition, information relating to exterior finishes has not been provided and concern was raised regarding potential glare from the roofing material.*

*Building Height*

*The objectors also object on the matter of building height and consider that the proposal is a "roof above" and therefore does not comply with the R Codes.*

*Setbacks*

*The objectors also object on the matter of setbacks for retaining walls, the unenclosed balcony to the eastern boundary and consider that the parallel windows to the eastern boundary wall are major openings.*

*Overlooking*

*The objectors request that the windows to the kitchen are glazed in an obscure material and be non-openable so the windows are not considered to be a major opening.*

**COMMENTS:**

*Information*

*The objectors' comments are noted. Since the introduction of the Residential Design Codes in 2002, the Town's Officers have modified practices for receiving applications requiring details as specified by Clause 2.4 of the new R Codes. In some instances, the Town's Officers believe that all information as stated by Clause 2.4 of the R Codes is not considered necessary for a thorough assessment of the proposal. The R Codes does not give the Town's Officers the ability to vary the required information.*

*Clause 2.5.3 of the R Codes also formally give the applicant the opportunity to respond to comments received from affected landowners. In accordance with this requirement, the applicant has been made aware of objections and concerns raised, and the applicant has provided additional information and plans to clarify many of the concerns.*

*Heritage*

*The existing dwelling on strata Lot 1 is listed on the Town's Interim Heritage Database. No alterations to the existing dwelling are proposed as a part of this application. The Town's Heritage Officers advised that they had no objection to the proposal on heritage grounds.*

*Roof Materials*

*In response to concerns raised by neighbours in relation to possible glare from the roof, the applicant has provided the following statement:*

*"The issue of reflectivity from the roof is dealt with via the low roof pitch as it makes it geometrically impossible to see the roof surface at all from closer than 40m.*

*The distance from which the reflected sun (glare) can be seen is considerably further and should not cause irritation. This is compounded by the "weathering" of the surface over time that reduces the co-efficient of reflectivity. The proponents are agreeable to the possible painting of the roof surface if it is found to be of neighbourly concern following dwelling completion."*

*Due to the pitch of the proposed roofline and the proposed materials of the roof, it is unlikely that unreasonable glare will be caused from the roof. Accordingly, the proposed roof is supported.*

#### *Building Height*

*The applicant has provided the following response/justification in regard to the variation to building height.*

*"The proponents consider the R Codes to be deficient in dealing with low pitched skillion roofs of the kind proposed so some interpretation is required. The end walls are "gables" and thus at less than 9m long are exempted. The long wall height can be calculated as shown on the drawings (and according to R Codes 3.7/A1.1 note ii) at 6145 mm. This is indeed 145mm higher than the 6 m maximum but the proponents request variation on this matter via the justification that 1.) excavating the dwelling any further may cause flooding problems towards the (higher) laneway; 2) that the height of the same wall on the laneway boundary is 5745mm; 3.) that the average height of the wall across the site is 5945mm and; 4.) that the change in material from masonry to glazing at 5890mm reduces the apparent bulk and scale of the wall. In addition, the proponents are reducing the impact of the dwelling by using this type of roof arrangement, where a traditional roof could have increased height to 9m."*

*The R Codes are not considered to specifically cater for this type of roof - roof above with no typical pitch to the roof at an apex. The Town's Officers believe it is appropriate for this type of roofline to be supported as its not considered to have an unreasonable effect on the adjoining properties in terms of bulk and scale. The shorter wall generally complies with the R Codes and the proposed dwelling is not considered to have excessive ceiling heights. Accordingly this variation is supported.*

#### *Setbacks.*

*In regard to setbacks, the applicant has provided the following information.*

*"The retaining walls as stated earlier are less than 500mm high (300mm maximum) so the issue of setback is negligible. They will be placed inside the fence line and so should not have a deleterious effect on neighbouring properties. Upon dwelling completion it may be mutually agreeable to increase fence heights by 300mm where necessary.*

*As shown on previous drawings the north facing balcony is screened to 1600mm to prevent overlooking of the north and east sides. It is in essence an enclosed balcony and as such is compliant. The proponents are reluctant to increase the screen height any further, and would seek considerable justification for the necessity of doing so when winter sun penetration is already compromised by the 1600mm wall.."*

*The applicant has advised that the proposed retaining walls will be a maximum of 300 millimetres high. This is not considered to create unreasonable overlooking or unduly affect the adjoining affected neighbours' amenity.*

*The setback from the right of way was previously highlighted as a variation to adjoining property owners. On further assessment, it has been revealed that the right of way may be considered as a secondary street and therefore only requires a first floor setback of 1 metre.*

*Therefore, the setback of the proposed dwelling is deemed to comply. No objections were received from adjacent affected neighbours in relation to this matter.*

*The applicant is seeking a variation in relation to the setback of the balcony and the requirement for the balcony to be screened to full height on the northern and eastern elevations.*

*An objection has been received from the eastern neighbour in relation to the balcony.*

*However, in this instance, setting back the balcony or screening the balcony on both the eastern and northern elevations to strictly comply with the R Codes is not considered to create a better outcome for the owners nor the adjoining residents. Screening the balcony to full height may be considered to increase the bulk and scale of the dwelling on these elevations.*

*The Town's Officers consider that there are two other main issues relating to the balcony; noise from the use of the balcony and overlooking from the balcony.*

*Setting back the balcony to comply with the requirements of the R Codes is unlikely to achieve a notable difference in noise. Screening the balcony to full height may reduce noise levels but may have other more detrimental side effects relating to bulk, scale, setbacks and plot ratio.*

*Overlooking concerns have been addressed by screening the balcony on the eastern and northern elevations to a height of 1.6 metres.*

*Notwithstanding the above, in order to address the objectors' concerns, it is recommended that the eastern elevation of the balcony is screened from the finished floor level of the balcony to the balcony roof. However, as no objection has been received from the neighbour on the north, screening to full height on this side is not considered appropriate.*

#### *Store Room*

*The plans do not show the provision of a store room on the subject site. The provision of a storeroom may effect plot ratio and open space provisions. Accordingly, it is recommended that revised plans are received which show the provision of a store room in compliance with the R Codes and the applicant is advised that the revised plans shall not result in any greater variations to the R Codes nor the Town's Policies.*

#### *Privacy*

*The proposed windows to the living room on the northern elevation do not comply with the acceptable development requirement of the R Codes, however they are deemed to comply with the intent of the performance criteria and avoid direct overlooking into the adjoining property. Accordingly, this variation is supported. The applicant has shown the kitchen windows as obscure. It is recommended this be reiterated in a condition of Planning Approval to comply with the requirements of the R Codes.*

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

**10.1.10 No. 103-105 (Lot 100) Oxford Street, Leederville - Proposed Three Storey with Basement, Mixed Use Development Including 15 Multiple Dwellings, Shops and Eating House**

Ward:	North Perth	Date:	5 March 2003
Precinct:	Oxford Centre, P4	File Ref:	PRO0452; 00/33/1442
Reporting Officer(s):	V Lee		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by Champion Design Group on behalf of the owners T W McAlister Holding Pty Ltd, for the proposed three storey with basement, mixed use development including Fifteen (15) multiple dwellings, shops and eating house, at Nos. 103 - 105 (Lot 100) Oxford Street, Leederville, and as shown on plans stamp dated 23 December 2002 (A1-01), 14 February 2003 (A3-01, A3-02, A4-01) and 28 February 2003(A2-01, A2-02, A2-03, A2-04), subject to:*

- (i) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
  - (a) the provision of sanitary facilities for people with disabilities within the first floor eating house; and*
  - (b) the provision of end of trip facilities for staff and visitors of the shops and eating house, including at least one shower and seven lockers;*

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

- (ii) prior to the first occupation of the development, seven (7) class 1 or 2 bicycle parking rails, and five (5) class 3 bicycle rails shall be provided at locations within and/or convenient to the entrances of the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (iii) a report detailing any necessary remedial measures to rectify any unsuitable soil and/or ground water contamination of the subject site to the satisfaction of the Town shall be submitted and approved prior to the issue of a Building Licence. All such measures and works shall be undertaken prior to the first occupation of the development and thereafter maintained, at the applicant's/owner(s)' full expense;*
- (iv) all car parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Residential Design Codes, the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*

- (v) *prior to the first occupation of the development, 29 car parking spaces shall be provided for the residential component of the development, shall be clearly marked and signposted for the exclusive use of the residents of the development and shall not be in tandem arrangement unless they service the same residential unit/dwelling . A minimum of three (3) car parking spaces shall be provided for visitors of the development, and are to be adequately marked and signposted for the use of visitors;*
- (vi) *prior to the issue of a Building Licence, designs for art works valued at a minimum of 1 per cent of the estimated total cost of the development, that is, \$27,000.00, shall be submitted to and approved by the Town. The art work(s) shall be in accordance with the Town's Policy relating to Percent for Art Scheme and be developed in full consultation with the Town's Community Development and Administrative Services Section with reference to the Percent for Art Scheme Policy Guidelines for Developers. The art work(s) shall be installed prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vii) *prior to the first occupation of the development, the full length and width of the right of way from Leederville Parade to the southern most boundary most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (viii) *a bond and/or bank guarantee for \$3000 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (ix) *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;*
- (x) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (xi) *a road and verge security deposit bond and/or bank guarantee of \$3200 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 Town's assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xii) *the residential component of the development shall be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation shall be in accordance with the recommendations, developed in consultation with the Town, of an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The sound insulation recommendations shall be submitted and approved prior to the issue of a Building Licence. The engagement of and the implementation of the recommendations of this acoustic consultant are to be at the applicant's/owner(s)' costs;*
- (xiii) *all windows and external doors to the residential component of the development shall be manufactured and installed so as to form an effective acoustic barrier to the outside;*

- (xiv) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (xv) *a detailed landscaping plan, including a schedule of plant species, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xvi) *subject to first obtaining the consent of the owners of adjoining No. 99 - 101 Oxford Street, Lot 36 (the Town) and the Drainage Reserve (the Water Corporation and Town) for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 99 - 101 Oxford Street, Lot 36 and the Drainage Reserve in a good and clean condition;*
- (xvii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property that the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*
- (xviii) *a detailed management plan that addresses the control of noise, traffic, car parking, disposal of rubbish and its collection and litter associated with the development shall be submitted to and approved by the Town prior to the first occupation of the development, and thereafter implemented and maintained;*
- (xix) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town.*
- (xx) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division.*
- (xxi) *proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services Division;*
- (xxii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xxiii) *no services shall be located on the adjoining Lot 36 nor the Water Corporation Drainage Reserve. The Town accepts no liability for the cost of relocating any services that may be required as a consequence of this development. The applicant/owner(s) 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);*
- (xxiv) *the gross floor area of the retail shops shall not exceed 646.6 square metres and the eating house area shall not exceed 482 square metres of public area;*
- (xxv) *ground floor doors, windows and adjacent floor areas fronting Oxford Street and the Water Corporation easement shall maintain an active and interactive relationship to Oxford Street and the Water Corporation Drainage Reserve;*

- (xxvi) *prior to the issue of the Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of \$82, 000 for the equivalent value of 32.8 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2002/2003 Budget; and*
- (xxvii) *compliance with all relevant Environmental Health, Engineering and Building requirements, including vehicular and pedestrian access to, and manoeuvrability within the basement access complying with Australian Standards, and access for persons with disabilities throughout the development;*
- to the satisfaction of the Chief Executive Officer.*
- 

**Moved Cr Ker, Seconded Cr Cohen**

*That the following amended recommendation be adopted.*

**AMENDED RECOMMENDATION:**

*Amend clause (xviii) and (xxvi) of the previous recommendation to read as follows:*

- (xviii) *a detailed management plan that addresses the control of noise, noise and vibration associated with air conditioning, traffic, car parking, disposal of rubbish and its collection and litter associated with the development shall be submitted to and approved by the Town prior to the first occupation of the development, and thereafter implemented and maintained;*
- (xxvi) *prior to the issue of the Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of ~~\$82, 000~~ \$70,925 for the equivalent value of ~~32.8~~ 28.37 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2002/2003 Budget; and*

*Add the following clauses (xxviii) and (xxix) to the previous recommendation:*

*"(xxviii) the Western Power substation being incorporated in the development on site or alternative arrangements to the satisfaction of the Town;*

(xxix) *prior to the first occupation of the development, representation of the former building and its uses shall be demonstrated in the following ways:*

- (a) *the placement of a plaque in or on the wall of the building facing Oxford Street with the following words: "This land was the site of Mac's Joinery Works for 31 years from 1947 to 1973. Part of the land was later purchased for the Mitchell Freeway construction. Prior to 1947 the land was cultivated as Chinese market gardens" at a height of between 1227millimetres and 1709millimetres in plain style lettering in contrast to the background;*
- (b) *an acknowledgment on the parapet of the building facing Oxford Street with the following wording formed in the render : "Mac's Joinery Works Est. 1947"; and*
- (c) *the existing façade and shop front shall be acknowledged physically in the proposed new development by being inscribed in plan in the floor of the development by means of the 3 millimetres brass strip cut into the floor slab or similar. Where that strip is to be covered by subsequent floor finishes, its profile shall be reflected in the final changes, such as by change of colour or texture;"*

Cr Franchina departed the Chamber at 7.42pm.

Cr Piper departed the Chamber at 7.43pm.

*Debate ensued.*

Cr Piper returned to the Chamber at 7.46pm.

**AMENDMENT CARRIED (8-0)**

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

**Moved** Cr Ker, **Seconded** Cr Cohen

*That in clause (v) the words “Car parking bays associated with retail and restaurant uses are to be clearly signed both internally and externally and available to customers at all times the businesses are open.” be added after the words “use of visitors.” as follows:*

*“(v) prior to the first occupation of the development, 29 car parking spaces shall be provided for the residential component of the development, shall be clearly marked and signposted for the exclusive use of the residents of the development and shall not be in tandem arrangement unless they service the same residential unit/dwelling . A minimum of three (3) car parking spaces shall be provided for visitors of the development, and are to be adequately marked and signposted for the use of visitors. Car parking bays associated with retail and restaurant uses are to be clearly signed both internally and externally and available to customers at all times the businesses are open;”*

**AMENDMENT CARRIED (8-0)**

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

Cr Drewett departed the Chamber at 7.49pm.

**Moved** Cr Chester, **Seconded** Cr Ker

*That, in clause (xiii) the words “and air conditioning ducting” be added after the words “external doors” as follows:*

*“(xiii) all windows, external doors and air conditioning ducting to the residential component of the development shall be manufactured and installed so as to form an effective acoustic barrier to the outside;”*

Cr Franchina returned to the Chamber at 7.50pm.

**AMENDMENT CARRIED (8-0)**

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

Cr Drewett returned to the Chamber at 7.51pm.

*Debate ensued.*

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

**COUNCIL DECISION ITEM 10.1.10**

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by Campion Design Group on behalf of the owners T W McAlister Holding Pty Ltd, for the proposed three storey with basement, mixed use development including Fifteen (15) multiple dwellings, shops and eating house, at Nos. 103 - 105 (Lot 100) Oxford Street, Leederville, and as shown on plans stamp dated 23 December 2002 (A1-01), 14 February 2003 (A3-01, A3-02, A4-01) and 28 February 2003(A2-01, A2-02, A2-03, A2-04), subject to:*

- (i) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
  - (a) the provision of sanitary facilities for people with disabilities within the first floor eating house; and*
  - (b) the provision of end of trip facilities for staff and visitors of the shops and eating house, including at least one shower and seven lockers;*

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

- (ii) prior to the first occupation of the development, seven (7) class 1 or 2 bicycle parking rails, and five (5) class 3 bicycle rails shall be provided at locations within and/or convenient to the entrances of the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (iii) a report detailing any necessary remedial measures to rectify any unsuitable soil and/or ground water contamination of the subject site to the satisfaction of the Town shall be submitted and approved prior to the issue of a Building Licence. All such measures and works shall be undertaken prior to the first occupation of the development and thereafter maintained, at the applicant's/owner(s)' full expense;*
- (iv) all car parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Residential Design Codes, the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (v) prior to the first occupation of the development, 29 car parking spaces shall be provided for the residential component of the development, shall be clearly marked and signposted for the exclusive use of the residents of the development and shall not be in tandem arrangement unless they service the same residential unit/dwelling . A minimum of three (3) car parking spaces shall be provided for visitors of the development, and are to be adequately marked and signposted for the use of visitors. Car parking bays associated with retail and restaurant uses are to be clearly signed both internally and externally and available to customers at all times the businesses are open;*

- (vi) *prior to the issue of a Building Licence, designs for art works valued at a minimum of 1 per cent of the estimated total cost of the development, that is, \$27,000.00, shall be submitted to and approved by the Town. The art work(s) shall be in accordance with the Town's Policy relating to Percent for Art Scheme and be developed in full consultation with the Town's Community Development and Administrative Services Section with reference to the Percent for Art Scheme Policy Guidelines for Developers. The art work(s) shall be installed prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vii) *prior to the first occupation of the development, the full length and width of the right of way from Leederville Parade to the southern most boundary most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (viii) *a bond and/or bank guarantee for \$3000 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (ix) *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;*
- (x) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (xi) *a road and verge security deposit bond and/or bank guarantee of \$3200 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 Town's assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xii) *the residential component of the development shall be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation shall be in accordance with the recommendations, developed in consultation with the Town, of an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The sound insulation recommendations shall be submitted and approved prior to the issue of a Building Licence. The engagement of and the implementation of the recommendations of this acoustic consultant are to be at the applicant's/owner(s)' costs;*
- (xiii) *all windows, external doors and air conditioning ducting to the residential component of the development shall be manufactured and installed so as to form an effective acoustic barrier to the outside;*
- (xiv) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (xv) *a detailed landscaping plan, including a schedule of plant species, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*

- (xvi) *subject to first obtaining the consent of the owners of adjoining No. 99 - 101 Oxford Street, Lot 36 (the Town) and the Drainage Reserve (the Water Corporation and Town) for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 99 - 101 Oxford Street, Lot 36 and the Drainage Reserve in a good and clean condition;*
- (xvii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property that the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*
- (xviii) *a detailed management plan that addresses the control of noise, noise and vibration associated with air conditioning, traffic, car parking, disposal of rubbish and its collection and litter associated with the development shall be submitted to and approved by the Town prior to the first occupation of the development, and thereafter implemented and maintained;*
- (xix) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town.*
- (xx) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division.*
- (xxi) *proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services Division;*
- (xxii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xxiii) *no services shall be located on the adjoining Lot 36 nor the Water Corporation Drainage Reserve. The Town accepts no liability for the cost of relocating any services that may be required as a consequence of this development. The applicant/owner(s) 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);*
- (xxiv) *the gross floor area of the retail shops shall not exceed 646.6 square metres and the eating house area shall not exceed 482 square metres of public area;*
- (xxv) *ground floor doors, windows and adjacent floor areas fronting Oxford Street and the Water Corporation easement shall maintain an active and interactive relationship to Oxford Street and the Water Corporation Drainage Reserve;*
- (xxvi) *prior to the issue of the Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of \$70,925 for the equivalent value of 28.37 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2002/2003 Budget;*

- (xxvii) *compliance with all relevant Environmental Health, Engineering and Building requirements, including vehicular and pedestrian access to, and manoeuvrability within the basement access complying with Australian Standards, and access for persons with disabilities throughout the development;*
- (xxviii) *the Western Power substation being incorporated in the development on site or alternative arrangements to the satisfaction of the Town; and*
- (xxix) *prior to the first occupation of the development, representation of the former building and its uses shall be demonstrated in the following ways:*
- (a) *the placement of a plaque in or on the wall of the building facing Oxford Street with the following words: "This land was the site of Mac's Joinery Works for 31 years from 1947 to 1973. Part of the land was later purchased for the Mitchell Freeway construction. Prior to 1947 the land was cultivated as Chinese market gardens" at a height of between 1227millimetres and 1709millimetres in plain style lettering in contrast to the background;*
  - (b) *an acknowledgment on the parapet of the building facing Oxford Street with the following wording formed in the render : "Mac's Joinery Works Est. 1947"; and*
  - (c) *the existing façade and shop front shall be acknowledged physically in the proposed new development by being inscribed in plan in the floor of the development by means of the 3 millimetres brass strip cut into the floor slab or similar. Where that strip is to be covered by subsequent floor finishes, its profile shall be reflected in the final changes, such as by change of colour or texture;*

*to the satisfaction of the Chief Executive Officer.*

#### **FURTHER REPORT:**

##### **Density**

Clause 3.1.2 of the Residential Design Codes - Additional Site Area Requirements/Concessions states that:

*"...Where the lot....adjoins or abuts a right-of-way or public reserve for open space, pedestrian access, school site or equivalent, half the width (up to a maximum depth of two metre) may be added to the site area."*

The subject lot is 1725 square metres. The proposed development exceeds the density allowed in this zone. In this instance, the Water Corporation Reserve is considered to be the equivalent of the intent of Clause 3.1.2, and therefore when this is taken into account, the lot size for the density is increased to 1848 square metres. Accordingly, the acceptable development criteria allows the Town to support a variation to the site area requirements.

##### **Car parking**

The proposed development is significantly different to the previous applications considered by Council. Previously only eight (8) dwellings, one showroom, three offices and one restaurant were approved. This had significantly different car parking requirements compared to the current application.





Minus the car parking provided on site for uses other than residential purposes. *(42 bays provided in total, 29 bays required for residential, 3 bays for visitors, resulting in 10 bays for commercial uses)	10 car bays
Minus the most recently approved on site car parking shortfall. (13 August 2002 short fall of 41 car bays approved x adjustment factors)	16 car bays
Resultant shortfall	32.8 car bays

\*Residential car parking requirements, including the provision of visitor parking, has been met.

**Bicycle Parking Facilities:**

<b>Required</b>	<b>Provided</b>
Seven (7) class 1 or 2 bicycle parking bays, and five (5) class 3 bicycle bays. End of trip facilities including the provision of seven lockers and at least one shower encouraged.	Two class 2 two bicycle parking bays provided.

**SITE HISTORY:**

- April 1982: The Council of the City of Perth considered 5 applications for the construction of a two/three-storey commercial building accommodating office and retail uses on the subject land.
- 19 April 1982: The Council of the City of Perth **approved** a three storey commercial building on the subject land accommodating retail and office uses.
- 17 November 1986: The Council of the City of Perth **refused** a three storey mixed retail and office building on the subject land.
- 15 August 1988: The Council of the City of Perth **approved** a two storey commercial building accommodating retail/restaurant and office uses on the subject land.
- 18 March 1991: The Council of the City of Perth **approved** a two storey commercial building accommodating retail, restaurant and office uses on the subject land.
- 28 January 1995: The Commissioners of the Town of Vincent **refused** an application for 8 shops, 1 restaurant and 10 residential units due to non-compliance with car parking requirements. The applicant was advised that the Council will consider a mixed commercial/residential development on its merit, provided that the intensity of uses is decreased and adequate car parking is provided.
- 29 July 1996: At the Ordinary Meeting, the Council **refused** a proposal for three shops, five offices and two caretaker's residences for the following reasons:
- (i) *the non-compliance with the plot ratio requirement of the Town of Vincent Town Planning Scheme; and*
  - (ii) *the non-compliance with the requirements concerning the orderly and proper planning of the locality and the preservation of amenities of the locality, with respect to the detrimental impact on the visual amenity of the locality by virtue of the scale, mass and bulk of the proposed three storey development;*

- 20 January 1997 At the Ordinary Meeting, the Council **refused** application for three shops, five offices, two caretaker's residences and one showroom office for the following reasons:
- (a) *the non-compliance with the plot ratio requirement of the Town of Vincent Town Planning Scheme; and*
  - (b) *the non-compliance with the requirements concerning the orderly and proper planning of the locality and the preservation of amenities of the locality, with respect to the detrimental impact on the visual amenity of the locality by virtue of the scale, mass and bulk of the proposed three storey development;*
- Additionally, the Council resolved as follows:
- (i) *the concept of an urban village type development accommodating a range of uses is supported however, a new development application will be required to be submitted depicting a reduction in the plot ratio and a maximum of two storeys in a form, scale and design sympathetic and complementary to the existing streetscape; and*
  - (ii) *detailed urban design guidelines be formulated for new and existing commercial developments within the Leederville Centre to complement the existing urban stock and a further report be presented to the Council.*
- 22 February 2000 At the Ordinary Meeting, the Council conditionally **approved** the partial demolition of existing building and development of mixed use building (1 x showroom, 3 x offices, 3 x shops and 6 x grouped dwellings).
- 28 March 2000 Appeal against condition of approval requiring partial retention of existing buildings submitted to Minister for Planning.
- 7 June 2000 Condition of approval requiring partial retention of existing building waived by Council following Appeal mediation process.
- 15 September 2000 Application made to the Town for an amended proposal.
- 24 October 2000 At the Ordinary Meeting, the Council conditionally **approved** amended proposal for mixed use development containing 1 x showroom, 3 x offices, 1 x restaurant and 7 x grouped dwellings and 1 x multiple dwelling.
- 12 February 2002 At the Ordinary Meeting, the Council conditionally **approved** the demolition of existing building and development of mixed use building (1 x showroom, 3 x offices, 1 x eating house, 7 x multiple dwellings, 1 x grouped dwelling).
- 13 August 2002 At the Ordinary Meeting, the Council conditionally **approved** an application for alterations and additions to the eating house within the approved mixed use development.

8 October 2002 At the Ordinary Meeting, the Council supported the applicant's request to withdraw an application for alterations and loft additions to approved mixed use development (1 x showroom, 3 x offices, 1 x restaurant, 7 x multiple dwellings and 1 x grouped dwelling).

**DETAILS:**

The proposal involves the construction of a three storey building with below ground basement, to be used for mixed uses including multiple dwellings, eating house and retail.

Revised plans have been submitted which generally address the Town's Officers' concerns relating to density, access for people with disabilities, vehicle manoeuvring, numbers of sanitary facilities, vehicle ramp configuration and location of bin stores.

Vehicular access to the proposed underground car park is via a right of way, which connects to Leederville Parade. 42 car parking bays have been provided on site.

Fifteen (15) multiple dwellings have been provided, including one (1) single bedroom apartment for which the applicant is seeking a density bonus under Clause 3.1.3A3 (i) of the Residential Design Codes ( R Codes). In addition, the applicant is seeking Council support to include the adjoining 2 metres of the Water Corporation Reserve, which will effectively be public open space under Clause 3.1.2 A2 (ii) of the R Codes.

646.6 square metres of gross retail floor space is proposed on the ground floor.

482 square metres of eating house public area is proposed on the ground floor and first floor.

One car bay for people with disabilities has been provided in the basement car park and access for people with disabilities to areas for retail and eating house are provided via a lift and ramps. Sanitary facilities for people with disabilities has been provided in the public areas.

**CONSULTATION/ADVERTISING:**

No submissions were received during the 14 day advertising period.

**COMMENTS:**

**Oxford Centre Precinct**

The proposed development is considered to generally be consistent with the intent of the Oxford Centre Precinct in terms of proposed uses, height, articulation of the building and its interaction with the streetscape.

**Density**

The R Codes, give the Town the ability to allow variation to minimum site area requirements when certain criteria are met. The applicant has requested the Town support a density bonus by taking into account these factors.

The proposal includes one, one bedroom unit, which allows the minimum site area to be reduced by up to one third (for that unit).

An adjoining right of way provides vehicular and pedestrian access into the car parking basement.

The adjoining Water Corporation Reserve, which abuts the northern property boundary, which will effectively provide public open space and provide pedestrian access from the Town's Avenue Car Park to Oxford Street.

Clause 3.1.2 of the R Codes states that where the lot adjoins or abuts a right of way, public reserve for open space, pedestrian access or equivalent, up to a maximum depth of two metres may be added to the site area. In principle, this variation to minimum site area is supported, given that the Water Corporation Reserve will be landscaped and effectively utilised as public open space. This is considered to meet the intentions of the R Codes, as the Reserve will effectively create a sense of openness and amenity to the lot. Accordingly, when these factors are taken into account, the variation to minimum site area is supported.

### **Parking and Access**

For the purpose of calculating parking requirements for the development, the residential uses and commercial uses have been calculated independently. The residential requirements have been calculated from the R Codes and the requirement, including visitor parking, have been met on site, resulting in 10 additional bays available for the commercial component of the development. The car parking requirements for the commercial component has been calculated from the Town's Policy relating to Parking and Access.

### **Residential Uses**

The R Codes require that 29 bays are available for residential uses and 3 bays are available for visitors. This has been calculated from the requirements of the R Codes and results in 2 car parking bays being available for all units, with the exception of the single bedroom unit (Unit No. 8), which will have one car parking bay allocated for this unit. Three sets of car parking bays are provided in a tandem arrangement. It is recommended that each of these sets are allocated to a specific dwelling. As a condition of Planning Approval, all the bays for residential purposes should be allocated and clearly marked for specific units and visitor parking, prior to the first occupation of the building.

### **Commercial Uses**

There are 10 bays available for commercial use. Due to the nature of the building and access to the car park via controlled gates, it is likely that these bays will be used by employees, rather than patrons to the retail and restaurant.

When taking into account the residential and commercial uses together, 42 car parking bays have been provided which equates to 46 percent of the required bays being provided after adjustment factors have been taken into account. (29 residential, 3 visitor, 58.8 commercial = 90.8 bays required).

At the Ordinary Meeting of Council held on 13 August 2002, the Council supported a development which provided 39 percent of the required bays after the adjustment factors had been taken into account.

It is considered appropriate that a cash-in-lieu contribution of \$82 000 for the resultant shortfall of 32.8 bays, be required as a condition of approval in accordance with the Town's Policy relating to Parking and Access.

It is recommended that bicycle parking bays/rails and end or trip facilities be required as a condition of approval as required by the Town's Policy relating to Parking and Access.

### **Proposed Commercial Uses**

It is recommended that a condition be imposed on an approval, requiring the proposed eating house and shop uses to be limited in area, as per the current plans, so that car parking variations are not increased.

**Special Purpose Dwelling Requirements.**

The proposal includes one, one bedroom unit (Unit 8), which is used as a justification to vary the minimum site area required under Clause 3.1.3 A3 (i) of the R Codes. Under Clause 4.2.1 A1 of the R Codes, each multiple dwelling is required to have a balcony of at least 4 square metres.

The subject single bedroom unit's balcony, also provides alternative access to the first floor restaurant and an access terrace to Unit 7. However, its design is considered to meet the intention of a balcony as Unit 8 will have predominant use of this area. Due to the size of the balcony and its alternative uses, only the minimum area (4 square metres) should be used in the plot ratio floor area.

As the corresponding balcony only has one side open, its area must be included in the plot ratio floor area in accordance with the definition of plot ratio. The unit is 60 square metres in size, however the adjoining balcony/terrace only has one side open, the total plot ratio floor area is 64 square metres.

The intent of limiting the size of one bedroom dwellings is to provide limited accommodation suitable for one or two persons. The proposed one bedroom unit is considered to meet those intentions, and it is only the inclusion of the balcony in the plot ratio floor area, which causes a variation to the R Codes. Accordingly, in this instance the variation to the size of the single bedroom dwelling is supported.

**Setbacks and Walls on Boundaries**

The Town's Policy relating to the Oxford Centre Precinct is considered to override the requirements of the R Codes in relation to mixed use development. The Town's Policy states that the front setback is mandatory to be nil, and side setbacks should be nil. In addition, in the case of side boundaries which fall within an access easement, then the mandatory side setbacks is to be nil to the easement alignment. The minimum rear setback is to be 9.0 metres.

The rear setback abuts a Town owned land zoned District Centre, currently used for car parking. The Town has previously supported nil setbacks to all boundaries. In addition, due to the lot's irregular triangular shape, enforcement of the 9 metres setback is not considered to be an effective use of the land. The predominant intent of a 9 metres setback would be to protect the amenity of the land to the rear, which abuts the development. As the land is owned by the Town and is used as a car park, it would not be considered to adversely affect the amenity of this adjoining land. In addition, the balconies and windows overlooking the car park would provide passive overlooking and surveillance of the car park, which should be encouraged. Accordingly, these variations are supported.

**Plot Ratio**

Clause 4.2.1 of the R Codes relating to Mixed Use Development states that plot ratio requirements of Table 1 should also be applied to both residential and non-residential components, with the exception of ground level non-residential floor space. Accordingly, the area of the first floor eating house / bar has been included in the plot ratio calculation, minus the area on the outdoor terrace, as this has two sides open.

This results in a minor variation to plot ratio (33.5 square metres). The adjoining Drainage Reserve and Town's car park provides the development with a "sense of openness". The bulk and scale of the building is not considered excessive. The development is considered to meet the objectives of the Mixed Use Development requirement of the R Codes in creating a reasonable standard of residential amenity, and accordingly this variation is supported.

**Summary**

The Town's Officers main concerns regarding the development, relate to the variations to the car parking requirements as required by the Town's Policy relating to Parking and Access.

When determining the suitability of the proposal, its contextual location within the Oxford District Centre, proximity to affiliated and compatible uses and access to public transport, is taken into account.

When comparing this proposal to previously approved applications, it is important to note that the new Residential Design Codes have come into affect, and accordingly the application has been assessed in accordance with the Special Provisions - Mixed Use Development requirements in conjunction with the Town's Policy relating to the Oxford Centre Precinct. The proposal is considered to generally meet the acceptable development criteria as specified within the R Codes and in areas where there is non compliance, the development is considered to meet the performance criteria by satisfying streetscape objectives, and providing a comparable standard of amenity through the provision of open space and meeting the residential car parking requirements.

When car parking requirements are compared between the previous approvals, it is noted that a greater percentage of the car bays required have been provided. It is considered appropriate that the cash in lieu requirement is paid in accordance with the Policy, and the funds are used to improve and maintain the public car parks in the area, which the potential patrons of the development will be using.

Accordingly, the application is supported, subject to standard and appropriate conditions to address the above matters.

**10.1.7 No. 139 (Lot 282) Egina Street, Mount Hawthorn - Proposed Alterations, Additions and Carport to and Partial Demolition of Existing Dwelling**

Ward:	Mount Hawthorn	Date:	25 February 2003
Precinct:	Mount Hawthorn, P1	File Ref:	PRO 2244 00/33/1476
Reporting Officer(s):	S Crawford		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owners RJ De Gracie and AL Stevenson for alterations, additions and carport to and partial demolition of existing dwelling at No.139 (Lot 282) Egina Street, Mount Hawthorn, and as shown on plans stamp-dated 29 January 2003, subject to:*

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

- (x) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the northern and southern sides of the proposed verandah, with a finished floor level of 0.5 metre above natural ground level, shall be screened with a permanent obscured material and to be non-openable to a minimum height of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*
- (xi) *the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling and the proposed northern parapet wall;*
- (xii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the proposed carport width not exceeding fifty (50) per cent of the frontage at the building line in accordance with Clause A3.4 of the Residential Design Codes; and*
  - (b) *the northern neighbour's parapet wall being extended in height as marked on the approved plans, and as addressed in consultation with the northern neighbour.*

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

- (xiii) *all front fences and gates shall comply with the Town's Policy relating Street Walls and Fences, and full details shall be submitted to and approved to the Town prior to the erection of such fences and gates,*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.7**

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

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**LANDOWNER:** RJ De Gracie and AL Stevenson  
**APPLICANT:** As above  
**ZONING:** Metropolitan Region Scheme: Urban Town Planning Scheme  
No.1: Residential R30  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single Houses
Use Classification	"P"
Lot Area	491 square metres

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Carport - Front setback	4.0 metres	3.84 metres
Carport - Northern side setback	1.0 metre	Nil
Carport Frontage	Not to exceed 50 per cent (%) of the frontage at the building line (R Codes)	55 per cent (%)
Northern side setback	3.3 metres	2.645 metres
Southern side setback	3.3 metres	0.915 metre
Cone of Vision for northern side to verandah	7.5 metres	2.645 metres
Cone of Vision for southern side to verandah	7.5 metres	0.915 metre

**SITE HISTORY:**

The site is occupied by a single storey single residence.

**DETAILS:**

The proposed development includes a double carport to be located in the front setback area. In addition, alterations and additions will occur to the rear of the residence within the existing footprint of the building. All additions will be of render and tile construction to match the existing dwelling.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and no objections were received. The northern neighbours provided their signatures to the proposal subject to the following;

1. Council approval;
2. Carport depth reduced to 5.8m to achieve a 4.04m front setback; and
3. The top of the neighbour's parapet wall (3.080 metres) being raised by 0.2 metre for the portion of the neighbour's parapet which is to the rear of the carport, as marked on the approved plans.

In response the following comments are provided;

1. Acknowledged.
2. Variations in front setbacks to accommodate carports are permitted under the Residential Design Codes. The applicant seeks the 6.0 metres depth in order to allow persons to walk in front of the cars to access their front door, rather than walking in between the cars. This allows greater amenity to the residence, especially for visitors. The setback being sought by the neighbour is greater than the front setback requirement of 4.0 metres permitted under the Residential Design Codes. As such, the difference in setback between the proposed 3.84 metres and the permitted 4.0 metres only represents 16 centimetres. This variation in the front setback is not considered to have a detrimental impact on the streetscape of the area and therefore is considered acceptable as proposed.

3. The neighbour requests that a portion of their parapet wall be raised in height to match the proposed carport parapet. The extension is for a distance of 1.9 metres and an additional height of approximately 200 millimetres. The applicant has verbally agreed to this requirement. Matters with respect to flashing and drainage will be addressed in any subsequent Building Licence and conditions of development.

#### **COMMENTS:**

##### **Front Setback**

Generally the front setback requirement is 4.0 metres. In this instance, this setback is proposed to be reduced to 3.84 metres to accommodate a carport. Clause 3.2.3 of the Residential Design Codes and Clause P2 of the Town's Policy relating to Street Setbacks allow for such variations to setbacks respectively. The considerations for such reductions within the Design Codes include the lack of an alternative location for carparking onsite and, for the carport's width not to exceed fifty (50) percent of the frontage at the building line, in order to maintain views of the dwelling from the street. The performance criteria within the Town's Policy seeks to ensure that development does not detract from the streetscape or appearance of the dwelling or to obstruct views of the dwelling from the street.

The subject property has no rear access and therefore the front setback area is the only area that can accommodate carparking. It has been established in the above assessment that the reduced setback proposed is acceptable from a streetscape perspective and maintains views of the dwelling. In order to maintain the openness of the streetscape, the carport's width will be required to be reduced in order to comply with the requirement for it to be only fifty (50) per cent of the width of the property at the point of the building line, established in the Residential Design Codes. Currently, the carport represents fifty-five (55) per cent of the frontage. The proposal will be conditioned accordingly.

##### **Northern Setback/Cone of Vision**

Carports are generally required to be setback 1.0 metre from a side boundary. However, Clause 3.3.2 of the Residential Design Codes provides for relaxation to a nil setback where the proposals abuts an existing simultaneously constructed wall and, in areas codes R30 and above, in certain circumstances a nil setback can be permitted for two-thirds (2/3) of the boundary. A portion of the northern side of the carport abuts the existing neighbouring parapet wall. The applicant proposes a 2.5 metres continuation of this parapet and therefore complies with the provisions of the Codes.

The proposed alterations within the existing footprint continue the established setback of 2.645 metres. A slight projection is proposed for doors to the dining room. This will have no undue impact on the neighbour as these doors are directly opposite the existing parapet wall. The reduced setback is permitted because the proposal is maintaining the established setback in accordance with Clause A4 of the Town's Policy relating to Local Character.

The existing parapet wall on the neighbouring property extends to the existing rear building line of the subject residence. The verandah element which replaces the existing patio to the rear will provide the potential for overlooking into the neighbouring property, as the finished floor level is 0.5 metre above natural ground level. It is considered that a fixed solid non-openable screening of 1.6 metres is required to address this.

##### **Southern Setback/Cone of Vision**

The southern wall would require a setback of 3.3 metres from the boundary. Again because the existing building line is being continued, a setback of only 0.915 metre is achieved. This reduced setback is considered to have minimal effect on the neighbour, due to the fact that the form of the building is not changing, as all alterations occur within the same footprint.

Three windows exist on the southern wall of which two will be retained and a new highlight window, and a new doorway to the laundry are proposed. It is considered that the additional doorway to a non-habitable room will have no undue impact on the neighbour. The continuation of the existing setback line is supported within Clause A4 of the Town's Policy relating to Local Character.

Similarly to the northern elevation, the proposed verandah is considered to pose overlooking issues to the south also due to the raised finished floor level of 0.5 metre. As such, in accordance with privacy requirements a solid fixed non-openable screen of 1.6 metres is required.

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

**10.1.6 Nos. 317 - 323 (Lots 3 and 53) Bulwer Street, Corner Fitzgerald Street, Perth - Proposed Eating House and Car Detailing Facility and Associated Office and Ancillary Facilities**

Ward:	North Perth	Date:	4 March 2003
Precinct:	Hyde Park, P12	File Ref:	PRO0170 and PRO 2139; 00/33/1457
Reporting Officer(s):	V Lee		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by A Michael on behalf of the owner S Grewal for a proposed eating house and car detailing facility and associated office and ancillary facilities at Nos. 317 - 323 (Lots 3 and 53) Bulwer Street, corner Fitzgerald Street, Perth, as shown on plans stamp dated 6 February 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) subject to first obtaining the consent of the owners of No. 266 Fitzgerald Street and No. 315 Bulwer Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 266 Fitzgerald Street and No. 315 Bulwer Street in a good and clean condition;*
- (iv) no street trees shall be removed, cut back, pruned or interfered with in any way, without the prior approval of the Town's Parks Services Section;*
- (v) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Bulwer Street and Fitzgerald Street verges adjacent to the subject property, shall be submitted to and approved by the Town prior to the issue of a Building Licence. This shall also include the delineation of a "hard urban edge" along Bulwer Street. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vi) all car parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*

- (vii) *prior to the first occupation of the development, three (3) bicycle parking rail(s) shall be provided at a location convenient to the entrance of the eating house. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (viii) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (ix) *a detailed management plan that addresses the control of noise, traffic, car parking and litter associated with the development shall be submitted to and approved by the Town prior to the first occupation of the development, and thereafter implemented and maintained;*
- (x) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (xi) *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. A minimum of seven (7) bays shall specifically be provided and clearly identified for the eating house use and vehicles shall not be detailed within these bays;*
- (xii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xiii) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land are to be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$5880 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;*
- (xiv) *a road and verge security deposit bond and/or bank guarantee of \$1100 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xv) *a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*
- (xvi) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xvii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xviii) *the proposed car detailing use shall only operate between the hours of 10.00am and 7.00pm, inclusive;*

- (xix) *any proposal to increase the intensity of the use, including the hours of operation, erection of external lighting and use of machines other than vacuums, shall require a further application for Planning Approval being submitted to and approved by the Town prior to the first commencement of such intensity of the use, and this may be subject to further community consultation;*
- (xx) *the eating house public floor area is limited to a maximum 36 square metres, including internal and external seating within the lot;*
- (xxi) *the windows, doors and adjacent floor areas facing Fitzgerald Street and Bulwer Street shall maintain an active and interactive frontage to these adjacent streets;*
- (xxii) *the vehicle entry and exit points shall be clearly signposted prior to the first occupation of the development; and*
- (xxiii) *prior to the issue of the Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of \$5500 for the equivalent value of 2.2 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2002/2003 Budget;*
- to the satisfaction of the Chief Executive Officer.*
- 

**Moved Cr Hall, Seconded Cr Ker**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Hall, Seconded Cr Drewett**

*That, in clause (xviii) insert the words "and eating house" after the words "detailing use" and insert the words "in the summer months and between the hours of 10.00am and 6.00pm in the winter months" after the words "and 7.00pm", and that clauses (xi) and (xxiii) be deleted.*

Cr Ker requested that each of the clauses be considered separately.

Presiding Member Mayor Catania ruled that the amendments of the clauses in the above amendment will be considered separately.

**Moved Cr Hall, Seconded Cr Drewett**

*That, in clause (xviii) insert the words "and eating house" after the words "detailing use" and insert the words "in the summer months and between the hours of 10.00am and 6.00pm inclusive in the winter months" after the words "and 7.00pm inclusive", to read as follows:*

*"(xviii) the proposed car detailing use and eating house shall only operate between the hours of 10.00am and 7.00pm inclusive in the summer months and between the hours of 10.00am and 6.00pm inclusive in the winter months;"*

**AMENDMENT CARRIED (9-0)**

**Moved Cr Hall, Seconded Cr Franchina**

*That clause (xi) be deleted.*

*Debate ensued.*

AMENDMENT LOST (3-6)

<u>For</u>	<u>Against</u>
Cr Drewett	Mayor Catania
Cr Franchina	Cr Chester
Cr Hall	Cr Cohen
	Cr Doran-Wu
	Cr Ker
	Cr Piper

Moved Cr Hall, Seconded Cr Franchina

*That clause (xxiii) be deleted.*

*Debate ensued.*

AMENDMENT LOST (4-5)

<u>For</u>	<u>Against</u>
Cr Drewett	Mayor Catania
Cr Franchina	Cr Chester
Cr Hall	Cr Cohen
Cr Piper	Cr Doran-Wu
	Cr Ker

Moved Cr Cohen, Seconded Cr Hall

*That the first sentence of clause (xi) be deleted, with the second sentence remaining as follows:*

*“(xi) A minimum of seven (7) bays shall specifically be provided and clearly identified for the eating house use and vehicles shall not be detailed within these bays;”*

AMENDMENT LOST (0-9)

Moved Cr Cohen, Seconded Cr Hall

*That the second sentence of clause (xi) be deleted, with first sentence remaining as follows:*

*“(xi) 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;”*

AMENDMENT LOST (1-8)

<u>For</u>	<u>Against</u>
Cr Hall	Mayor Catania
	Cr Chester
	Cr Cohen
	Cr Doran-Wu
	Cr Drewett
	Cr Franchina
	Cr Ker
	Cr Piper

*Debate ensued.*

MOTION AS AMENDED CARRIED (6-3)

**For**  
Mayor Catania  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Piper

**Against**  
Cr Chester  
Cr Doran-Wu  
Cr Ker

**COUNCIL DECISION ITEM 10.1.6**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by A Michael on behalf of the owner S Grewal for a proposed eating house and car detailing facility and associated office and ancillary facilities at Nos. 317 - 323 (Lots 3 and 53) Bulwer Street, corner Fitzgerald Street, Perth, as shown on plans stamp dated 6 February 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) subject to first obtaining the consent of the owners of No. 266 Fitzgerald Street and No. 315 Bulwer Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 266 Fitzgerald Street and No. 315 Bulwer Street in a good and clean condition;*
- (iv) no street trees shall be removed, cut back, pruned or interfered with in any way, without the prior approval of the Town's Parks Services Section;*
- (v) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Bulwer Street and Fitzgerald Street verges adjacent to the subject property, shall be submitted to and approved by the Town prior to the issue of a Building Licence. This shall also include the delineation of a "hard urban edge" along Bulwer Street. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vi) all car parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*

- (vii) *prior to the first occupation of the development, three (3) bicycle parking rail(s) shall be provided at a location convenient to the entrance of the eating house. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (viii) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (ix) *a detailed management plan that addresses the control of noise, traffic, car parking and litter associated with the development shall be submitted to and approved by the Town prior to the first occupation of the development, and thereafter implemented and maintained;*
- (x) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (xi) *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. A minimum of seven (7) bays shall specifically be provided and clearly identified for the eating house use and vehicles shall not be detailed within these bays;*
- (xii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xiii) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land are to be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$5880 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;*
- (xiv) *a road and verge security deposit bond and/or bank guarantee of \$1100 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (xv) *a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*
- (xvi) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xvii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xviii) *the proposed car detailing use and eating house shall only operate between the hours of 10.00am and 7.00pm inclusive in the summer months and between the hours of 10.00am and 6.00pm inclusive in the winter months;*

- (xix) *any proposal to increase the intensity of the use, including the hours of operation, erection of external lighting and use of machines other than vacuums, shall require a further application for Planning Approval being submitted to and approved by the Town prior to the first commencement of such intensity of the use, and this may be subject to further community consultation;*
- (xx) *the eating house public floor area is limited to a maximum 36 square metres, including internal and external seating within the lot;*
- (xxi) *the windows, doors and adjacent floor areas facing Fitzgerald Street and Bulwer Street shall maintain an active and interactive frontage to these adjacent streets;*
- (xxii) *the vehicle entry and exit points shall be clearly signposted prior to the first occupation of the development; and*
- (xxiii) *prior to the issue of the Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of \$5500 for the equivalent value of 2.2 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2002/2003 Budget;*

*to the satisfaction of the Chief Executive Officer.*

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**LANDOWNER:** SA Grewal  
**APPLICANT:** A Michael  
**ZONING:** Metropolitan Region Scheme - Urban, abuts Other Regional Road  
 Town Planning Scheme No. 1 - Commercial, abuts Other Regional Road  
**EXISTING LAND USE:** Lot 3: Light Industry  
 Lot 53: Building / Handyman Equipment Business

**COMPLIANCE:**

Use Class	Car Detailing Facility, Eating House
Use Classification	"Unlisted Use", "P"
Lot Area	927 square metres

**Car Parking:**

*Car parking requirement (nearest whole number) -36 square metres of eating house requires 8 car parking bays -350 square metres of industry requires 4 car parking bays	12 car bays
Apply the adjustment factors. ▪ 0.85 (within 400 metres of a bus stop)	(0.85) 10.2 car bays
Minus the car parking provided on site.	8 car bays
Minus the most recently approved on site car parking shortfall (after taking into account relevant adjustment factors) (Nil - surplus most recently approved at Ordinary Meeting of Council held on 14 September 1998)	0
<b>Resultant shortfall</b>	<b>2.2 car bays</b>

\*The proposed car detailing use is not listed in the Town's Policy relating to Parking and Access, however it is considered to most appropriately be classified as an industrial use for the purpose of calculating car parking requirements for this application. Due to the nature of the business, the vehicles will be moved through the car detailing area as it is cleaned, hence it is not considered necessary to specifically allocate parking bays for these vehicles. However, it is considered appropriate that potentially 4 bays are available on site for staff of the car detailing business to use.

**Bicycle Parking Facilities:**

Required	Provided
*One class one or class two bicycle parking space per 100 square metres public area for staff, plus two class three bicycle parking space for visitors	No bicycle parking shown on plans.

\*For eating house use only

**SITE HISTORY:**

The subject properties are located on the south eastern corner of Bulwer and Fitzgerald Streets. Lot 53 is occupied by a single storey brick and iron building fronting Bulwer Street and an adjacent open yard. Lot 3 is occupied by a light industrial building. Surrounding land uses include the Hyde Park Hotel to the west, fast food premise and a variety of shops to the north, residential areas to the east, and shops and commercial uses to the south.

8 August 1994                      The Council resolved to conditionally approve an application for a two storey building consisting of 2 shops, 2 showrooms and 4 grouped dwellings with a car parking shortfall of 7 bays, at No. 323 Bulwer Street.

28 August 1995                      The Council resolved to conditionally approve a change of use from a pest control business to a building equipment/handyman tool hire business at No. 323 Bulwer Street.

24 August 1998                      The Council at its Ordinary Meeting resolved to accept an application for the demolition of the existing buildings and development of a single storey eating house with roof-deck and basement car parks at No. 323 Bulwer Street, and resolved to defer its decision pending further information regarding car parking.

14 September 1998                      The Council at its Ordinary Meeting resolved to conditionally approve the demolition of the existing building and development of a single storey eating house with roof-deck and basement car parks, at No. 323 Bulwer Street.

12 February 2002                      Conditional Planning Approval was granted under delegated authority for a proposed change of use from building/handyman equipment hire business to consulting room and shop and associated alterations, additions and partial demolition at No. 323 Bulwer Street.

24 September 2002                      The Council at its Ordinary Meeting resolved to grant conditional Planning Approval for the demolition of the existing dwelling and light industrial building at Nos. 315 and 317 (Lots 7 and 3) Bulwer Street, Perth.

3 December 2002                      The Council at its Ordinary Meeting, received a report relating to proposed demolition of the existing building and construction of a car wash facility and associated waiting room, office and ancillary facilities on the subject property and deferred its consideration of the application at the request of the applicant.

9 December 2002                      The applicant provided the Town with a letter addressing several concerns that were raised as part of the community consultation process, including proposed hours of operation, traffic management, the extent of machinery used, car parking and proposed use.

17 December 2002 The Council at its Ordinary Meeting conditionally approved the demolition of the existing building at No. 323 (Lot 53) Bulwer Street, corner Fitzgerald Street, Perth.

The Town also refused the application for a proposed car wash facility and associated waiting room, office and ancillary facilities for the following reasons:

- "(a) *the application is not consistent with the orderly and proper planning and preservation of the amenities in the locality;*
- (b) *the non-compliance with the Town's Policy relating to the Hyde Park Precinct; and*
- (c) *consideration of the objections received;"*

10 January 2003 The Town received a new application described as a proposed cafe' (tea room) with car detailing over the subject lots and adjoining lot No. 315 (Lot 7) Bulwer Street, North Perth. No. 315 (Lot 7) Bulwer Street is zoned 'Residential under the Town of Vincent Town Planning Scheme No1. Accordingly the use is an 'X' use under Town Planning Scheme No. 1 and would require a Town Planning Scheme Amendment for the Town to be able to consider this proposal on this lot. Subsequently, the applicant has submitted revised plans, which do not include any development on No. 315 (Lot 7) Bulwer Street.

#### **DETAILS:**

The proposal involves the construction of a single storey building for the purpose of an eating house and car detailing facility and associated office and ancillary facilities. The car detailing facility includes a 5.1 metres high concrete parapet wall along the south-western property boundary and attached colorbond canopy over the car vacuum and wash areas. A store room, laundry and staff facilities are located in the southern corner. Shade sails are proposed over the waiting, drying and car parking areas. The eating house and office is a single storey building located at the intersection of Fitzgerald and Bulwer Streets. The proposed building has windows and doors facing this intersection. Toilet facilities, including disabled facilities are identified.

The plans show landscaping and upgrading of the surrounding footpath. The applicant has also advised that they are willing to undertake landscaping and similar streetscape works to improve the streetscape on the adjacent verge.

Vehicles will enter the site from the existing crossover on Fitzgerald Street. The car wash staff drive the vehicle through the various cleaning stations, including vacuum, wash dry and detailing the vehicles as required by the owner. While waiting for the vehicle to be cleaned, the owner is able to wait in the eating house or sit outside and watch their car be cleaned. Vehicles exit the site onto Bulwer Street. The applicant has advised that the cleaning is done manually, will be staffed during limited opening hours, and that there are no car washes of this kind currently operating in Perth.

Differences between the current application and the application refused at the Ordinary Meeting of Council held on 17 December 2002 include;

- (i) the waiting room is now an 'eating house'. The eating house will be open to the public and for those who are having their vehicles detailed. The applicant has advised that eating house will have a maximum public floor area of 36 square metres and will have limited food preparation therefore negating the need for deep fry facilities, grease traps and canopies;
- (ii) the height of the parapet wall on the south western boundary has been reduced by two metres from 7.1 metres high to 5.1 metres high; and
- (iii) the applicant has advised that all washing of the vehicles is done by hand and therefore the 'machine room' has now been relabelled as a 'store room.'

The applicant has also provided the following response in regard to the Council previous reasons for refusal of the proposal.

*"As stated in your report dated 17th December 2002, in regards to this application is not consistent with the orderly and proper planning and preservation of the amenities in the locality, it is impossible to have our building in line with the existing buildings (ie The Hyde Park Hotel and the Chemist on the corner) due to the fact that our property has been reduced in length and width by 5.3 m of land from Fitzgerald Street and 2.6 m from Bulwer Street due to road widening. As stated in my previous report, we will landscape at our cost, the corner which Main Roads Department have resumed for road widening.*

*The issue with the non-compliance with the Town planning scheme relating to the Hyde Park Precinct, is addressed now by making the 'cafe' as the main planning issue (which the Town's Town Planning Scheme accepts) with a motor vehicle detailing service attached.*

*The issue of the motor vehicle detailing being light industrial does not comply because there is no machinery involved in detailing the motor vehicle. All the detailing is done MANUALLY.*

*The building scale has now been reduced dramatically by reducing 2m off the height of the covered area where the motor vehicles are to be detailed, and the amount of shade structures been reduced in area.*

*The unreasonable affect on the residence through the potential noise, floodlights and odours does not in consideration with this application, because there is no machinery involved, and as I have stated previously the working hours of the detailing service is going to be between 10.00am and 7.00pm in the summer months and 10.00am and 6.00pm in the winter months. Due to these hours of operation, no flood lights are required. The Hyde Park Hotel is on the opposite corner, which its trading hours are a lot longer and go into the midnight hours. There would be a lot more noise coming from the hotel patrons coming and going, and from the bands playing at night. The KFC premise on the other corner also operate longer hours that our provided they have floodlights, and they have the odour of the chickens cooking coming out of their commercial exhaust system. There will be no odour smelt by neighbouring residence coming from our development, because the smell of the detergents used to clean the motor vehicles is minimal.*

*Listed below again are reasons why we recommend that the 'cafe' tea room with a motor vehicle detailing service should be approved on this site area.*

1. *Due to the shortfall of water, we will be advising people to come and get their cars detailed, where the water will be managed properly. Unlike other carwashes, all cars will be soaped once and when it is taken through the high pressure spray wash, only 20 litres of water is used.*

2. *The customers have a choice when they come to the cafe. They can sit and relax in a park-like environment outside and have a light refreshment, or they can sit in an air-conditioned sitting area internally. While they are dining, they also have the option to have their motor vehicle to be detailed. There are also a number of small businesses on the opposite side of Bulwer Street, where they can go and do some shopping while they have their motor vehicle detailed.*
3. *People, who wash their cars at home, not only use a lot of water, but also contaminate our drainage system from using all types of detergents. In this car wash, all the water is recycled and no chemicals or detergents will contaminate the ground.*
4. *As stated earlier, the operating hours will be between 10.00am and 7.00pm in the summer months and 10.00am and 6pm in the winter months. Therefore there will be no noise or any unsightly floodlights in the early or late hours in the day. Unlike most car wash facilities in Perth, most of them are 24 hours.*

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

When the subject application was received, the proposal involved development on an adjoining lot at No. 15 Bulwer Street. As the application expanded on the previous application to include development on No. 15 (Lot 7) Bulwer Street, the proposal was readvertised in accordance with 'SA' advertising requirements. Signs were erected on site, neighbours contacted by registered mail, and a notice was put in the local newspaper.

Two submissions were originally received and requested that a truncation be imposed at the intersection for safety and visual reasons, appropriate landscaping and upgrade of the footpaths to encourage pedestrian use. The second submission objected to the proposal with concerns relating to further traffic problems and potential accidents, and noise disturbance from the machinery.

Six objections were received during the recent advertising period, including a petition with 32 signatures. The petition objected to the proposal for the following reasons;

*"The proposed development is to be situated on the south-eastern corner of Bulwer and Fitzgerald Streets, Perth. This is a very busy intersection where numerous traffic accidents have occurred over the years. Approval of the proposed development will create further traffic accidents and possible deaths in the future.*

*Noise created by the motors/blowers and vacuums will create disturbance to local residents and will detrimentally affect the value of residential properties.*

*We note that No. 315 Bulwer Street which has rear access to Randell Place, is to be incorporated within this development. We are advised....that this property is zoned 'Residential R 60.' Under this zoning a commercial use is not permitted on this site and any redevelopment of the site is to comply with current residential by-laws.*

*We as local residents in this area totally object against this proposed development and hope the Council will seriously take our concerns into their final decision."*

Other submissions also raised concerns the suitability of the development expanding over the adjoining lot zoned 'Residential', and the proposed vehicular exit on to Randell Place. Concern was raised that the proposal would be open 24 hours and cause unreasonable light

disturbance and noise, devaluation of their properties, the height of the parapet wall, and potential damage to adjoining properties during construction.

The application was also referred to the Department for Planning and Infrastructure for comment as the subject site abuts Bulwer and Fitzgerald Streets, which are 'Other Regional Roads' reservations in the Metropolitan Region Scheme. The Department advised that they do not object to the proposed development.

## **COMMENTS:**

### **Proposed Uses**

The Town's Policy relating to the Hyde Park Precinct states that development within the area zoned Commercial shall be occupied by small scale commercial uses which are compatible with, and largely serve the surrounding residential uses. Building scale, character and site layout is to be compatible with the existing buildings and car parking is to be located at the rear of properties. Car parks should not visually detract from the public environment or character of the area and should preferably not be visible from streets and public spaces.

Service industries are only permitted where they are to be secondary and/or ancillary to an appropriate primary permitted use.

The intersection is considered to be a prominent corner in the Town, with the Hyde Park Hotel on the south western corner and single storey shops on the north eastern corner being built with a zero setback to the street. Historical records suggest that a building with a similar setback and scale was also located at the subject site. This is considered to create a unique commercial streetscape. The intersection is also considered a major commercial gateway into the North Perth District Centre and Northbridge.

The existing surrounding land uses are also a potential source of conflict and when making this decision, the Town should consider that any proposal should not exacerbate existing problems with noise, lighting, antisocial behaviour etc. Due to the proximity of the Hyde Park Hotel, a residential use at this site would not be encouraged, due to potential conflict and considerations such as noise. Appropriately designed uses such as offices and shops, would be considered more appropriate long term uses of the site.

### **Eating House**

The proposed eating house use is a permitted use in a commercial zone under Town Planning Scheme No. 1. The amount of car parking provided on site for the eating house complies with the Town's Policy relating to Parking and Access. The use and design of the proposed eating house is considered appropriate in this location and accordingly, the proposed eating house use is supported.

### **Car Detailing Facility**

The proposed car detailing facility is a use not specifically listed in the Town's Town Planning Scheme No. 1. It is considered that the proposed car detailing facility is similar in nature to either a light industry or service industry use. A service industry is not defined in the Town's Town Planning Scheme No. 1, however the Model Scheme Text defines a 'Service Industry' as follows:

*"a light industry carried out on..... land and buildings having a retail shop front and used as a depot for receiving goods to be serviced."*

The proposed car detailing facility structures may be considered inappropriate in this intersection as the building scale, character and site layout of the proposal is considered to be incompatible with existing buildings in this locality. The proposed car parking does not strictly comply with the Town's Policy relating to the Hyde Park Precinct and may be considered to visually detract from the public environment and character of the area.

In response, the applicant has commented, and the Town acknowledges that the proposal is located on a site previously used for light industrial purposes and is diagonally opposite to a fast food outlet with a car park, which dominates the streetscape at this intersection.

Concern has been raised that the proposed car wash facility will have an unreasonable affect on the amenity of surrounding residents through potential noise, floodlights and odours. The applicant has advised of operating hours, that no flood lighting is proposed and that car detailing will be by manual labour. Due to the proposed hours of operation, the scale of this proposal is not considered to unduly affect the amenity of the adjoining residential area. Accordingly, it is recommended that these issues be conditioned as a part of the Planning Approval, and also conditioned such that the proposal can not expand to include such activities/structure without requiring further Planning Approval.

In order to preserve a sense of inner urban space, it is recommended that an approval be conditioned so that a sense of a nil setback is continued where possible along the Bulwer Street frontage. This may be achieved through means such as a dense hedge or landscaping and/or a low wall.

#### **Odour**

It is considered that the potential odour issues from soaps and detergents used on site would be minimal. Potential odour from waste water can be addressed by the Town's Health Services should a complaint be received.

#### **Noise**

Noise levels from the proposed development would be required to comply with the Environmental Protection (Noise) Regulation 1997, and would be monitored by the Town's Health Services should a complaint be received.

#### **Traffic Management**

It is acknowledged that this is a particularly busy intersection within the Town. The intersection of Bulwer and Fitzgerald Streets is controlled by traffic signals, and the proposal is proposing to use the existing cross overs. A one way vehicle movement system is proposed through the car detailing facility and adequate waiting area has been provided such that it is unlikely for a backlog of vehicles onto Fitzgerald Street to occur.

In addition, the Department for Planning and Infrastructure has advised that they have no objection to the proposal.

#### **Parapet Wall Height**

The Town's Policy relating to the Hyde Park Precinct allows buildings to be two storeys high and a third storey may be considered, provided that the amenity of the adjacent residential area is protected in terms of privacy, scale and bulk. The proposed height of the parapet wall (5.1 metres high) is comparable to that of a two storey building. This wall has been reduced in height by 2 metres when compared to the original proposal. Accordingly, this wall height is supported.

#### **Devaluation of adjoining properties**

These comments are not considered to be major planning issues and should not be taken into account when determining the application.

**Car Parking**

It is considered reasonable to require the resultant car parking shortfall of 2.2 car bays to be provided via the cash-in-lieu for car parking provision of the Town Policy relating to Parking and Access.

**Summary**

Given the historical use of the site for light industrial uses, the proposed use may be considered to have merits, particularly as an interim or medium term land use. The upgrading of the streetscape that would be required as a part of the proposal would greatly improve the streetscape and visual amenity of the area.

The scale and operational hours of the proposal, if limited by planning conditions to the current proposal, would not be considered to unduly affect the amenity of the area in terms of noise and lighting.

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

**10.1.13 Further Report - No. 69 (Lot 551) Barlee Street, Mount Lawley - Proposed Change of Use from Private Club to Recreational Facilities**

<b>Ward:</b>	North Perth	<b>Date:</b>	10 March 2003
<b>Precinct:</b>	Forrest, P14	<b>File Ref:</b>	PRO1205; 00/33/1456
<b>Reporting Officer(s):</b>	V Lee		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**FURTHER OFFICER RECOMMENDATION:**

*That;*

*the Council advises the owner and occupier of No. 69 (Lot 551) Barlee Street, Mount Lawley, that the unauthorised recreational facilities use of the existing building at No. 69 (Lot 551) Barlee Street, Mount Lawley shall cease within fourteen (14) days of notification, and the Council authorises the Chief Executive Officer to commence legal proceedings to cease the unauthorised use should the use continue.*

Mayor Catania advised that a fax had been received this afternoon from the applicant, Katie Lavers, Director skadada, advising that the planning application for 69 Barlee Street, Mount Lawley, for recreation use had been withdrawn, however, Council still needed to consider the unauthorised facilities use at this address.

**Moved Cr Drewett, Seconded Cr Ker**

*That the recommendation be adopted.*

*Debate ensued.*

**Moved Cr Hall , Seconded Cr Franchina**

*That in the recommendation the words “(notification being Wednesday, 12 March 2003)” be inserted following the words “days of notification,” as follows:*

*“That;*

*the Council advises the owner and occupier of No. 69 (Lot 551) Barlee Street, Mount Lawley, that the unauthorised recreational facilities use of the existing building at No. 69 (Lot 551) Barlee Street, Mount Lawley shall cease within fourteen (14) days of notification, (notification being Wednesday, 12 March 2003) and the Council authorises the Chief Executive Officer to commence legal proceedings to cease the unauthorised use should the use continue.”*

*Debate ensued.*

**AMENDMENT CARRIED (8-1)**

**For**

Mayor Catania  
Cr Chester  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Ker  
Cr Piper

**Against**

Cr Doran-Wu

*Debate ensued.*

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

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**COUNCIL DECISION ITEM 10.1.13**

*That;*

*the Council advises the owner and occupier of No. 69 (Lot 551) Barlee Street, Mount Lawley, that the unauthorised recreational facilities use of the existing building at No. 69 (Lot 551) Barlee Street, Mount Lawley shall cease within fourteen (14) days of notification, (notification being Wednesday, 12 March 2003) and the Council authorises the Chief Executive Officer to commence legal proceedings to cease the unauthorised use should the use continue.*

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**FURTHER REPORT:**

Prior to the Ordinary Meeting of Council held on 25 February 2003, the applicant requested that the matter be deferred so that they could address some of the issues raised and possibly modify their application appropriately.

During discussions with the Town's Officers, the applicant's expressed a willingness to modify their proposal in order to retain the premise. They expressed a willingness to encourage staff and Elected Members to visit the property and experience the noise and vibration levels created by the use of the building for training. They also wished to undertake a survey of local residents to show that there was some support of the proposal.

The applicant has submitted the following comments in e-mail received 10 March 2003:

*'Further to our telephone conversation this afternoon, I would like to confirm that skadada is withdrawing the planning application for 69 Barlee Street for recreational use. This is due to a misunderstanding as to the implication of the term "recreational" for planning purposes. skadada would like to ask that this planning application be withdrawn from the council agenda for Tuesday April [March] 11th 2003 and that all further discussion as to the usage of the premises be deferred until the appropriate planning application is lodged on Friday 14th April.*

*skadada is lodging the new planning application for 69 Barlee Street as a private club. The new application will be accompanied by a petition and a plan of the building.*

*On the advice of the Mayor of Vincent a petition has been taken to the residents of Barlee Street. The petition requests that skadada be allowed to operate as a private club and notes that skadada has caused no noise or disturbance and does not create any parking problems.*

*12 residents have already signed the petition and skadada confidently expects more signatures.*

*The planning application will also be accompanied by a drawn plan of the building indicating parking spaces available and showing the proximity of the council car park.*

*skadada will also be contacting councillors in the near future, again on the Mayor's advice, and inviting those who have time to come and view the premises for themselves."*

In light of the above, the previous Officer Recommendation has been amended accordingly; such that the Council advises the owner and occupier that the unauthorised use of the existing building as a recreational facilities at No. 69 (Lot 551) Barlee Street should cease within 14 days of notification, and authorises the Chief Executive Officer to commence legal proceedings to cease the unauthorised use should the use continue.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 25 February 2003.

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally and in particular:*

- (i) the application is not consistent with the orderly and proper planning and preservation of the amenities in the locality;*
- (ii) non-compliance with the Town's Policy relating to Non-Residential Uses in/or Adjacent to Residential Areas; and*
- (iii) consideration of objections received;*

*the Council REFUSES the application submitted by G Zampatti on behalf of the owners Virium Pty Ltd for the proposed change of use from private club to recreational facilities at No. 69 (Lot 551) Barlee Street, Mount Lawley, as shown on plans stamp dated 10 January 2003.*

*OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally and in particular:*

- (i) the application is not consistent with the orderly and proper planning and preservation of the amenities in the locality;*
- (ii) non-compliance with the Town's Policy relating to Non-Residential Uses in/or Adjacent to Residential Areas; and*
- (iii) consideration of objections received;*

*the Council REFUSES the application submitted by G Zampatti on behalf of the owners Virium Pty Ltd for the proposed change of use from private club to recreational facilities at No. 69 (Lot 551) Barlee Street, Mount Lawley, as shown on plans stamp dated 10 January 2003.*

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*Moved Cr Drewett, Seconded Cr Ker*

*That the recommendation be adopted.*

*COUNCIL DECISION ITEM 10.1.12*

*Moved Cr Hall, Seconded Cr Doran-Wu*

*That this item be DEFERRED at the request from the applicant Katie Lavers, Co-Director skadada.*

CARRIED (5-3)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Drewett
Cr Chester	Cr Ker
Cr Doran-Wu	Cr Piper
Cr Franchina	
Cr Hall	

*(Cr Cohen on approved leave of absence.)*

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LANDOWNER:	Virium Pty Ltd
APPLICANT:	G Zampatti
ZONING:	Metropolitan Region Scheme - Urban Town Planning Scheme No. 1 - Residential R50
EXISTING LAND USE:	Private Club

COMPLIANCE:

*Car Parking:*

<i>Car parking requirement (nearest whole number)</i>	<i>5 car bays</i>
<i>Apply the adjustment factors.</i>	<i>(0.7225)</i>
<ul style="list-style-type: none"> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.85 (within 400 metres of one or more public car parks in excess of 75 spaces)</li> </ul>	
	<i>3.61 car bays</i>
<i>Minus the car parking provided on site.</i>	<i>0 car bays</i>
<i>Minus the most recently approved on site car parking shortfall.</i>	<i>23 bays</i>
<i>*(143 / 4.5 x 0.7225)</i>	
<i>Resultant surplus</i>	<i>19 car bays</i>

*\*Under Town Planning Scheme No. 1, it is considered that the previous use would most appropriately be classified within the use class table as a 'club' and car parking calculated as per a 'hall'.*

*Bicycle Parking Facilities:*

<i>Required</i>	<i>Provided</i>
<i>*One class one or class two bicycle parking spaces per 400 square metres gross floor area for staff, plus one class three bicycle parking space per 200 square metres for visitors</i>	<i>No bicycle parking shown on plans.</i>

*\*Calculated from a health club requirement*

<i>Use Class</i>	<i>Recreational Facility</i>
<i>Use Classification</i>	<i>"AA"</i>
<i>Lot Area</i>	<i>468 square metres</i>

*SITE HISTORY:*

*The site is occupied by an existing building and an adjacent open yard which previous uses included a church, hall and private club. Surrounding land uses include the Town owned car park at the corner of Beaufort Street and Barlee Street, and residential properties to the south, east and north.*

*18 June 1973 The Council of the City of Perth conditionally approved a change of use from Salvation Army church/hall to headquarters of Cracovia Soccer Club, specifically for the following uses;*

- (a) holding committee meetings;*
- (b) display and storage of Club's trophies and movable property;*
- (c) assembly of club juniors for purpose of voluntary youth work, such as screening of films, talks and similar activities;*
- (d) conducting small socials for the players; and*
- (e) holding various other meetings in relation to Club activities;*

*subject to the Club's activities being conducted in such a way that there is no cause for complaint from nearby residents."*

*1 February 1977 The City of Perth advised the owners of the property that they had no objection to the proposed amalgamation of Nos. 67 and 69 (Lots 51 and 54) Barlee Street.*

*12 December 1977 The Council of the City of Perth resolved to refuse an application to the extension of the existing hall used by a sporting club, including a games/dining area, licensed bar and store, for the following reason:*

- "1. The proposed extension to the hall be refused under Clause 30 of the Metropolitan Region Scheme on the grounds that the general disturbance caused by its use and lack of parking facilities would prejudice both the orderly and proper planning of the locality and the amenities of the locality."*

*Use of the caretaker's residence for administration purposes was approved subject to it being conducted in such a way that it does not prejudice interests of nearby residents.*

*29 April 1988 The Town received a complaint from an adjoining property owner regarding preliminary plans for the use of the property as a community recreation centre, with concerns that the parking problems in the street would be compounded.*

*14 June 1999 The Council at its Ordinary Meeting conditionally approved two storey additions and alterations to the existing dwelling. It would appear that these additions were not undertaken.*

*17 July 2002 The Town received a complaint regarding the use of the existing building for martial arts classes and use by the subject dance company, relating to noise and vibration, hours of operation, and parking.*

15 October 2002      *The applicants advised that the dance company would be performing overseas and returning in December 2002 and would apply for Planning Approval at that stage. They also advised that the martial arts company, which had previously been a source of complaint due to noise during training, had relocated to a different premise.*

**DETAILS:**

*The applicant has advised that the proposed change of use is for Skadada, which is a dance and circus company with a national and international profile. Skadada's administration is based at No. 30 Brisbane Terrace in Northbridge. The applicants proposed to use the existing building at No. 69 Barlee Street for company dance training, classes and occasional performances. A lot of the training and choreography is done in silence and the use of low volume music is minimal. Generally, no more than eight dancers would be training at any one time and all dancers and trainers will be asked not to park on Barlee Street and to use the Council car park next to the studio.*

*Skadada would also like to run yoga and stretch classes in the evenings to 9.30pm. These would involve a maximum of 10 participants and participants would be asked to park in the Council car park.*

*Skadada would like to have approximately six performances during the year with a maximum audience of 30 people. The audience would be asked to park in the Council car park.*

**CONSULTATION/ADVERTISING:**

*Two written objections and two verbal non-objections were received in regard to the proposal. Concerns related to the noise from music accompanying the training, resonance and vibration through the wooden floors when dancers are landing and compounding of car parking problems in the area.*

**COMMENTS:**

*The Town's Policy relating to Non-Residential Uses in/or Adjacent to Residential Areas, states that such uses are only permitted where the nature of the non-residential use will not cause undue conflict through the generation of traffic and parking or the emission of noise or any other form of pollution which may be undesirable on residential areas.*

*The subject property is zoned Residential and is surrounded by residential properties. The previous uses of the building as a church, hall and private club are noted. It is envisaged that the adjoining residents would have been subject to comparable impact from the previous uses compared to the use proposed. For example, noise levels from church services, and similar number of persons attending church services and club meetings. It is noted that previous approvals granted by the City of Perth have specifically conditioned the approval to protect the amenity of the adjoining property owners.*

*It is also noted that parking problems within the immediate Beaufort Street have been compounded in recent years.*

*There are concerns relating to the specific use of the hall that is proposed. It is acknowledged that in principle, the proposed use of the existing building by up to eight dancers training to no music or low level music, who park in the Council car park may be acceptable.*

*However, the business has been operating and the Town has received complaints in regard to noise from music and movement within the building and car parking on the street. The resonance from the wooden floors on a daily basis may be considered to unduly affect the amenity of the adjoining residents.*

*The use of the hall for performances and yoga classes is considered to unduly affect the amenity of the adjoining properties, due to the number of vehicles that would be associated with the performances and classes. This portion of the proposal is not supported.*

*Should the application be approved, the applicant is advised that alterations may be necessary to the building to include facilities for the disabled, and measures taken to decrease the impact of noise and vibration.*

*In this instance, it is considered inappropriate for the Town to support the proposed use of the existing building for dancers to train, yoga classes or performances and accordingly the application is recommended for refusal."*

**10.1.4 Nos. 28-30 (Lots 22 and 23) Church Street, Perth - Proposed Three-Storey Single House**

<b>Ward:</b>	North Perth	<b>Date:</b>	4 March 2003
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO2172 00/33/1498
<b>Reporting Officer(s):</b>	V Lee		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Lorraine Gherinich Design and Derek Nash Architects on behalf of the owners J and R Stanton for a proposed three storey house at Nos. 28 - 30 (Lots 22 and 23) Church Street, Perth, and as shown on plans stamp-dated 17 February 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
  - (a) a 2 metres by 2 metres visual truncation being provided at the intersection of the driveways and the right of way, and footpath on Church Street, respectively;*
  - (b) a minimum of two appropriate design features being incorporated into the fences facing the right of way on Lot 22; and*
  - (c) the solid portion of the front fences and gates adjacent to and within the front setback of Lot 22 and Lot 23 Church Street being a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency.*

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

- (iii) subject to first obtaining the consent of the owners of No. 26 Church Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 26 Church Street in a good and clean condition;*
- (iv) the workshop/studio is not to be used for industrial, commercial or habitable purposes;*
- (v) prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title 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;*

- (vi) *a right of way security bond and/or bank guarantee for \$880 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*
- (vii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (viii) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the Town's assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (ix) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (x) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xi) *no car parking structures shall be erected within the front setback area adjacent to Church Street; and*
- (xii) *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 Lot 22 Church Street that a three storey development has been approved on adjoining Lot 23 Church Street, which potentially will overlook and may be considered to unduly affect the privacy of adjoining Lot 22. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;*

*to the satisfaction of the Chief Executive Officer.*

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

*That the recommendation be adopted.*

*Debate ensued.*

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

*That, the following amended recommendation be adopted.*

**AMENDED RECOMMENDATION:**

*Delete clause (xii) of the previous Officer Recommendation, and add a new clause (xii) as follows:*

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

*Debate ensued.*

**AMENDMENT LOST (2-7)**

**For**

**Cr Chester  
Cr Doran-Wu**

**Against**

**Mayor Catania  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Ker  
Cr Piper**

*Debate ensued.*

**COUNCIL DECISION ITEM 10.1.4**

**ORIGINAL MOTION CARRIED (8-1)**

**For**

**Mayor Catania  
Cr Chester  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Ker  
Cr Piper**

**Against**

**Cr Doran-Wu**

**LANDOWNER:**

J and R Stanton

**APPLICANT:**

Lorraine Ghersinich Design and Derek Nash Architects

**ZONING:**

Metropolitan Region Scheme - Urban

**EXISTING LAND USE:**

Town Planning Scheme No. 1 - Residential-Commercial R80

**COMPLIANCE:**

Vacant

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Height	Three storey can be considered provided that the amenity of the adjacent residential area is protected in terms of privacy, scale and bulk.	Three storey.

Plot Ratio	0.75 maximum, however the Town may consider variations to accommodate specific site and location circumstances.	1.85
Setbacks - Rear  - Side - west and east	First floor 1.5 metres minimum. Second floor 4.8 metres minimum. 4 metres minimum.	0 metre to terrace 3.8 metres 0 metre
Privacy	First and Second Floor Windows within 6 metres of property boundary to be screened.	Kitchen and sitting room 1.7 metres from adjacent lot owned by same landowner, 7.8 metres from nearest property under different ownership.
Newton Locality	General height limit of two storey provided the second storey is setback a minimum of 6 metres.	Three storeys with second and third storeys setback 4.5 metres from Church Street.
Fences	Fences to be a maximum of 1.8 metres high.	Fence around Lot 22, 3 metres high.
Design for Climate	Development to be designed so that no more than 50 percent of the adjoining property is over shadowed at midday, 21 June.	Likely that more than 50 per cent of the adjoining property is overshadowed.

Use Class	Single House
Use Classification	'P'
Lot Area	Lot 23 - 189 square metres Lot 22 - 189 square metres

**SITE HISTORY:**

- 7 January 1999            The Western Australian Planning Commission conditionally approved the amalgamation of Lots 4, 5 and 6 Church Street.
- 1999 - 2000              Existing factory demolished.
- 30 March 2000           The Western Australian Planning Commission conditionally approved the subdivision of Lots 4, 5 and 6 Church Street, to create 5 lots ranging in size from 185 square metres to 189 square metres, each with frontage to Church Street and privately owned right of way.
- 5 December 2000        The Council at its Ordinary Meeting conditionally approved a three-storey mixed use development comprising single house, shop and associated office on the subject site.
- 24 July 2002             The Council at its Ordinary Meeting conditionally approved a change of use application from single house, shop and associated office to single house, art gallery and associated alterations on an adjacent lot at No. 24 (Lot 25) Church Street. The subject building is three storey and of similar bulk and scale to the subject proposal. The immediately abutting lots are currently vacant.

17 December 2002 The Council at its Ordinary Meeting approved a similar application for a three storey single house subject to conditions, including:

- (xii) *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 Lot 22 Church Street that a three storey development has been approved on adjoining Lot 23 Church Street, which potentially will overlook and may be considered to unduly affect the privacy of adjoining Lot 22. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development; and*
- (xiii) *the titles of the two lots be amalgamated.*

**DETAILS:**

The proposal involves the construction of a three storey house wholly on Lot 23, with vehicular access to a double garage proposed at the rear from a privately owned and sealed 3.5 metres wide right of way. The owner also owns adjacent Lot 22 and wishes to keep the lots on separate certificates of titles, however also to be able to use Lot 22 as the garden area for the proposed house. For the purpose of this application, the site coverage and plot ratio has been calculated on Lot 23 only.

The applicant initially provided the following statement in support of the proposal:

*"The proposal is for a three storey residence, that takes direct reference from the adjoining "Artplace" in terms of its architectural language, setbacks and height. It also, through the use of industrial materials such as steel beams and zincalume sheeting refers indirectly to the industrial origins of the neighbourhood. The aesthetic is one of crisp, modernist lines measured against industrial chic and highlighted by bold primary colours."*

Specifically, the applicant has requested that the Council reconsider condition (xiii) of the Planning Approval determined at the Ordinary Meeting of Council held on 17 December 2002.

The applicant has provided the following justification for the reconsideration of condition (xiii):

*"...they (owners) have no issue in complying with condition (xii,) which envisages the possibility of lot 22 being sold to a third party prior to building, and seeks to forewarn prospective buyers of the development proposed on lot 23. Condition (xiii) however, required the blocks be amalgamated, negating condition (xii.) It is not practical to comply with both conditions, and we seek to have condition (xiii) reconsidered.*

*It has always been our clients' intention to maintain lot 22 as a separate lot and to retain the option of its disposal, should they ever wish to. In the meantime, and for the foreseeable future, they intend to use it as a garden, separate from, but in conjunction with the house on lot 23.*

*Our clients have discussed the matter with Councillor Ian Ker, who proposed condition (xiii), and are informed that his concern is to ensure the privacy and functionality of dwellings on both lot 22 and 23 - if and when development of lot 22 should occur.*

*In designing the house, the possibility of future development on lot 22 was taken into account, as follows:*

- *An extensive light-court is incorporated on the western side of the building, measuring approximately 5m x 2m, or 10 m<sup>2</sup> for each floor of the building.*
- *Such an area ensures that, in the event of a three-storey building erected on the boundary of lot 22, there will always be more than sufficient light and ventilation to even the lowest floor of the house.*
- *This effect is due to natural light being reflected from the walls of any building on lot 22 during all daylight hours, as well as, to a lesser extent, direct sunlight penetrating the court at certain times of the day and of the year.*
- *The main habitable rooms of the house are designed so as to gain their primary light, ventilation and outlook from the northern and southern aspects of the property respectively; they function independently of the light court.*
- *However, all walls of the light-court are substantially glazed, further ensuring proper light and ventilation to the central portion of each floor, and enhancing the prospect of through-ventilation via the light-court for each entire floor.*

*The house has been designed as a self-contained entity on lot 23. It was fully assessed by Council on this basis, and was so recommended for conditional approval. In terms of a prospective building on lot 22, the following points are relevant:*

- *The design of any future building on lot 22 will be addressed if and when an application comes before Council.*
- *At that time all issues concerning privacy and functionality with regard to lot 22 will be properly dealt with in relation to actual designs submitted.*
- *Lot 23 can make no claim for special conditions to apply to development on lot 22, other than the normal considerations taken into account by Council.*
- *The situation is adequately dealt with by condition (xii)*

*Our purpose in including lot 22 with our Development Application was to indicate to Council our clients' immediate intentions only. As explained, condition (xii) and condition (xiii) appear to conflict; we believe that the latter is superfluous, given that the concerns of Council can be met without it. We can see no reason why our clients should be precluded from retaining lot 22 as a separate lot, or from disposing of it separately at some point in future, should they so desire.*

*We appreciate Council's attention in this matter, and would appreciate an early response. ....The drawings are substantially the same as those previous approved, except they have been transferred to CAD, the north and south elevations have been refined in design development and some changes have been incorporated which reflect conditions of the previous approval"*

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

The proposal was not readvertised as a similar proposal has been advertised and considered by the Council within the past 12 months. No submissions were received during the initial consultation period.

**COMMENTS:**

The plans submitted have identical setbacks and heights when compared to previous applications. The size of windows have been clarified and are more defined now that the plans are done via a computer program rather than by hand. The plans do not result in any greater variations to the Residential Design Codes.

The non-compliances have been addressed in detail in the report to the Ordinary Meeting of Council held on 17 December 2002 (Item 10.1.10).

The Town's Officers generally support the applicant's submission and recommend that the application be approved without condition (xiii) of the Council decision of 17 December 2002.

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

**10.1.9 No. 28 (Lot 103) Melrose Street, Leederville – Proposed Demolition of Existing Single Storey Dwelling and Construction of Three (3) Two Storey Grouped Dwellings**

<b>Ward:</b>	North Perth	<b>Date:</b>	4 March 2003
<b>Precinct:</b>	Leederville, P3	<b>File Ref:</b>	PRO1649; 00/33/1436
<b>Reporting Officer(s):</b>	C Mooney, A Nancarrow		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Briklay Development Group on behalf of the owner the Bruechert Family Trust for proposed demolition of existing single storey dwelling and construction of three (3) two storey grouped dwellings at No. 28 (Lot 103) Melrose Street, Leederville, and as shown on the plans stamp dated 20 December 2002, subject to:*

- (i) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (ii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any front fences and gates adjacent to Melrose Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development, the windows to bedrooms 2 and 3 on the western elevation of Unit 1, the window to bedroom 3 on the northern elevation of Unit 2, the windows to bedrooms 2 and 3 on the southern elevation of Unit 3, and the window to bedroom 1 on the eastern elevation of Unit 3, respectively, shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed; OR prior to the issue of a Building License revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate on the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*
- (iv) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the landscaping adjacent to the driveway along the eastern boundary being removed and shown as part of the paved driveway. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (v) a visual truncation of 2 metres by 2 metres at the intersection of the driveway and the footpath shall be provided at the owner's cost;*

- (vi) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (vii) *a road and verge security deposit bond and/or bank guarantee of \$550.00 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (viii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (ix) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (x) *subject to first obtaining the consent of the owners of No. 30 Melrose Street, for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 30 Melrose Street in a good and clean condition;*
- (xi) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (xii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Melrose Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xiii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xiv) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (xv) *compliance with all relevant Environmental Health, Engineering and Building requirements;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.9**

**Moved Cr Chester, Seconded Cr Ker**

***That the recommendation be adopted.***

***Debate ensued.***

**LOST (3-6)**

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

**Against**  
Cr Chester  
Cr Cohen  
Cr Drewett  
Cr Franchina  
Cr Hall  
Cr Piper

**Reasons:**

1. Non-compliance to Residential Design Codes.
2. Objections received.

**LANDOWNER:** The Bruechert Family Trust  
**APPLICANT:** Briklay Development Group  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Residential R60  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	577 square metres

Requirements	Required	Proposed
Privacy - Cone of Vision		
Unit 1 - Side Setback, Western Elevation Bedrooms 2 and 3- First Floor	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown (screening condition applied)
Unit 2 - Side Setback, Northern Elevation Bedroom 3 - First Floor	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown (screening condition applied)
Unit 3 - Side Setback, Southern Elevation Bedroom 2 and 3 - First Floor	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown (screening condition applied)
Unit 3 - Side Setback, Eastern Elevation Bedroom 1- First Floor	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown (screening condition applied)

Boundary Setback		
Western Elevation		
Unit 1 - Bedrooms 2 and 3 - First Floor	2.5 metres	2.3 metres
Unit 2 - Ensuite and Bath - Ground Floor	1.2 metres	1.1 metres
Unit 3 - Kitchen- Ground Floor	1.5 metres	1.1 metres
Southern Elevation		
Unit 2 - Bedroom - First Floor	2.5 metres	1.9 metres
Northern Elevation		
Unit 3 - Rear Setback- Ground and First Floors	1.5 metres	1.0 metre
Vehicular Access - Driveway for Multiple and Grouped Dwellings	4.0 metres	3.05 metres
	Located no closer than 0.5 metre to a side boundary	Located adjacent to a side boundary

**SITE HISTORY:**

11 September 1995 Council at its Ordinary Meeting conditionally approved a development proposal for three two storey grouped dwellings on the abovementioned property.

The subject site is occupied by a single storey dwelling, which is proposed to be demolished.

**CONSULTATION/ADVERTISING:**

There was one objection received during the advertising period. Issues raised included, the first floor setbacks onto the neighboring property on the western elevation and the potential for overlooking and overshadowing onto the adjacent property.

**DETAILS:**

Approval is sought for demolition of existing single storey dwelling and construction of three, two storey grouped dwellings.

The applicant has provided the following information in support of the application in regard to vehicular access;

*"The narrow frontage of the block (only 14 metres) severely limits the ability to strike a good balance between providing desirable, quality housing and fulfilling the acceptable development standards. Therefore, out of necessity we focused on a performance approach, basing this aspect of design on meeting the relevant performance criteria. There are several examples of 3m driveways on developed properties throughout the Town of Vincent area.*

**Policy No. 3.2.6 – P1 – Minimise the number of vehicle access points to frontage streets. - There are several precedents within the street where developed sites have two or more crossovers. Most have two, but there is one at 22 Melrose St with 4 crossovers.**

*We have limited the number of crossovers in the development to 2, which gives the front dwelling a sense of separation and reduces the amount of vehicle movement down the second driveway. There is a possible inconsistency with this criteria and paragraph 6.6 of Policy No. 3.2.4 "Street Setbacks" which states 'The Town of Vincent accepts that, where no feasible alternative exists, the street setback area may be utilized for carports and unroofed parking spaces'.*

**P2 – Be safe in use** - *There are no signs, trees, major traffic movements or any other impediments which could be perceived as being a potential or actual hazard when entering or leaving the property via the second access point. Whilst the driveway is only 3.01metres wide there are no major openings or pedestrian openings which could constitute a hazard. There is a reversing bay at the rear of the property for turning, thus removing the requirement for vehicles to reverse onto the street.*

**P3 – Not damage the amenity of adjoining dwellings or the street** – *There is a fence running the entire length of the driveway on the eastern side so there is no possibility of adjoining properties being affected by headlight glare. "*

## COMMENTS:

### Setbacks

The boundary setback variations as outlined in the Compliance Table are considered acceptable, as they are generally minor in nature. The objector's concerns regarding privacy are addressed through the application of screening conditions. The setback variations are considered not to unduly affect the amenity of the properties within the proposed development and that of adjoining neighbours.

### Privacy

With regard to the potential for unreasonable overlooking, it is considered necessary that relevant screening conditions are applied to these non-compliant openings to comply with the requirements of the Residential Design Codes.

### Overs hadowing

In relation to the concerns raised by the objector in regard to overshadowing, the lot is orientated north - south therefore it will cast a shadow south only towards the street, which is within the development itself, having no undue overshadowing effect on the neighbouring property to the west. The actual percentage of overshadowing within the site parameters is 30.6 per cent. The Residential Design Codes permits a maximum of 50 per cent overshadowing onto the adjoining site, for areas zoned higher than R40. Unit 1 will overshadow onto the courtyard area of Unit 1, whereas Units 2 and 3 will cast a shadow on the built form, of Units 1 and 2, respectively.

### Vehicular Access

With regard to the required 4 metres wide accessway, the proposed 3 metres wide accessway to Units 2 and 3 is considered reasonable, as there is adequate manoeuvring provided adjacent to the garages servicing Units 2 and 3, hence they can enter the street in forward gear. The accessway/driveway is servicing two of the proposed dwellings, Units 2 and 3, and Unit 1 has vehicular access from an individual driveway. The proposal does not impact on the neighbouring properties vehicular access, and the two crossovers are considered supportable. The Town's Engineering Services have advised that there are no major concerns with the vehicular access, however it was noted that the landscaping located against the eastern boundary within the driveway component should be removed, to provide consistency for safety requirements.

In addition, the variation to the Residential Design Codes' requirement of the driveway being located no closer than 0.5 metre from a side boundary is considered acceptable as the safety concerns of vehicular access are being addressed and the presence of landscaping in this instance will impede safety considerations.

### **Demolition**

The subject place is a brick and tile dwelling that was constructed on Lot 22 of Perthshire Location Ad in 1930. The site was originally part of the No.2 Leederville subdivision, which was offered for sale in 1892. In 1894, Lot 22 of Location Ad was purchased by Carl Bartelog, who was a Murchison Goldfield miner. He held onto the property until 1931, when it was transferred to another miner, Charles Bartlow. One year earlier, the City of Perth issued a Building Licence to Charles Bartlow for the development of the site.

The place has a symmetrical frontage, with a central protruding front room and open verandahs on either side. The verandahs have simple timber balustrades and fretwork and the front walls of the place are finished with a stucco moulding above sill height. There is a large roof gable over the central front room and verandahs, which joins onto a hipped roof over the other rooms of the dwelling, finishing with a skillion roof over the enclosed rear verandah.

The place has four rooms, a kitchen and a bathroom, which are arranged around a central hallway. The enclosed rear verandah is accessed via an opening along the northern wall of the kitchen. The eastern end of the enclosed rear verandah is being utilised as a laundry and a stud wall separates the laundry from the remainder of the verandah. Original windows, doors, skirtings, architraves and ceilings are in place throughout the dwelling in varying states of condition.

Although representative of a typical Interwar residence, the place is not a unique or outstanding example of its type. Moreover, it sits in a streetscape of buildings that exhibit wide-ranging differences in terms of their construction dates, style, setbacks, materials, height and bulk. In this context, it is considered that the place contributes little to the amenity of the area. Overall, the place is not considered to meet the threshold for the Town's Municipal Heritage Inventory and it is considered that the place does not warrant a full heritage assessment. It is recommended that the proposal to demolish the place be approved, subject to standard conditions.

### **Summary**

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

**10.4.4 Amendment to Parking Facilities Local Law - Clause 12(2)**

Ward:	Both	Date:	4 March 2003
Precinct:	All	File Ref:	LEG0047
Reporting Officer(s):	J MacLean		
Checked/Endorsed by:	R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

- (i) *the Council APPROVES BY AN ABSOLUTE MAJORITY an amendment to the Town of Vincent Local Law Relating to Parking Facilities, by replacing the existing clause 12(2) with the following wording:*

*"A vehicle that is parked in any portion of a public place where vehicles may lawfully be parked is deemed to be causing an obstruction if the vehicle is parked for any period exceeding 24 hours, without the consent in writing of the Chief Executive Officer or a Ranger."; and*

- (ii) *in accordance with the provisions of Section 3.12 of the Local Government Act 1995 as amended, the Council gives a Statewide advertisement, indicating where the proposed amendment may be viewed and seeking public comment on the following amendment to the Town of Vincent Parking Facilities Local Law.*

**LOCAL GOVERNMENT ACT 1995 (as amended)  
TOWN OF VINCENT PARKING FACILITIES LOCAL LAW  
AMENDMENT**

*In pursuance of the powers conferred upon it by Section 3.12 of the Local Government Act 1995, the above-mentioned Local Law and all other powers enabling it, the Council of the Town of Vincent HEREBY RECORDS having resolved on 11 March 2003 to make the following amendment to the Town of Vincent Parking Facilities Local Law published in the Government Gazette on 23 May 2000;*

*That the existing clause 12(2) of the Town of Vincent Parking Facilities Local Law be deleted and the following clause 12(2) be inserted in its place:*

*"A vehicle that is parked in any portion of a public place where vehicles may lawfully be parked is deemed to be causing an obstruction if the vehicle is parked for any period exceeding 24 hours, without the consent in writing of the Chief Executive Officer or a Ranger."*

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**COUNCIL DECISION ITEM 10.4.4**

**Moved Cr Ker, Seconded Cr Drewett**

*That the recommendation be adopted.*

**CARRIED BY AN ABSOLUTE MAJORITY (9-0)**

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**DETAILS:**

The current Town's Parking Facilities Local Law was published in the Western Australian Government Gazette on Tuesday 23 May 2000 and has been amended, on a number of occasions, to meet the changing needs of the community.

Recent legal advice, relating to clause 12(2) of the Town's Parking Facilities Local Law advises that the clause, in its current form, when read in conjunction with the definition of "Obstruction" as contained in clause 3, may be difficult to prove in court cases. In clause 3, the definition of "Obstruct" is as follows:

*“Obstruct” shall mean to prevent or impede or to make difficult the normal passage of any vehicle, wheelchair, perambulator or pedestrian and Obstruction shall have a corresponding meaning.”*

The advice to the Town was, that successful prosecution for the offence, would require extensive evidence of how the vehicle "prevented, impeded or made difficult the normal passage of a vehicle etc". While the evidence of an adjacent occupier, or the testimony of a regular user of that road may be sufficient, the evidence of the vehicle simply being parked there for 24 hours or more, may not in itself prove the case.

The legal advice suggested that the wording, proposed in the above recommendation, would be more easily enforceable and would not require the same level of proof of an "obstruction", since the new clause would "Deem" it to be an obstruction, if a vehicle was parked for a period in excess of 24 hours.

The wording in the existing clause 12(2) was Gazetted by the City of Perth, when the Town first commenced operations. However, at that time, there was no definition of "Obstruction", provided in clause 3. The existing clause 12 reads as follows:

*"Traffic obstructions*

1. *A person shall not stop or park a vehicle;*
  - (a) *on any road so as to cause an obstruction thereof;*
  - (b) *.....*
  - (c) *.....*
  - (d) *.....*

*so as to cause an obstruction.*
2. *A vehicle that is parked in any portion of a public place where vehicles may lawfully be parked does not cause an obstruction, unless the vehicle is parked for any period exceeding 24 hours, without the consent in writing of the Chief Executive Officer or a Ranger.*
3. *A vehicle which is parked in any portion of the district where vehicles may not lawfully be parked is deemed to be causing an obstruction."*

When the Parking Facilities Local Law was reviewed, it was decided that a clear definition of "obstruction" would provide for easier enforcement of a number of clauses in the Local Law and this has occurred. However, because clause 12(2) is predominantly used to provide a "trigger" to enable Rangers to impound abandoned vehicles, the impact on the enforcement of this clause was not considered.

A recent decision, for a matter to be heard before a Magistrate, has highlighted the deficiency in the clause and, in view of the legal advice it was considered appropriate to withdraw the action. It is now necessary to amend the Local law to prevent a recurrence.

**CONSULTATION/ADVERTISING:**

There will be a need to advertise the proposed amendment and to seek comments and suggestions from members of the public. Under clause 3.12 of the Local Government Act 1995, the proposed amendment should be advertised, Statewide and the public should be made aware of where and when the proposed new clause can be viewed. The public must also be afforded an opportunity to comment on the proposal and to make recommendations or suggestions.

**LEGAL/POLICY:**

The Town of Vincent Parking Facilities Local Law will need to be amended to incorporate the new wording for clause 12(2), which requires a specific advertising and consultation process, as set out in clause 3.12 of the Local Government Act 1995. Once this has been done, Rangers can enforce the clause in the same way as they currently do.

**STRATEGIC IMPLICATIONS:**

Item 1.4 of the Strategic Plan 1998/2002, "*Develop and implement a Transport and Car Parking Strategy*" indicates a need to develop a model for car parking requirements for shopping precincts and other public areas. The above proposal would be in keeping with this strategy.

Item 1.4(i) of the Draft Strategic Plan 2002/2007 "*Traffic and Parking Management*" indicates a need to develop a strategy for parking management in business, residential and mixed-use precincts. The above proposal would be in keeping with this strategy.

**FINANCIAL/BUDGET IMPLICATIONS:**

Other than the costs associated with advertising the proposed amendment, there will be no costs to the Town.

**COMMENTS:**

Legal advice has been received that, in its current form, the current clause 12(2) of the Parking Facilities Local Law may present difficulties in proving an offence. A recommended amendment has been provided by the Town's Lawyers and it is recommended that the existing clause 12(2) be replaced by the clause outlined above.

Mayor Catania declared a financial interest in this Item and departed the Chamber at 8.37pm and did not speak or vote on the matter. Deputy Mayor, Cr Drewett assumed the chair.

### 10.3.1 Investment Report

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

**OFFICER RECOMMENDATION:**

*That the Investment Report for the month ended 28 February 2003 be received.*

### COUNCIL DECISION ITEM 10.3.1

Moved Cr Piper, Seconded Cr Ker

*That the recommendation be adopted.*

**CARRIED (8-0)**

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

**BACKGROUND:**

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

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

**DETAILS:**

Total Investments for the period ended 28 February 2003 were \$12,816.197 compared with \$13,159,734 at 31 January 2003. At 28 February 2002, \$12,425,086 was invested.

Total accrued interest earned on Investments as at 28 February 2003:

	Budget	Actual	%
	\$	\$	
Municipal	300,000	204,522	68.17
Reserve	355,100	216,489	60.97

**COMMENT:**

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

Mayor Catania returned to the Chamber at 8.38pm and resumed the Chair. He was advised that Item 10.3.1 was carried (8-0).

**10.1.3 No. 99 (Lot 22, Proposed 508) Walcott Street, Corner Alma Road, Mount Lawley - Proposed Garage Addition to Existing Dwelling**

Ward:	North Perth	Date:	28 February 2003
Precinct:	Norfolk P10	File Ref:	PRO 0383; 00/33/1480
Reporting Officer(s):	S Crawford		
Checked/Endorsed by:	D Abel, R Boardman		
Amended by:	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owners G, R, M and D Marafioti for proposed garage addition to the existing dwelling at No. 99 (Lot 22, Proposed 508) Walcott Street, corner Alma Road, Mount Lawley as shown on plans stamp-dated 31 January 2003, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) detailed plans of site works, including identification of drainage shall be submitted with the Building Licence application;*
- (iii) a visual truncation of 2 metres x 2 metres at the intersection of the driveway with the footpath shall be provided at the owner's cost;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division.*
- (v) a road and verge security deposit bond and/or bank guarantee of \$220 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (vi) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vii) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (viii) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (ix) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*

- (x) *no part of the roof, including gutters (other than metal beams) shall be setback nearer than 500 millimetres from northern and western boundaries, and any columns within this setback shall be constructed from brick and/or metal not more than 350 millimetres in width or breadth;*

*to the satisfaction of the Chief Executive Officer.*

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

*That the recommendation be adopted.*

*Debate ensued.*

Chief Executive Officer, John Giorgi departed the Chamber at 8.38pm.

Cr Hall departed the Chamber at 8.38pm.

*Debate ensued.*

Chief Executive Officer, John Giorgi returned to the Chamber at 8.40pm.

**LOST (0-8)**

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

**Reasons:**

1. Safety issues

Cr Drewett departed the Chamber at 8.42pm.

**ALTERNATIVE RECOMMENDATION:**

**Moved Cr Cohen, Seconded Cr Chester**

*That the following alternative recommendation be adopted.*

**ALTERNATIVE RECOMMENDATION:**

*That;*

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*
  - (a) *the proposed garage provides inadequate vehicle manoeuvring area to allow safe entry and egress into and out of the proposed garage out and into Walcott Street, which is considered to be contrary to the Town's Policy relating to Parking and Access;*

*the Council REFUSES the application submitted by the owners G, R, Mand D Marafioti for the proposed garage addition to the existing dwelling at No. 99 (Lot 22, Proposed 508) Walcott Street, corner Alma Road, Mount Lawley as shown plans stamp-dated 31 January 2003; and*

- (ii) *the Council advises the applicant that the Town would look favorably upon an application for car parking at a suitable location on the site accessed off Alma Street, to the satisfaction of the Town.*

**CARRIED (7-0)**

(Crs Drewett and Hall were absent from the Chamber and did not vote.)

**COUNCIL DECISION ITEM 10.1.3**

***ALTERNATIVE RECOMMENDATION:***

***That;***

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*

- (a) *the proposed garage provides inadequate vehicle manoeuvring area to allow safe entry and egress into and out of the proposed garage out and into Walcott Street, which is considered to be contrary to the Town's Policy relating to Parking and Access;*

*the Council REFUSES the application submitted by the owners G, R, M and D Marafioti for the proposed garage addition to the existing dwelling at No. 99 (Lot 22, Proposed 508) Walcott Street, corner Alma Road, Mount Lawley as shown plans stamp-dated 31 January 2003; and*

- (ii) *the Council advises the applicant that the Town would look favorably upon an application for car parking at a suitable location on the site accessed off Alma Street, to the satisfaction of the Town.*

**COMMENTS:**

The original lot was subdivided under Western Australian Planning Commission (WAPC) reference 114305, which was granted conditional approval on 20 September 2000. At this time the Town recommended that two car-parking bays should be provided for each allotment, however this condition was not imposed by the WAPC.

In accordance with a condition of approval an application for development approval, for the proposed vacant lot less than 350 square metres, (Alma Road frontage) was made to the Town and approved by the Council at its Ordinary Meeting held on 10 September 2002. At the time of consideration of that proposal car parking was also not addressed for the existing dwelling.

It is appreciated that the applicant currently utilises the subject area for hardstand carparking. The applicant sought to substantiate this by constructing a garage. However, the Town's Technical Services further examined the proposal and now concluded that there is inadequate manoeuvring room to allow safe reversal out of the garage and onto the busy Walcott Street. In addition the inadequate manoeuvring area would be likely to result in vehicles reversing onto the footpath area. This situation is undesirable and is considered to pose a safety hazard. Accordingly it is considered that the proposal should be refused.

**LANDOWNER:** G, R, M and D Marafioti  
**APPLICANT:** M Marafioti  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R60  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	548 square metres

Requirements	Required	Proposed
Front setback	6.0 metres <i>or behind the building line of the front main building wall (Clause A2.4 - Town's Street Setbacks Policy)</i>	Minimum 1.5 metres
North-Western setback	1.0 metre	Minimum Nil
Rear (Western) Setback	1.0 metre	Minimum Nil
Car Parking	2 bays	1 bay

**SITE HISTORY:**

The site is occupied by a single storey single house. The original lot was subdivided under Western Australian Planning Commission (WAPC) reference 114305, which was granted conditional approval on 20 September 2000. In accordance with a condition of approval an application for development approval, for the proposed vacant lot less than 350 square metres, (Alma Road frontage) was made to the Town and approved by the Council at its Ordinary Meeting held on 10 September 2002. The subject application is for the original dwelling that has frontage to both Walcott Street and Alma Road.

**DETAILS:**

The proposed development involves a single garage to be located alongside the existing residence setback 1.5 metres from the frontage of the lot. The proposed garage will be enclosed on three sides including a solid roller-door to its entrance. Revised plans for the proposal were received on 31 January 2003.

**CONSULTATION/ADVERTISING:**

The proposal was advertised and no objections were received.

**COMMENTS:**

**Front Setback**

Generally, the front setback requirement for garages is 6.0 metres from the primary street frontage under Clause A2.4 of the Town's Street Setbacks Policy. As an alternative, this policy allows for garages to be behind the line of the front main building wall (not open verandah, porch, portico, balcony and the like) of the nearest dwelling onsite. It is this latter provision that the applicant is seeking.

The proposed garage is setback 1.5 metres from the front of the dwelling which faces Walcott Street. The property is fenced with a 1.0 metre high solid wall with pickets to a height of 1.8 metres and columns to 2.0 metres, which is compliant with the Town's Policy on Screen Walls and Fences. The garage has a wall height of 2.4 metres and a roof height of 3.5 metres. As such, only the upper portion of the garage will be visible above the fenceline and a limited viewpoint along the driveway of the entire garage.

The proposed garage inclusive of roller-door will be visible from Walcott Street only. Views of the structure are further restricted due to the location of the garage being alongside and setback behind the existing residence, and because of the existing fencing.

Views when travelling north-west along Walcott Street will also be interrupted by the existing residence and fencing to the property coupled with the intersection development. In addition, views when travelling south-east will be interrupted by adjoining development.

The existing residence has a reduced front setback for a portion of the dwelling, and taking into account that the garage is setback a further 1.5 metres from this point, the garage is unlikely to be a dominant visual feature where visible from the street. Furthermore, this site is a corner site with frontages to both Walcott Street and Alma Road.

Taking the above factors into account, as well as the scale of the proposed garage in comparison to the mass of the residence, and the lot having a substantial frontage of 27.12 metres to Walcott Street, it is considered the proposal will have little undue effect on the amenity and streetscape of the area and on this basis is acceptable.

### **Carparking**

The site is currently provided with hardstand carparking in the location of the proposed garage, which only accommodates one car. At the time of subdivision, the Town recommended to the WAPC that a condition be imposed on the subdivision for the requirement that two (2) carparking bays be provided for the existing dwelling with associated driveway and crossover to the satisfaction of the Town. The Town's recommendation to the WAPC was dated 20 July 2000 and the WAPC determined the subdivision on 20 September 2000 without this condition being imposed.

Subsequently the development application for the proposed vacant green title lot, which was less than 350 square metres, did not consider carparking for the existing lot. In approving the development application of this new lot, the Town varied its carparking provisions and accepted only one carparking bay. Due to the irregular shape of the existing carparking area and its size there is limited opportunity to accommodate two bays. Despite only one formal carparking bay existing onsite for the subject lot, and also being proposed as part of this application, there is sufficient room to accommodate two bays onsite, with access off Alma Road, if this were required by any future occupier. Furthermore, the property is well located to take advantage of public transport in the area.

In light of the history of only one carparking bay being provided, and that two bays were not enforced as part of the subdivision process, as well as the above considerations, it is suitable to continue to accept one bay onsite in light of the fact that two bays can be accommodated if required in the future.

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

**10.1.8 Nos. 146-150 (Lot Y 226) Fitzgerald Street North Perth – Proposed Mixed Use Development Comprising Two (2) Offices and Fourteen (14) Two-Storey Single Bedroom with Studio/Office Grouped Dwellings and Associated Carparking**

<b>Ward:</b>	Mount Hawthorn	<b>Date:</b>	25 February 2003
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO0162; 00/33/1463
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Bruce Arnold Architects on behalf of the landowner Town Inn Pty Ltd for proposed mixed use development comprising two (2) offices and fourteen (14) two-storey single bedroom with studio/office grouped dwellings and associated carparking at Nos. 146-150 (Lot Y 226) Fitzgerald Street, North Perth, and as shown on plans stamp-dated 22 January and 18 February 2003, subject to;*

- (i) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (ii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any front fences and gates adjacent to Fitzgerald Street shall be a maximum height of 1.2 metres above the ground level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the northern elevation of the decks to the living areas of Units 1 to 14, inclusive, on the first floor level, shall be screened with a permanent obscure material and be non-openable to a minimum height of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*
- (iv) to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to the bedrooms on the southern elevation of Units 1 to 14, inclusive, on the first floor level, shall be screened with a permanent obscure material and be non-openable to a minimum height of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed; OR the windows shall not exceed one square metre in aggregate on each respective wall, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*

- (v) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
- (a) *the visitors bay having a manoeuvring area with a minimum depth of 6.0 metres;*
  - (b) *the maximum grade of the access driveways being 1:20;*
  - (c) *a 1.2 metres wide pedestrian path along the northern boundary of the lot being paved in a contrasting colour to the vehicular access way;*
  - (d) *the vehicular accessway being one way entering from Fitzgerald Street and exiting onto Pandal Lane, and shall be signposted accordingly;*
  - (e) *lighting to the vehicular accessway being provided to the satisfaction of the Town's Technical Services;*
  - (f) *the bin storage area being provided and located to the satisfaction of the Town's Technical Services and Health Services; and*
  - (g) *a permanent enclosed storage area being provided for each residential unit, in accordance with the Residential Design Codes, including each storage area being a minimum area of 4 square metres.*

*The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes, the Town's Policies and the Department for Planning and Infrastructure/Western Australian Planning Commission;*

- (vi) *the studio/offices shall be used in accordance with the Home Occupation requirements of the Town and each limited to a maximum of 20 square metres;*
- (vii) *subject to first obtaining the consent of the owners of No. 136 Fitzgerald Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 136 Fitzgerald Street in a good and clean condition;*
- (viii) *prior to the first occupation of the development, the applicant/owner(s) shall, in at least 12-point size writing, advise (prospective) purchasers of the residential units/dwellings that:*
- (a) *they may be subject to activities, traffic, car parking and/or noise not normally associated with a typical residential development; and*
  - (b) *they should recognise and accept that in selecting to reside in this locality that noise, traffic, car parking and other factors that constitute part of normal commercial and other non-residential activities are likely to occur, which are not normally associated with a typical residential development;*
- (ix) *the residential component of the development shall be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation shall be in accordance with the recommendations, developed in consultation with the Town, of an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The sound insulation recommendations shall be submitted and approved prior to the issue of a Building Licence. The engagement of and the implementation of the recommendations of this acoustic consultant are to be at the applicant's/owner(s)' costs;*

- (x) *prior to the first occupation of the development, the car parking spaces provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development and shall not be in tandem arrangement unless they service the same residential unit/dwelling;*
- (xi) *the windows, doors and adjacent floor area facing Fitzgerald Street shall maintain an active and interactive frontage to Fitzgerald Street;*
- (xii) *prior to the first occupation of the development, one (1) class three bicycle parking rail, shall be provided at a location convenient to the entrance of the development within the subject property. Details of the design and layout of the bicycle parking facility shall be submitted and approved prior to the installation of such facility;*
- (xiii) *the support and/or approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission and compliance with its associated conditions;*
- (xiv) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of Fitzgerald Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xv) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (xvi) *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;*
- (xvii) *prior to the first occupation of the development, a minimum of three (3) car parking spaces (including one (1) disabled bay) shall be provided for the visitor component of the development, and be clearly marked and signposted for the exclusive use of the visitors of the development;*
- (xviii) *all car-parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking".*
- (xix) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xx) *a right of way security bond and/or bank guarantee for \$880 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*

- (xxi) *a two (2) by two (2) metres visual truncation at the intersection of the driveway and right of way shall be provided at the owner's cost;*
  - (xxii) *a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
  - (xxiii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
  - (xxiv) *the construction of crossovers shall be in accordance with the Town's specifications;*
  - (xxv) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
  - (xxvi) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
  - (xxvii) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
  - (xxviii) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage; and*
  - (xxix) *compliance with all relevant Environmental Health, Building and Engineering requirements;*
- to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.8**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**Cr Drewett returned to the Chamber at 8.44pm.**

*Debate ensued.*

**Cr Hall returned to the Chamber at 8.45pm.**

*Debate ensued.*

**Cr Chester requested that it be placed on record that he considered this development to be an underdevelopment of the site. Mayor Catania concurred with this comment and considered that applicants of such sites should receive direction from the Town and the Council in this regard.**

**CARRIED (9-0)**

**LANDOWNER:** Town Inn Pty Ltd  
**APPLICANT:** Bruce Arnold Architects  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No.1 – Residential/Commercial R80  
**EXISTING LAND USE:** Office/Warehouse

**COMPLIANCE:**

Use Class	Office building, grouped dwelling
Use Classification	'AA', 'P'
Lot Area	2350 square metres

Requirements	Required	Proposed
Pedestrian access	1.2 metres wide pedestrian path	No path proposed
Privacy -setback (north)	Balconies within 7.5 metres of a property boundary on the first floor to be screened	6.0 metres
Privacy -setback (south)	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	Screening details required
Street Setback	4.0 metres	3.7 metres
Stores	4 square metres per dwelling	3 square metres per dwelling

**Commercial Car Parking:**

*Car parking requirement (nearest whole number) -185 square metres of office requires 3.7 car parking bays	4 car bays
Apply the adjustment factors.	(0.68)
<ul style="list-style-type: none"> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.80 (mixed use development with 45 percent residential)</li> </ul>	2.72 car bays
Minus the car parking provided on site. *6 car bays provided in a tandem arrangement (3 pairs) but only three of these bays included for the purpose of calculating commercial car parking requirement	3 car bays
Minus the most recently approved on site car parking shortfall (after taking into account relevant adjustment factors) (Nil - no recent approval on this site)	0 car bays
Resultant surplus	0.28 car bay

\*Single bedroom grouped dwellings carparking requirements satisfied, refer to "Comments."

**Bicycle Parking Facilities:**

Required	Provided
1 bicycle parking space (Class 1 or 2)	No bicycle parking shown on plans.

**SITE HISTORY:**

The subject site is occupied by an existing office/warehouse. The surrounding area is characterised by office/warehouse developments, with a residential development (Paddington Place) located directly across Fitzgerald Street from the proposed site. A Town owned 5.0 metres wide sealed right of way (Pandal Lane) runs along the rear of the site.

**DETAILS:**

Approval is sought for a mixed-use development comprising two (2) offices and fourteen (14) two-storey single bedroom with studio/office grouped dwellings and associated carparking. The studio/office component of the proposal is being assessed in accordance with the Home Occupation requirements of the Town Planning Scheme No.1

The applicant has provided the following information in support of the application:

*"Vehicular/pedestrian access*

*The separate 1.2 metres wide pedestrian path as required in Clause 3.5.5 of the Residential Design Codes cannot be provided due to the narrow width of the site. The site is extremely narrow and 30 percent of the site is already allocated to vehicular access. An additional one metre would be detrimental to the design and unnecessary as it would reduce the usable building footprint and increase the access leg to approximately 35 percent of the site. From the aesthetics point of view the access leg will be paved in a design using three colours.... Additionally, on the Fitzgerald Street crossover access, there will be a feature entrance statement to assist with the interfacing of the complex with the neighbourhood.... Pedestrian access from Fitzgerald Street to the studio/residences is via a series of stairs and ramps so that pedestrians and residents are safe and comfortable when entering and leaving the site via foot to facilities within the neighbourhood.*

*Setbacks*

*The setback for the deck from the boundary is shown as 6 metres, and not 7.5 metres as required in the Residential Design Codes. At present, a setback of 7.5 metres would be totally unnecessary because the deck will overlook blank warehouse walls and their associated open yards. Even when the adjoining property is developed the 7.5 metre setbacks in the Codes related predominately to a suburban situation where the need for light, space and privacy is significantly higher than an inner city situation such as this proposal."*

**CONSULTATION/ADVERTISING:**

There was one objection received during the advertising period. Issue raised included, the reduced setback in terms of screening and the location of the bin stores.

The proposed development has been referred to the Department of Planning and Infrastructure (DPI) as Fitzgerald Street is an Other Regional Road under the Metropolitan Region Scheme. The proposed development has been setback in accordance with the requirements of the future road widening requirements. The DPI have provided the Town with the following initial advice at this stage and have stated the following.

*"The Fitzgerald Street MRS Other Regional Roads (ORR) reserve encroaches over between 3m and 3.7m of the subject land and based on the above, the proposed development will be located within the ORR reserve. In view of this, DPI would only support the development subject to it being located on the land that is not reserved for ORR in the MRS."*

The above comments will be confirmed accordingly.

**COMMENTS:**

**Privacy**

With regard to the potential for unreasonable overlooking, northern property is likely to be redeveloped for residential purposes in the future, and in light of the objection received, it is considered necessary that relevant screening conditions are applied to these non-compliant openings, to comply with the requirements of the Residential Design Codes.

### **Pedestrian Access**

Clause 3.5.5 (A5.1) of the Residential Design Codes requires the provision of a 1.2 metres wide pedestrian path to be separate from vehicular access. The applicant is seeking a variation in this instance due to the narrow width of the site. In this instance, it is proposed that traffic will flow one way entering from Fitzgerald Street and exiting at Pandal Lane. The provision of a 1.2 metres pedestrian path has been conditioned accordingly.

### **Right of Way**

A concern has been raised during the advertising period relating to the works previously undertaken to upgrade the right of way. The adjacent landowners have stated that the applicant should be required to contribute to the necessary costs involved in the upgrade of the right of way. According to the Town's Technical Services, the recent initial developer of a site adjoining the right of way shall incur the costs associated with upgrading of the right of way.

### **Street Setback**

The existing development on the site has a nil setback. The Town's relevant Policies state that front setbacks should be consistent with the general pattern of front setbacks in the streetscape. In this instance, a street setback of 3.7 metres is proposed in order to accommodate the future road widening requirements of the DPI/Western Australian Planning Commission.

### **Carparking**

The commercial carparking component of the development complies with the Town's Policy relating to Parking and Access.

In the case of single bedroom grouped dwellings, the Residential Design Codes requires one space per dwelling and in addition visitors spaces at the rate of one space for each four dwellings. In this instance, the requirement is for 17.5 bays, and as such there is a surplus of residential carparking provided on site (31 bays proposed, 13.5 bays surplus).

The 13.5 bay surplus is considered reasonable to cater for the car parking needs of home occupations associated with each single bedroom dwelling.

### **Bicycle Parking**

The Town's Parking and Access Policy requires the provision of bicycle parking facilities for all commercial properties. As the proposed commercial component of the proposed development is only a small-scale development, one Class 3 bicycle parking facility for workers/visitors is required, and should be provided accordingly.

### **Stores**

The proposed stores are 1.5 metres by 1.5 metres (3 square metres). The Residential Design Codes requires stores to have a minimum area of 4 square metres. As such, the stores have been conditioned accordingly.

### **Summary**

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

**10.2.1 Proposed Western Power 132kV Underground Transmission Cable - Summers Street, East Perth to Cook Street, West Perth**

Ward:	Both	Date:	5 March 2003
Precinct:	All	File Ref:	TES0475
Reporting Officer(s):	C Wilson		
Checked/Endorsed by:	R Lotznicher		
Amended by:			

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *receives the report on proposed Western Power 132kV Underground Transmission Cable from Summers Street, East Perth, to Cook Street, West Perth; and*
- (ii) *APPROVES the works subject to Western Power ensuring that:*
  - (a) *all reinstatements are undertaken to the satisfaction of the Town's Technical Services Division;*
  - (b) *the Town is compensated for any of its staff time devoted to ensuring clause (ii) is adhered to;*
  - (c) *it submits and implements an approved Traffic Management Plan for each segment of the project within the Town's boundaries;*
  - (d) *provides contact details to the Town and affected residents to ensure that any complaints / queries arising from the works can be promptly addressed; and*
  - (e) *ensures that all affected properties/businesses are notified of the proposed works and that their property access is maintained.*

---

**COUNCIL DECISION ITEM 10.2.1**

**Moved Cr Cohen, Seconded Cr Ker**

*That the recommendation be adopted.*

**Cr Doran-Wu departed the Chamber at 8.50pm.**

*Debate ensued.*

**Cr Doran-Wu returned to the Chamber at 8.52pm.**

**CARRIED (9-0)**

---

**BACKGROUND:**

Western Power Corporation is currently finalising detailed design to install a 132Kv underground transmission cable linking its Summers Street sub-station in East Perth to the sub-station in Cook Street, West Perth (within the City of Perth), as a major network improvement.

The cable is required to overcome existing shortfalls within Western Power's distribution network and to cater for future demand.

Prior to finalising the route and seeking approval from the Town, and at the behest of the City of Perth, Western Power entered into discussions with Westrail with a view to running the cable along the rail reserve. The use of the rail reserve would have minimised the potential disruption to residents, business and traffic within both the City of Perth and the Town. However, due a number of reasons, including the potential to conflict with the proposed Perth to Mandurah Rail Project, Westrail declined Western Power's request. As a result, Western Power has had to resort to an on-road route including Summers, Lord, Edward and Stirling Streets within the Town.

The cable and installation methodology will be the same as that for the transmission cable laid in the vicinity of Beatty Park, North Perth in 1999, including open trenching. However, unlike the North Perth cable, there will not be any unsightly transition towers as the cable will be underground for its full length.

The installation of the cable is scheduled to commence in June 2003 with a twelve (12) to eighteen (18) months works program.

#### **DETAILS:**

Western Power first advised the Town in July 2002 that it was considering installing a 132kV underground transmission cable from the Summers Street sub-station in East Perth to the Cook Street sub-station in West Perth, but that the route was yet to be determined. Similar advice was provided to the City of Perth.

The intention is to use the same installation methodology to that of 132kV transmission cable laid from Vincent Street to Bourke Street in North Perth in 1999. This requires that the cables be laid in an open trench approximately 1.5m wide by 1.2m deep, with sections of the trench remaining open for up to six (6) weeks while each cable run is completed.

In view of the above, the City of Perth raised concerns that the laying of the cable within the existing road network had the potential to cause major disruption to residents, businesses and traffic. In an endeavour to reduce the likely impact, Western Power then held discussions with Westrail with a view to running the cable via the rail reserve. However, negotiations were not successful and Westrail refused permission for Western Power to enter the rail reserve other than at crossing points.

As a consequence, Western Power have had to identify an on-road route that is acceptable to both Local Authorities. Within the Town the nominated route is as follows:

Commencing from the East Perth sub-station, the cable runs down the northern side of Summers Street to East Parade. Directional drilling will then be used to push the cable under the East Perth rail terminal, platform and tracks. From there it reverts to open trenching along the remainder of Summers Street to Lord Street. Turning left (south) into Lord Street the cable will run down the western side of the road to Edward Street. From there it turns right into Edward Street, heading west before turning left (south bound) into Stirling Street and entering the City of Perth at Parry Street.

Because of the construction methodology involved, each section of the trench must remain open for a period of up to six (6) weeks. Therefore, Western Power's intention is to undertake the work incrementally, ie. finish each section or cable run before commencing the next.

However, there is potential for significant disruption to both traffic and local businesses and the amenity of residents, a fact acknowledged by Western Power. As an example, Lord Street, north bound, would be reduced to a single lane between Edward and Summers Streets during construction.

In an endeavour to address these issues, Western Power commissioned Donald Veal Consultants Pty Ltd to undertake an impact study and prepare a schedule of works to best manage and minimise the impact of the project. The report identifies those areas of concern and recommends management strategies, as an example the works around Perth Oval will be scheduled outside the National Soccer League season.

In respect of busy intersections and road crossings, it is intended that directional drilling be used to install ducts and thereby alleviating the need to close these locations.

Further, where the works do not abut residential areas, some of the installation may be undertaken at night, particularly relevant to the City's area where the cable will be laid along Roe Street.

Further, the report recognises that a single generic traffic management plan will not suffice and recommends, which Western Power has endorsed, that each cable run or section has its own traffic management plan. Again, using Lord Street as an example, a Main Roads WA accredited traffic controller would implement traffic control measures on a daily basis to manage peak demands. Of the three (3) traffic lanes available, the traffic management controller would ensure that two in-bound lanes were operating in the morning peak period reverting to two out-bound lanes in the afternoon peak period.

In respect of reinstatement, the works will be carried out in accordance with the Town's specification and under the direction of the Principal Supervisor Engineering Services (PSES). If this requires an inordinate amount of the PSES's time, Western Power will be invoiced at an appropriate rate to compensate the Town.

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

The proposal, as presented to the Town, has no direct financial implications. If, as indicated above, the project diverts Technical Services staff resources, then compensation will be sought from Western Power.

#### **STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Strategic Plan 2002-2007 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“f) Develop a strategy for the implementation of underground power.”*

Whilst Western Power's proposal is not directly linked to the Town's underground power objectives, it is part of an infrastructure upgrade program which will ultimately improve the level of service and ensure a continuity of supply if and when the power is placed underground.

**COMMENTS:**

The proposed 132Kv Underground Transmission Cable from Summers Street, East Perth to Cook Street, West Perth is part of Western Power's infrastructure upgrade program to ensure continuity of supply for the surrounding areas, including Leederville, West Perth and the southern half of Mt Hawthorn within the Town. Further, whilst it is not the primary objective, the new transmission line will also ensure the security of supply for Princess Margaret Hospital.

While there will be significant disruption during the installation of the transmission cable, Western Power have indicated that the project is a high priority which will provide lasting benefits for the immediate community both within the Town and the City of Perth.

**10.2.2 Proposed Pruning of Street Verge Trees (Not Located Under Powerlines) In Haynes Street, North Perth**

<b>Ward:</b>	Both	<b>Date:</b>	26 February 2003
<b>Precinct:</b>	All	<b>File Ref:</b>	TES0234
<b>Reporting Officer(s):</b>	J van den Bok		
<b>Checked/Endorsed by:</b>	R Lotznicher		
<b>Amended by:</b>			

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *receives the report in relation to the proposal to prune the street verge trees not located under powerlines in Haynes Street, North Perth; and*
- (ii) *APPROVES the pruning of the trees not located under powerlines in Haynes Street, North Perth by reducing them by 30-50%.*

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**Moved** Cr Franchina, **Seconded** Cr Ker

*That the amended recommendation be adopted.*

**AMENDED RECOMMENDATION:**

- "(ii) APPROVES the pruning of the trees not located under powerlines in Haynes Street by reducing them in height by 30% to 50%, at the requested locations only."*

**Moved** Cr Franchina, **Seconded** Cr Hall

*That in clause (ii) the words "30% to" be deleted as follows:*

- "(ii) APPROVES the pruning of the trees not located under powerlines in Haynes Street by reducing them in height by 50%, at the requested locations only."*

*Debate ensued.*

**AMENDMENT LOST (2-7)**

**For**  
Cr Franchina  
Cr Hall

**Against**  
Mayor Catania  
Cr Chester  
Cr Cohen  
Cr Doran-Wu  
Cr Drewett  
Cr Ker  
Cr Piper

**COUNCIL DECISION ITEM 10.2.2**

**ORIGINAL MOTION CARRIED (9-0)**

*That the Council;*

- (i) *receives the report in relation to the proposal to prune the street verge trees not located under powerlines in Haynes Street, North Perth; and*
- (ii) *APPROVES the pruning of the trees not located under powerlines in Haynes Street, North Perth by reducing them by 30-50%, at the requested locations only.*

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**BACKGROUND:**

At the Ordinary Meeting of Council held on 29 September 1998 it was resolved: -

*“That the Council;*

- (i) *gives consideration to pruning/shaping of the trees not situated under powerlines in Haynes Street, North Perth by reducing them in height by 30-50%*
- (ii) *considers implementing a long term replacement program of the existing trees in Haynes Street with a more suitable verge tree species in consultation with residents and elected representatives from the Mt Hawthorn ward.”*

The trees growing in Haynes Street, North Perth are Camphor laurels which are recognised as unsuitable for planting in street verges due to their size and invasive root systems.

Comments received from residents residing in the street have identified that the majority are not in favour of removing/replacing these trees.

However, regular requests have been received for the trees, which are located along the south side of the street, where no powerlines are located to be reduced in height.

In 1998 a survey was undertaken whereby eight (8) respondents were in favour of reducing the trees not located under powerlines, and two (2) were against any pruning.

Subsequently the pruning works were completed with the trees reduced in height by up to 30%.

**DETAILS:**

A recent inspection of the trees following requests from residents and elected members has identified that the trees have now regrown to the height prior to the pruning undertaken in 1998.

The following was noted within the report submitted to the Council at the Ordinary Meeting of Council held on 29 September 1998: -

- “(iii) **Future Pruning** – Reducing any tree in height not only spoils its natural shape but also affects its future growth. Undoubtedly pruning will result in excessive sprouting (epicormic growth) which in turn requires constant attention as is the situation with trees located under powerlines.”*

**CONSULTATION/ADVERTISING:**

Residents in Haynes Street, North Perth will be advised of the Council's Resolution and prior to the works being implemented, should the removal be approved.

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2007 - 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment.

**FINANCIAL/BUDGET IMPLICATIONS:**

Specialised Tree Lopping, who currently undertake the pruning of all street verge trees within the Town, have provided a quotation for the pruning of nineteen (19) Camphor laurels. The quotation includes the removal of all prunings from the site.

Total cost	\$5,890.00 (exclusive GST)
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The above amount may be sourced from the street tree maintenance budget. However, it should be noted that major pruning works for street trees not located beneath powerlines are not generally budgeted for. Therefore, staff may have to postpone some works such as removals or pruning so an over-expenditure does not occur.

**COMMENTS:**

In view that the Town has previously undertaken this work, the recent concerns raised by residents and the overall height the trees will attain if not pruned, it is recommended that the Council approve the proposal.

Whilst it is recognised that the trees are not suitable for such a location, they should be maintained for as long as possible due to the following reasons:

- Majority of residents in street have previously indicated the trees should not be removed
- Previous negative response the Town has received in removal of mature trees (Street Tree Enhancement Program)
- Loss of amenity/environmental benefits
- Removal/replacement/establishment cost of new tree species

**10.1.11 No. 88 (Lots Y31 & Y32) Richmond Street, Leederville – Proposed Demolition of Existing Two Storey Dwelling and Construction of Two (2) Two Storey Grouped Dwellings**

<b>Ward:</b>	North Perth	<b>Date:</b>	27 February 2003
<b>Precinct:</b>	Leederville, P3	<b>File Ref:</b>	PRO2219; 00/33/1437
<b>Reporting Officer(s):</b>	P Mastrodomenico, H Eames		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*

- (i) the proposed demolition of the place not being consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
- (ii) the place has cultural heritage significance, in terms of rarity and representative values;*

*the Council recommends REFUSAL to the Western Australian Planning Commission of the application submitted by R McCallum Architects on behalf of the owner Department of Housing and Works for proposed demolition of existing two storey dwelling and construction of two (2) two storey grouped dwellings at No. 88 (Lots Y31 & Y32) Richmond Street, Leederville, and as shown on the plans stamp dated 20 December 2002 and 10 January 2003.*

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

*That the following amended recommendation be adopted.*

**AMENDED RECOMMENDATION:**

*Amend the previous recommendation as follows:*

*That;*

- (i) in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*

*(i) (a) the proposed demolition of the place not being consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*

*(i) (b) the place has cultural heritage significance, in terms of rarity and representative values;*

*the Council recommends REFUSAL to the Western Australian Planning Commission of the application submitted by R McCallum Architects on behalf of the owner Department of Housing and Works for proposed demolition of existing two storey dwelling and construction of two (2) two storey grouped dwellings at No. 88 (Lots Y31 & Y32) Richmond Street, Leederville, and as shown on the plans stamp dated 20 December 2002 and 10 January 2003; and*

- (ii) *the Council authorises the Chief Executive Officer to write to the Minister for Housing and Works, Minister for Planning and Infrastructure, Minister for Heritage and the Local Member of State Parliament to inform them of the Council's support for the retention of the place and request their support for and action in the retention of the place.*

*Debate ensued.*

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

Cr Drewett requested that the information requested by him at the previous Ordinary Meeting of Council concerning when the Town's Heritage Officers will be finished with the draft Municipal Heritage Inventory, be provided to Councillors.

Mayor Catania asked that Cr Drewett's request be recorded and the information be provided to Councillors as soon as possible.

**COUNCIL DECISION ITEM 10.1.11**

*That;*

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme and having regard to the matters it is required to consider generally, and in particular:*

(a) *the proposed demolition of the place not being consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*

(b) *the place has cultural heritage significance, in terms of rarity and representative values;*

*the Council recommends REFUSAL to the Western Australian Planning Commission of the application submitted by R McCallum Architects on behalf of the owner Department of Housing and Works for proposed demolition of existing two storey dwelling and construction of two (2) two storey grouped dwellings at No. 88 (Lots Y31 & Y32) Richmond Street, Leederville, and as shown on the plans stamp dated 20 December 2002 and 10 January 2003; and*

- (ii) *the Council authorises the Chief Executive Officer to write to the Minister for Housing and Works, Minister for Planning and Infrastructure, Minister for Heritage and the Local Member of State Parliament to inform them of the Council's support for the retention of the place and request their support for and action in the retention of the place.*

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**LANDOWNER:** Department of Housing and Works  
**APPLICANT:** R McCallum Architect  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	592 square metres

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Side Setback (East) Unit 1 (first floor)	2.8 metres	2.0-3.0 metres
Privacy Unit 1 Side Setback (East) Bedroom 4 (First floor)	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown
Privacy Unit 2 Side Setback (North) Bedroom 3 and Bedroom 4 (First floor)	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown

**SITE HISTORY:**

The subject site is occupied by a two storey dwelling, which is proposed to be demolished.

**CONSULTATION/ADVERTISING:**

There were two objections received during the advertising period. Issues raised included, the first floor setbacks on the eastern and northern elevations and the potential for overlooking onto the adjacent properties. Concerns were also raised in relation to retaining the existing mature trees on the property.

**DETAILS:**

Approval is sought for demolition of existing two storey dwelling and construction of two, two storey grouped dwellings.

**COMMENTS:**

**Setbacks**

The eastern side first floor setback is considered supportable, as it is only a minor variation to the requirements of the Residential Design Codes and will not unduly adversely affect the amenity of the area.

**Privacy**

With regard to the potential for unreasonable overlooking, it is considered necessary that relevant screening conditions are applied to the subject openings to comply with the privacy requirements of the Residential Design Codes.

**Trees**

In regards to the concerns raised during the advertising period in relation to retaining the existing mature trees on the property, the trees in question are not listed on the Town's Significant Tree Inventory and Interim Significant Tree Database. The proposal complies with the setback, (except for the eastern side setback), and building height requirements, and conditions can be applied to ensure screening of the unreasonable overlooking windows. As such, it is considered unreasonable to also require the retention of trees in this instance.

**Heritage**

Demolition of the existing dwelling is not supported. The Heritage Assessment is shown at Appendix 10.1.11. The place is considered significant due to its rarity and representative values as one of few two-storey residences in the Town, constructed during the Federation period. Accordingly, it is recommended that the Council recommend to the Western Australian Planning Commission that the proposal be refused.

**10.3.2 Authorisation of Expenditure for the Period 01 February - 28 February 2003**

<b>Ward:</b>		<b>Date:</b>	5 March 2003
<b>Precinct:</b>		<b>File Ref:</b>	FIN0033
<b>Reporting Officer(s):</b>	P Forte		
<b>Checked/Endorsed by:</b>	N Russell		
<b>Amended by:</b>			

**OFFICER RECOMMENDATION:**

*That;*

- (i) the Schedule of Accounts for the period 1 February – 28 February 2003 be confirmed and the list of payments as laid on the table be included in the Minutes;*
- (ii) direct lodgement of payroll payments to the personal bank account of employees be confirmed and be included in the Minutes;*
- (iii) direct lodgement of PAYG taxes to the Australian Taxation Office be confirmed and be included in the Minutes;*
- (iv) direct lodgement of Child Support to the Australian Taxation Office be confirmed and included in the Minutes;*
- (v) direct lodgement of creditors payments to the individual bank accounts of creditors be confirmed and included in the Minutes; and*
- (vi) direct lodgement of Superannuation to Local Government and City of Perth superannuation plans be confirmed and included in the Minutes.*

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**COUNCIL DECISION ITEM 10.3.2**

**Moved Cr Ker, Seconded Cr Chester**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**DECLARATION OF INTEREST**

<b>Members/ Officers</b>	<b>Voucher</b>	<b>Extent of Interest</b>
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Nil.

**BACKGROUND:**

The Local Government Act provides for all payments to be approved by the Council. In addition the attached Schedules are submitted in accordance with Item 13 of the Local Government (Finance Management) Regulations 1996.

**DETAILS:**

The Schedule of Accounts to be passed for payment, cover the following:

<b>FUND</b>	<b>CHEQUE NUMBERS/ PAY PERIOD</b>	<b>AMOUNT</b>
<b>Municipal Account</b>		
Town of Vincent Advance Account	EFT	\$714,871.28
<b>Total Municipal Account</b>		<b>\$714,871.28</b>
<b>Advance Account</b>		
Automatic Cheques	41858-42068, 42074- 42154, 42182-42275	\$547,308.93
Manual Cheques		\$0.00
Transfer of Creditors by EFT Batch 65 – 72		\$815,830.16
Australia Post Lease Equipment	February 2003	\$311.77
Transfer of Payroll by EFT	February 2003	\$440,153.74
Transfer of PAYG Tax by EFT	February 2003	\$133,344.75
Transfer of Child Support by EFT	January 2003	\$624.46
Transfer of Superannuation by EFT City of Perth	February 2003	\$23,831.71
Local Government	February 2003	\$54,418.24
<b>Total Advance Account</b>		<b>\$2,015,823.76</b>
<b>Bank Charges &amp; Other Minor Debits</b>		
Bank Charges – CBA		\$7,189.17
Lease Fees		\$1,170.41
Corporate MasterCards		\$1,060.56
<b>Total Bank Charges &amp; Other Minor Debits</b>		<b>\$9,420.14</b>
<b>Less GST effect on Advance Account</b>		<b>-\$63,784.85</b>
<b>Total Payments</b>		<b>\$2,676,330.33</b>

**COMMENT:**

Vouchers, supporting invoices and other relevant documentation are available for inspection by Councillors at any time following the date of payment and are laid on the table.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2000-2002 – Key Result Area 4.5(a)

“Develop short term (5 year) and medium term (10 year) financial plans, linked to the strategic plan and principal activities plan (include the investment portfolio, current assets, and debt free status).”

**ADVERTISING/CONSULTATION:**

Nil.

#### **10.4.2 Delegated Authority 2002-2003 Reports**

<b>Ward:</b>	-	<b>Date:</b>	27 February 2003
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0018
<b>Reporting Officer(s):</b>	M McKahey		
<b>Checked/Endorsed by:</b>	John Giorgi		
<b>Amended by:</b>	-		

**RECOMMENDATION:**

*That the Council receives the report, as shown in Appendix 10.4.2, detailing the items approved under Delegated Authority over the period 18 December 2002 to 10 February 2003.*

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**COUNCIL DECISION ITEM 10.4.2**

**Moved Cr Ker, Seconded Cr Chester**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**DETAILS:**

At the Special Council Meeting held on 17 December 2002, it was resolved as follows;

*“That pursuant to Section 5.42 of the Local Government Act 1995, the Council APPROVES BY AN ABSOLUTE MAJORITY, delegated authority to the Chief Executive Officer, in consultation with the Mayor and all available Councillors, to deal with any items of business (other than those requiring an Absolute Majority) that may arise from 18 December 2002 to 10 February 2003, subject to;*

- (i) the action taken only being in accordance with the Officer’s recommendation;*
- (ii) a report summarising the items of business dealt with, including the reason for urgency, under delegated authority being submitted for information to the Council at its meeting to be held on 25 February 2003;*
- (iii) a delegation register be kept and made available for public inspection during the period that the delegation applies; and*
- (iv) items being displayed in the Town of Vincent Administration Centre, the Library and on the Town's Website for a period of four (4) days.”*

**DETAILS:**

A complete list of reports considered under delegated authority for the period 18 December 2002 to 10 February 2003 is attached at Appendix 10.4.2.

A copy of the reports is "Laid on the Table" and will be included in the Minutes.

**10.1.2 No.66 (Lot 174) Matlock Street (Corner Glyde Street), Mount Hawthorn  
– Proposed Carport Additions to Existing Dwelling**

<b>Ward:</b>	Mount Hawthorn	<b>Date:</b>	27 February 2003
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO2241 00/33/1472
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel, R Boardman		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by the owner D Becvarovska for proposed carport additions to existing dwelling at No.66 (Lot 174) Matlock Street (corner Glyde Street), Mount Hawthorn, and as shown on the plans stamp dated 24 January 2003, subject to:*

- (i) the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted);*
- (ii) a two (2) metres by two (2) metres visual truncation at the intersection of the driveway and footpath shall be provided at the owner's cost;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$220 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (v) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vi) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vii) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (viii) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (ix) compliance with all relevant Environmental Health, Engineering and Building requirements;*

*to the satisfaction of the Chief Executive Officer.*

**Moved Cr Ker, Seconded Cr Chester**

*That the recommendation be adopted.*

Cr Piper departed the Chamber at 9.05pm.

*Debate ensued.*

**Moved Cr Ker, Seconded Cr Drewett**

*That in clause (ii), the words “two (2) metres by two (2) metres” be deleted and replaced with “one (1) metre by one (1) metre” as follows:*

*“(ii) a one (1) metre by one (1) metre visual truncation at the intersection of the driveway and footpath shall be provided at the owner's cost;”*

*Debate ensued.*

**AMENDMENT CARRIED (8-0)**

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

**MOTION AS AMENDED CARRIED (8-0)**

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

Cr Piper returned to the Chamber at 9.07pm.

**COUNCIL DECISION ITEM 10.1.2**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by the owner D Becvarovska for proposed carport additions to existing dwelling at No.66 (Lot 174) Matlock Street (corner Glyde Street), Mount Hawthorn, and as shown on the plans stamp dated 24 January 2003, subject to:*

- (i) the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted);*
- (ii) a one (1) metre by one (1) metre visual truncation at the intersection of the driveway and footpath shall be provided at the owner's cost;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$220 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing footpath have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*

- (v) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vi) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (vii) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (viii) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s); and*
- (ix) *compliance with all relevant Environmental Health, Engineering and Building requirements;*

*to the satisfaction of the Chief Executive Officer.*

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**LANDOWNER:** D Becvarovska  
**APPLICANT:** D Becvarovska  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R30  
**EXISTING LAND USE:** Single House  
**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	470 square metres

Requirements	Required	Proposed
Secondary Street Setback	Carport to be setback in line with the existing dwelling (approximately 2.0 metres)	0.5 metre setback

**SITE HISTORY:**

The subject site is occupied by a single storey single dwelling. Glyde Street is dominated by side setbacks and carport/garage structures. A Crown owned and sealed right of way (ROW) runs along the rear eastern boundary of the site.

**CONSULTATION/ADVERTISING:**

No objections were received during the advertising period.

**DETAILS:**

Approval is sought for a carport providing vehicular access from Glyde Street.

**COMMENTS:**

The Town's Policy relating to Street Setbacks states that carports are to be setback in line with the existing dwelling on site (approximately 2.0 metres). The carport is proposed to be setback 0.5 metre from the boundary. Based on the existing streetscape of Glyde Street, the reduced setback is considered supportable in this instance, as is not considered to unreasonably adversely affect the amenity of the adjacent properties or the existing streetscape. Accordingly, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters.

<b>11.1 Notice of Motion – Councillors David Drewett, Basil Franchina and Marilyn Piper – Independent Organisational Review - Request for Draft Report</b>
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*That, when the Draft Report, relating to the Independent Organisational Review is made available to the Chief Executive Officer by the Consultants (as per the schedule presented to Council on 28 January 2003), the Consultants, at that time, will provide a copy of that draft report to the Mayor and each of the Councillors.*

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**COUNCIL DECISION ITEM 11.1**

**Moved Cr Drewett, Seconded Cr Franchina**

*That the motion be adopted.*

**CARRIED (9-0)**

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**11.2 Notice of Motion – Councillor Simon Chester – Town of Vincent  
Summer Concerts in the Park**

*That the Council authorises the Chief Executive Officer to;*

- (i) investigate the Town of Vincent providing six concerts in the Town's Summer Series of Concerts in the Park with;*
  - (a) the current venues being used; and*
  - (b) means being identified to encourage Town of Vincent artists' participation; and*
- (ii) prepare a report on the proposal, including financial and budget implications for consideration during the 2003/2004 Budget deliberations.*

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**COUNCIL DECISION ITEM 11.2**

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

*That the motion be adopted.*

**CARRIED (9-0)**

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**11.3 Notice of Motion – Councillors Helen Doran-Wu, Simon Chester and David Drewett – Extensions to Menzies Park Community Pavilion, Mount Hawthorn**

*That the Council authorises the Chief Executive Officer to;*

- (i) investigate the proposal by the Town of Vincent Cricket Club for extensions to the Menzies Park Community Pavilion at Menzies Park, Mount Hawthorn; and*
- (ii) prepare a report on the proposal, including usage, financial and budget implications for consideration during the 2003/2004 Budget deliberations.*

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**COUNCIL DECISION ITEM 11.3**

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

*That the motion be adopted.*

**CARRIED (9-0)**

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

Nil

**13. URGENT BUSINESS**

13.1 Cr Franchina requested that he receive a copy from the Chief Executive Officer to the question that he put at tonight's meeting. Mayor Catania advised that a copy would be provided.

13.2 Cr Franchina requested a response to a letter he delivered to the Chief Executive Officer on 17 February 20003, requesting a copy of Council Policy - Miscellaneous Councillor Expenses. Mayor Catania advised that a response would be provided.

Chief Executive Officer, John Giorgi advised the Council that a copy of the policy was provided on 17 February 2003.

13.3 Cr Piper asked if the Draft Strategic Plan would come back to the Council on 25 March 2003, as per the schedule. Mayor Catania advised that a response would be provided.

**14. CLOSURE**

Presiding Member, Mayor Nick Catania JP, declared the Meeting closed at 9.13pm with Councillors Chester, Doran-Wu, Drewett JP, Franchina, Cohen, Hall, Ker and Piper JP, Chief Executive Officer, John Giorgi JP, Executive Manager Environmental and Development Services, Rob Boardman, Executive Manager Corporate Services, Mike Rootsey, Executive Manager Technical Services, Rick Lotznicher, Minutes Secretary, Debbie Winfield, journalist Guardian Express, Ryan Sturman, journalist Voice News, Jenny D'Anger and 4 members of the public present.

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 11 March 2003

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

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